



# MSC CANADA TERMS AND CONDITIONS

# Table of Contents

|  |    |
|--|----|
| 1. DEFINITIONS .....   | 3  |
| 2. APPLICABILITY .....   | 4  |
| 3. NATURE OF THE SERVICES RENDERED BY MSC CANADA .....                       | 4  |
| 4. CONDITIONS OF SERVICES RENDERED BY MSC CANADA .....                       | 5  |
| 5. APPLICABLE LAW AND JURISDICTION .....                                     | 5  |
| 6. PRICES AND QUOTATIONS .....   | 6  |
| 7. INVOICING AND PAYMENT.....  | 6  |
| 8. EXPORT BOOKINGS .....   | 7  |
| 9. IMPORT BOOKINGS.....  | 10 |
| 10. CONTAINERS.....  | 12 |
| 11. CUSTOMS FORMALITIES .....  | 13 |
| 12. MERCHANTS HAULAGE .....  | 14 |
| 13. SANCTIONS AND IMPORT / EXPORT CONTROL LAWS .....                         | 14 |
| 14. HAZARDOUS GOODS/IMDG CARGOES.....  | 14 |
| 15. REEFERS TEMPERATURE CONTROLLED CARGOES .....                             | 15 |
| 16. BOOKING CANCELLATION .....   | 15 |
| 17. RELEASE .....  | 15 |
| 18. RETURNING OF CONTAINERS .....  | 15 |
| 19. LOCAL CHARGES (STORAGES, DEMURRAGES, DETENTIONS...).....                 | 16 |
| 20. COILS AND COILED METAL PRODUCTS.....                                     | 17 |
| 21. DAMAGES AND LOSSES .....   | 19 |
| 22. NOTICE OF CLAIMS, TIME BAR.....  | 19 |
| 23. LEGAL ADMINISTRATION FEES.....   | 19 |
| 24. CARGO WEIGHT DECLARATION AND VGM COMPLIANCE, SUBMISSION'S DEADLINE ..... | 20 |

MSC CANADA ACTS, UNLESS EXPRESSLY INDICATED OTHERWISE, ALWAYS ON BEHALF AND IN THE NAME OF MSC MEDITERRANEAN SHIPPING COMPANY S.A. (THE "CARRIER").

THE CONTRACT OF CARRIAGE AND ALL SERVICES OF THE CARRIER ARE SUBJECT TO THE CARRIER'S TERMS AND CONDITIONS (EITHER, WHEN A BILL OF LADING IS ISSUED SUBJECT TO THE "BILL OF LADING STANDARD TERMS AND CONDITIONS", OR, IN ALL OTHER CASES SUBJECT TO THE "SEAWAYBILL TERMS AND CONDITIONS"), THE BOOKING TERMS AND THE LOCAL AGENCY TERMS AND CONDITIONS AT THE PORTS OF LOADING, TRANSSHIPMENT AND DISCHARGE.

# 1. DEFINITIONS

- **MSC or the Carrier:** means MSC Mediterranean Shipping Company S.A., 12-14 Chemin Rieu 1208 Geneva, Switzerland.
- **MSC Canada:** means Mediterranean Shipping Company (Canada) Inc., established at 7 rue St-Jacques, Montreal, Quebec, H2Y 1K9, Canada and including all its branch offices in Canada acting as agents of MSC Mediterranean Shipping Company S.A, only. MSC Canada acts as Agents for and on behalf of MSC Mediterranean Shipping Company S.A. (the "Carrier", or "MCS") only.
- **Merchant:** includes the Booking Party, Shipper, Consignee, holder of a Bill of Lading, the receiver of the Goods and any person owning, entitled to or claiming the possession of the Goods or the corresponding Bill of Lading or any party acting on behalf of such Person and when the context so requires means those persons jointly and severally. Every person defined as "Merchant" is jointly and severally liable to the Carrier for the payment of all freight and charges and for the performance of the obligations of each of them hereunder.
- **Booking Confirmation:** Document issued by MSC that formalizes the contract of Carriage concluded between the Merchant and MSC. MSC Booking Terms are incorporated in this document.
- **Booking party:** the individual or company that arranges the booking with MSC
- **Calendar day:** runs from midnight to midnight including weekends and holidays
- **Carrier:** means the party that signed or on whose behalf the Bill of Lading has been issued and signed
- **Charges:** means any charges and surcharges relating to the carried goods and invoiced in addition to the strict Ocean Freight.
- **Combined transport:** arises where the carriage of the Goods under the contract of carriage is not limited to the sea carriage, and MSC also arranges for inland carriage, either to the Port of Loading or from the Port of Discharge, or both
- **Container:** includes any container, trailer, transportable tank, or any article used to consolidate Goods or any ancillary equipment
- **Container heavy tested:** container with a special payload (typically, maximum cargo weight: 28 tons for a 20' and 30 tons for 40') and in compliance with container VGM
- **Export booking:** when the arrangements with the Carrier for acceptance of the carriage of the Goods by sea is performed by MSC Canada as agent at the port of loading
- **Import Booking:** when the arrangements with the Carrier for the acceptance of the carriage of Goods by sea is performed by MSC Canada as agent at the Port of Discharge
- **Cross-trade booking:** when the arrangements with the Carrier for the acceptance of the carriage of Goods is performed by MSC Canada as Agent but MSC Canada is neither at Port of Loading nor at Port of Discharge

- **Freight:** includes the freight and all charges, costs and expenses assessed for carriage and storage of the Goods, including THC and surcharges (such as BAF, CAF etc.)
- **Place of delivery:** means and inland place at which the Carrier in case of Combined Transport delivers the goods provided that such a Place of Delivery has been expressly mentioned in the Bill of Lading
- **Place of receipt:** means any inland place at which the Carrier in case of Combined Transport receives the Goods provided that such a Place of Receipt has been expressly mentioned in the Bill of Lading.
- **Port of Loading:** means any port where the Goods are loaded on board any vessel as mentioned in the Bill of Lading
- **Port of discharge:** means any Port where the Goods are discharged from any vessel after the carriage under the Bill of Lading.
- **Port to Port Transport:** arises if Carriage is not Combined Transport
- **Shipping instruction:** information supplied by the booking party providing all detailed instructions for a shipment (e.g., shipper, consignee, bill-to party, commodity, pieces, weight, cube, etc.) this information is used also for Bill of Lading purpose.

## 2. APPLICABILITY

These MSC Canada Agency Terms and Conditions and the conditions stipulated in article 4 hereunder apply – depending on the nature of the services rendered – on all Contracts concluded with the Carrier through MSC Canada as Agent and contracts concluded between the Merchant and MSC Canada.

In case of any inconsistency between any local Agency Terms and Conditions and the Terms and Conditions of the MSC Bill of Lading, the latter shall prevail.

These Agency Terms and Conditions shall be deemed to be part of all contracts between the Merchant and MSC via its local Agents MSC Canada. Orders and instructions of the Merchant shall be considered as his acknowledgement and acceptance of these General Conditions.

Any variation to any local Agency's Terms & Conditions and/or Carrier's Terms and Conditions shall only apply if this has been explicitly agreed in writing by an authorized person on behalf of MSC Canada and/or MSC.

## 3. NATURE OF THE SERVICES RENDERED BY MSC CANADA

Whether expressly stipulated in letters, quotations, bookings confirmations, arrival notices, invoices etc. or not, and in relation to Contracts of Carriage evidenced by a Bill of Lading issued or to be issued – MSC Canada shall always act as Agent for the Carrier only, in the performance by the Carrier of its obligation under the Bill of Lading, these Contracts of Carriage being concluded between the Merchant and the Carrier; MSC Canada not being the Carrier.

If the Contract of Carriage evidenced by a Bill of Lading issued or to be issued is for the Combined Transport, any carriage from the Place of receipt to the port of Loading and/or from the Port of Discharge to the Place of Delivery mentioned is arranged by MSC Canada strictly as Agent for the Carrier only.

In the performance of services rendered by MSC Canada under the instruction if the Merchant (and not as Agent for the Carrier in the performance by the Carrier of its obligations under the Bill of Lading as defined in articles 3.1 to 3.3) MSC Canada shall, at all the times act as forwarding Agent to the Merchant only.

## **4. CONDITIONS OF SERVICES RENDERED BY MSC CANADA**

In performing services as Agent for the Carrier as defined in article 3.1 to 3.2 of these Agency Terms and Conditions, MSC Canada shall under no circumstance be under any liability to the Merchant for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on the part of MSC Canada while acting in the course of, or in connection with the employment of MSC Canada as Agent for the Carrier, and without prejudice to the generality of the foregoing provisions every exception, limitation, condition and liberty contained in the Conditions of Carriage and every right, exemption from liability, defense and immunity of whatever nature available and shall also be available to the Carrier or to which the Carrier is entitled under the Conditions of Carriage shall also be available and shall be extended to protect MSC Canada.

## **5. APPLICABLE LAW AND JURISDICTION**

Any contract concluded between the Merchant and MSC Canada, while not acting as Agent for the Carrier and only as Agent of the Merchant shall be governed and construed in accordance with the Laws applicable in Canada.

Without prejudice to the foregoing, any other contract concluded with MSC Canada on behalf and as Agent for MSC shall be subject to English law exclusively whether or not a Bill of Lading has actually been issued, except for Goods carried to or from the United States of America where the law of the United States of America shall apply exclusively.

### **Carrier's Jurisdiction**

The Merchant acknowledges and agrees that pursuant to clause 10.3 of the Carrier's Terms and Conditions the Contract of Carriage is subject to English Law and the exclusive Jurisdiction of the High Court in London, unless the carriage contracted for was to or from the United States of America, in which case suit shall be filed exclusively in the United States District Court and U.S. Law shall exclusively apply.

The Merchant agrees that it shall not institute suit in any other Court and agrees to keep the Carrier indemnified against the reasonable legal expenses and costs of the Carrier in removing a suit filed in another forum. The Merchant waives any objection to the personal jurisdiction over the Merchant of the agreed forum.

In case of any dispute relating to the Freight or other sums due from the Merchant to the Carrier, the Carrier may, at its sole option, bring suit against the Merchant in the forum agreed above, or in the countries of the Port of Loading, Port of Discharge, Place of delivery or in any jurisdiction where the Merchant has a place of business.

## 6. PRICES AND QUOTATIONS

MSC Canada quotation is based on the information provided by the Merchant at the time of the booking. Complete details of the carriage and accurate description and value of the goods is recommendable for certain quotation. The value of the Goods does not turn to the Bill of Lading into an *Ad Valorem* one unless this is expressly agreed in writing by the Carrier in accordance with clause 7.3 of Carrier's Terms and Conditions.

Every MSC Canada quotation will include a validity deadline. Quotations made by MSC Canada are not bidding until MSC Canada Booking Confirmation has been transmitted in writing to the Merchant.

Quoted times and dates for empty positioning and loading are always subject to equipment availability and space. Advertised transit times, sailing and arrival dates are estimated times only and such schedules may be advanced, delayed or cancelled without notice. In no event the Carrier shall be liable for consequential damages or for any delay in scheduled departures or arrivals of any vessel or other conveyances used to transport the Goods by sea or otherwise.

As a matter of principle, all charges are given on "VATOS" (Valid at Time of Shipment) basis at loading port. Unforeseeable and/or additional expenses (such as statutory increase, war risk, congestion, etc.) before, during and after the sea-carriage may be charged by the Carrier to the Merchant.

Modifications to the contract caused or requested by the Merchant, for instance, release of cargo to alternative third parties, change of the port of discharge, issuance switch bills of lading etc., are not included in MSC Canada quotations and additional charges may apply.

## 7. INVOICING AND PAYMENT

Invoicing

Freight and local charges will be invoiced by MSC (via its Agent) and MSC Canada separately. Any dispute about the invoicing will be directly dealt with MSC Canada.

## Payment

The Merchant shall pay freights, charges, duties and remuneration in the currency mentioned in the invoices issued and within the deadline stipulated on the invoice. If the invoice does not make reference to a payment deadline, the invoice is due and payable at sight.

The Carrier or MSC Canada acting on its behalf or on its own name are entitled at their discretion to terminate any provision of credit at any time through an e-mail notice.

If the Merchant wishes to appoint a third party to settle charges on his behalf, the Merchant agrees and accepts that he remains jointly and severally liable towards MSC and MSC Canada for all charges due in the event of default, claim or non-payment by the Merchant's agent.

Payment of Ocean Freight can be effected in local currency although quoted in USD with any exception agreed upon by MSC Canada in writing. Any prepaid foreign currency will be charged at the rate of exchange prevailing at the date of payment.

Any Bank service charge/transaction costs are for sole account of the payer.

The Merchant shall not be entitled to apply any set-off, counter-claim or deduction in respect of sums charged by MSC Canada or MSC to the Merchant under any contract existing or having existed between parties.

The non-payment of an invoice payable at sight shall constitute a breach of the Booking Confirmation terms and may result in not having the shipment loaded on the scheduled vessel. Furthermore, if the non-payment is maintained MSC reserves the right to cancel the booking pursuant to clause 16 of MSC Canada Terms and Conditions.

The non-payment of an invoice at maturity date shall constitute a breach of the Contract of Carriage and of any Credit Terms Agreement triggering the consequences provided for in such agreement, i.e. the immediate suspension of the benefit of any credit conditions and any and all outstanding amounts becoming due and payable immediately.

In the event of non-payment, MSC and/or MSC Canada, shall have the right, but not the obligation, to exercise one or several of the following options:

- To suspend the granting of credit to the Merchant (including its subsidiaries)
- To claim the payment of any outstanding amount
- To withhold original documents (including B/L) and/or cargo until all overdue freight and charges are settled
- To exercise a lien over the cargo or any document related thereto.
- Not to load shipment(s) on the scheduled vessel or at all
- Stop to provide new services

In the event of credit suspension, credit terms shall neither apply to any contract of carriage agreed after suspension nor to those contracts of carriage that have not been accomplished. (cargo still at port of loading and/or in route)

## 8. EXPORT BOOKINGS

### The booking confirmation

The Booking Confirmation formalizes the contract of carriage between the Merchant and MSC, as a consequence of which, every person defined as Merchant in the item 1 become jointly and

severally contractual partners of MSC.

The Merchant warrants that the booking Party has authority to enter into this contract on behalf of the Shipper and/or Consignee and to receive the original Bills of Lading. Every Person defined as Merchant remain bound by the terms of the contract and responsible for all liabilities arising in connection with this booking, the carriage of the Goods and the use of MSC's container or other equipment, despite any later variation or purported supersession of the contract, including the nomination of a different shipper for the purpose of the Bill of Lading.

The Booking Confirmation does neither automatically guarantee equipment nor vessel availability.

Full details of the shipment are needed for the issuance of the Booking Confirmation. The Merchant shall provide a detailed cargo description (including weight), port of loading, port of discharge and type of container(s) upon booking as booking acceptance is not unlimited and unconditional.

As per the SOLAS Convention (Safety of Life at Sea) it is mandatory for shippers to verify weights of packed containers, regardless of who packed the container. The verification of actual container weight must be obtained on-shore, and provided to the vessel operator and the port terminal facility prior to the vessel loading process. Neither MSC nor MSC Canada shall be responsible for any costs linked the declaration of incorrect container weights. VGM should be submitted on MSC.COM prior to VGM cut-off date indicated on export booking. Failure to submit in due time, the charge of USD 100 will apply.

MSC Canada will issue a Booking Confirmation with the details of the shipment. The information in the Booking Confirmation will be further used to and will serve as the basis for the issuance of the Bill of Lading.

MSC Canada's Booking Confirmation must always be carefully checked by the Merchant. The Merchant is obliged to carefully check the correctness of all information mentioned on the Booking Confirmation, e.g., Port of Loading, Port of Discharge, Shipper, Consignee, Notify, description of the Goods; special attention is required regarding hazardous cargoes, reefer and out of gauge details. MSC Canada must be informed immediately in writing in case of discrepancy, inaccuracy or missing details, failing this, MSC Canada will not accept any responsibility.

Export free time – MSC offers free use of the booked container(s) (release number mentioned in the Booking Confirmation) for a period maximum of 7 calendar days for dry van containers and 7 days in case of special equipment from the time the container(s) was/were released to the concerned party (Hire Free Period). If after the hire free period the container is not shipped on board, such an excess time will be invoiced under demurrages tariff, with the rest of the charges accrued.

#### Shipping instructions

Full and complete Shipping Instructions with comprehensive and definitive details of the shipment must be submitted before the closing time set by MSC Canada. For shipments to countries/areas requiring an AMS-filing or comparable procedure, special deadlines shall apply. The Merchant is responsible to enquire the specific deadline applicable to their shipment. Shipper, Consignee and Notify details (complete name, address, telephone number, email and fax, if available) shall be provided or delays may occur, and extra costs and charges may be incurred. Discrepancies with information that appears in the Booking Confirmation or wrong information at time of receipt the Shipping Instructions, especially in relation to the cargo weight, may lead to substantial risks and costs for account of the Merchant and might result in short-shipments and/or extra charges for account of the Merchant.

Bill of Lading will be issued upon receipt of loading confirmation by the Carrier and kept at Merchant's disposition at MSC Canada local office. Transfer and dispatch of documents (by registered mail or courier) will only be effected upon request of the Merchant's order confirmation and at his sole risk, expense and responsibility and shall be deemed remitted to the Merchant upon sending.

#### The arrival of the Goods to discharge port

MSC Agent at Port of discharge will send an arrival notice upon arrival. This notice is a mere commercial courtesy and omission to send it shall not trigger any liability whatsoever, the Merchant being liable to enquire the arrival of its Cargo

The Merchant shall take delivery of the Goods within the time provided in the Carrier's applicable tariff referred to in Clause 3 of the MSC Bill of Lading Terms and Conditions.

The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing Freight for any additional carriage undertaken), incurred or suffered by reason thereof, or by reason of any illegal, incorrect or insufficient declaration, marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof, including reasonable legal expenses and costs.

If by order of the authorities at any place, Goods are detained and/or seized, and/or a Container has to be opened for the Goods to be inspected for any reason whatsoever, including but not limited to for a breach or infringement of a trademark, patent or other intellectual property right, the Carrier will not be liable for any loss or damage whatsoever incurred as a result of any opening, unpacking, inspection, re-packing, detention, destruction or delay. The Carrier shall be entitled to recover from the Merchant all charges, fines, costs, losses and expenses, including reasonable legal expenses and costs resulting from such action, including but not limited to any detention, demurrage and storage charges for the goods and/or the Container.

The Carrier allows a period of free time for the use of the Containers and other equipment in accordance with the Tariff and as advised by the local MSC agent at the Ports of Loading and

Discharge. Free time commences from the day the Container and other equipment is collected by the Merchant or is discharged from the Vessel or is delivered to the Place of Delivery as the case may be.

The Merchant is required and has the responsibility to return to a place nominated by the Carrier the Container and other equipment before or at the end of the free time allowed at the Port of Discharge or the Place of Delivery. Demurrage, per diem and detention charges will be levied and payable by the Merchant thereafter in accordance with the Tariff.

Notwithstanding the above, the Carrier shall be entitled, without notice, to unpack the Goods and/or to store the Goods ashore, afloat, in the open or under cover, at the sole and entire risk of the Merchant and such storage shall constitute due delivery and the and the costs of such storage (if paid or payable by the Carrier or any agent or sub-contractor of the Carrier) shall forthwith upon demand by the Merchant to the Carrier.

All Persons defined as Merchant shall remain jointly and severally liable for the payment of the freight, in particular if the Consignee fails to take delivery of the Goods for whatsoever reason.

If after 30 calendar days from the date of discharge the Goods have not been collected, MSC may exercise its right under the Bill of Lading to dispose of the Goods, always subject to the local laws and regulations authorizing it, without prejudice of MSC's right to pursue recovery of any remaining / outstanding amount from the Merchant.

Unless stated otherwise and expressly confirmed in writing, each quotation always relates to:

- Harmless goods, being made clear that IMDG cargoes are always and strictly subject to the Carrier and Master's final approval at time of loading.
- Cargo shipped and stowed with "deck option"
- In gauge cargo, if quoted for open top containers, flat racks and platforms.
- Cargo valued below USD 200.000,00 per container, if cargo value is not presented upon quotation-request. For high-value-cargo-containers (exceeding USD 200.00,00 - two hundred thousand US dollar cargo value) the Merchant has to submit a written warning notice upon booking and, unless included in the freight, an additional HVP (high-value-premium) might apply

High Value Commodity Mis-Declaration Fee - Any cargo with a commercial value exceeding USD 250,000 (two hundred and fifty thousand US Dollars) must be declared to MSC or its agent at the time of booking. Failure by the Merchant to inform MSC will result in the application of a High Value Commodity Mis-Declaration Fee of 25,000 USD (twenty five thousand US Dollars), being expressly agreed that such information to MSC shall not be considered as a declaration of value and the documentation so issued will not be deemed ad valorem unless this has been formally agreed by MSC and the corresponding surcharge paid by the Merchant.

## **9. IMPORT BOOKINGS**

Import free time – unless otherwise agreed in writing MSC offers the free use of the booked container(s) (release number mentioned in the Booking Confirmation) for a maximum period of 5 days (dry van) and 4 days (refrigerated container) calendar days starting from the date of discharge at port of destination.

If the Importer fails to customs clear their cargo and remove it from the Terminal, Notice of Uncleared Goods (E- 44) will be issued by Canada Border Services within 30 days from the vessel discharge and forfeited to the Crown under Authority of the Customs Act without further notice within the next 30 days.

Section 36 (2) and 39(2) of the Customs Act place responsibility on the importer/ owner for all reasonable expenses incurred by the Canada Border Services Agency in the disposal of goods where they are disposed of other than by sale.

#### Canada Weight Limitations

- Containers exceeding the Canada weight limits as shown on CANADA WEIGHT RESTRICTIONS will not be transported to inland destinations.
- Containers exceeding MAX payload will be put on hold at port until lightened. All cost/charges to make container legal will be for Merchant's account including any storage and demurrage. - Canada Spring Thaw will be in effect from March 1 to May 30 (Dates subject to change)
- Spring Thaw Weight restrictions are applicable for On-carriage/Pre-carriage TRUCK deliveries to Provinces of Quebec and Ontario via port of Montreal.
- Spring Thaw Restrictions are based on axel weight, not cargo weight. To avoid any possible fines cargo weight must be distributed evenly inside of the container to avoid overloading axels.
- Any containers with cargo weight exceeding limitation will be automatically terminated at Port of Discharge. Any costs for cargo re-working will be on the account of Merchant.
- Any containers with cargo weight exceeding limitation will be stopped at Port of Discharge. Cargo will be re-worked to remove excess of cargo from original container. Any costs for cargo re-working including container storage and demurrage (if any) and additional container transportation (with excess of cargo) will be billed automatically and addressed to Merchants being jointly and severally responsible for all costs associated with their shipment on the subject of local weight limitation and restrictions.

#### Forbidden Commodities for Intermodal transportation

- Class A and B Explosives
- Military Goods
- Scrap batteries
- Waste materials
- Compressed or Liquefied Gaseous Material
- Flammable Solids
- Sodium Peroxide
- Infections Substances
- IMO class 1 and class 7

Steel and Metal coils weighting over 3500 lbs per coil must be pre-approved by Montreal Pricing Department

Alcohol shipments moving in bond will incur surcharge of \$100 USD per container.

# 10. CONTAINERS

On completion of the booked voyage (or if the booked voyage is cancelled by the Merchant prior loading) the empty container must be returned to MSC undamaged and completely free of residues dangerous labels in accordance with Carrier's Term and Condition Clause 14.9.

Failure to comply with this requirement may result in action being taken against the Merchant to recover the costs of the repairs, cleaning and/or disposal of residue/contamination, and if any fine, interest and administration charges.

If the container(s) is/are not presented for shipment or returned to the designated place within 30 calendar days the Merchant shall pay the container(s) depreciated value in addition to all accrued hire, demurrage/detention, administration and other charges up to date this option is eventually exercised.

The Merchant is liable for and shall indemnify MSC for all costs, loss and damages arising from any accidents or incidents involving container provided including injury or death of persons or loss of or damage to property, provided that the accident or incident is not due to the fault or negligence of MSC or MSC Canada.

The use of dry-van container in-lieu of reefer or temperature-controlled containers is left to the sole Merchant's appreciation and decision and the Carrier shall have no liability or responsibility whatsoever for thermal or condensation loss or damage to the Goods sustained by reason of natural variations in atmospheric temperatures whether the cargo was carried on or under deck.

The Merchant is responsible for inspecting the empty container for ensuring it is suitable (including its payload) to carry the specific shipment booked. A light-test prior to each empty container(s) acceptance is the minimum inspection standard required from the Merchant and no liability shall be borne by the Carrier nor by MSC Canada for costs of exchanging a container found at later stage with discoverable defects, nor for damages to the goods caused by such defects(s) in the event of use.

The Merchant must check and ensure that the maximum payload complies with all country-specific legal regulations or requirements at origin, in the transit countries and at destination. It is expressly reminded that overstuffing of containers is not permitted by Law and may result in severe injuries and casualties for which the Merchant will be held fully liable. If the Merchant fails to comply with these provisions, the Carrier reserves the right to deal with such Goods, stopping the Goods in transit, discharging at the next port and/or repacking them and levying extra charges, and the Merchant is strictly liable to indemnify the Carrier for all costs, losses, delays, damages, fines, increased charges and any other consequences whatsoever arising. In the event of heavy tested container, the Merchant shall check upon receipt, and not later, that the unit complies with the requested special payload.

Container seal(s) - For security reasons all containers to all destinations must be sealed by the Merchant with a High Security Bolt Seal directly after stuffing.

## Cargo stuffing and proper lashing

Correct packing and securing of the cargo within the container is of vital importance. MSC reserves the right to refuse loading or further on-transport in case of improper stuffing. In the event of damage to the container(s), the Merchant shall assume full responsibility for the damage.

Goods shall include any packing and packing materials used to secure the cargo within the container. It is the Merchant's responsibility to ensure that the packing and packing materials, especially timber, comply with all applicable requirements and that their import is permitted at the country of destination. Any action from the authorities that results in losses to Carrier on account of improper timber shall be of the sole responsibility of Merchant. The weight of the packaging and package shall be included in the total weight declared of the container.

Under deck – Loading and stowage of Goods is carried out under sole instructions of the Ship's Command. Requests for "under deck stowage" are subject to written approval and confirmation by MSC Canada and might give rise to additional specific charges.

## 11. CUSTOMS FORMALITIES

### Late Customs declaration fines

It is Merchant's responsibility to file Customs declarations and if the Carrier or MSC Canada is fined as a consequence of the Merchant's late declaration, incomplete or erroneous filing, the Merchant must indemnify the Carrier or MSC Canada for the fine, all costs, losses and expenses whatsoever incidental thereto.

### Wood packaging Canada Policy Entrance Requirements

#### Policy

Canada's new entry policy is titled: *Entry Requirements for Wood Packaging Materials Produced in All Areas Other Than the United States* and can be found on the following address:  
<http://www.inspection.gc.ca/english/plaveq/protect/dir/d-98-08e.shtml>

The policy provides the entry requirements for pallets, crating, dunnage, bracing, bearers, and other wood packaging made of non-manufactured wood. Manufactured wood, which includes items such as plywood, oriented strand board and other wood products that are constructed using heat and glues, are exempted from the treatment requirements of D-98-08. In accordance with the international standard, dunnage and wood packaging entering Canada after January 2nd, 2004, should meet the following conditions:

The dunnage and wood packaging must be either heat treated to a temperature of 56°C at the core of the wood for at least 30 minutes or fumigated using methyl bromide at specific rates, temperatures and time combinations.

The treatment process must be approved by the National Plant Protection Organization from which the dunnage and wood packaging originates.

The dunnage and wood packaging must be marked with an internationally recognized mark.

Infested dunnage will not be permitted entry to Canada and will be required to be removed from Canada or treated in a manner that does not present risks of pest entry.

### Refused entry

The Government of Canada are refusing cargo that is not complying to the wood packaging regulations. All refused entry is the responsibility of the Merchant and any known intermediary to the shipment.

Following the refused entry notification, the shipment must be re-exported out of Canada within the applicable deadline and all costs generated as a result of this refused entry will be on Merchant's account.

Any Merchant not complying with the re-export might be exposed to a fine.

Imports into CANADA are subject to strict regulation for fumigation of pallets and wooden crates. The Merchants are liable to enquire and respect these regulations to the full extent. Any

rejection of import will trigger substantial costs to be paid by the Merchants.

In such cases, the Merchants, Contract holders, booking party as well as any known intermediaries involved in the transport on the cargo's behalf will be jointly and severally liable for all expenses incurred as a result of this rejection.

## **12. MERCHANTS HAULAGE**

In case of Merchant's haulage, the Merchant guarantees that he and/or his subcontractors are in possession of the mandatory permits and licenses to exercise the activity, including the corresponding Port Authority authorization when appropriate. Likewise, the vehicles used must meet the necessary conditions for the transport of the intended shipment.

At time of empty pick up from the depot, the Merchant is responsible for inspecting the empty container, either directly or via their truckers, and ensuring it is fit (including payload, absence of holes and odor) to carry the specific shipment booked. If the unit is not suitable MSC Canada depot will provide a new one at the earliest opportunity.

The container(s) delivered at the Terminal as per Merchant's request will be on his account and risk since this stock has not been inspected by the Carrier yet. The container must be also inspected at the time of empty pick up from the terminal since any later refusal of container will cause additional costs for account of the Merchant and neither MSC nor MSC Canada shall be held liable for the costs of changing/replacing the container.

The Merchant is responsible for ensuring that all previously affixed IMO (hazardous Goods) placards and labels have been removed from the container before picking up at Terminal/depot or latest during stuffing of its non-hazardous cargo. Costs resulting from a failure to do so will be for account of the Merchant.

The Merchant is responsible to check that the empty container picked up is matching the booking confirmed by MSC Canada. Neither MSC nor MSC Canada shall be responsible for any costs associated with the diversion of shipments or additional on-carriage costs of wrongly swapped cargoes carried out in the wrong empty unit picked up.

## **13. SANCTIONS AND IMPORT / EXPORT CONTROL LAWS**

It is Merchant's responsibility to ensure that the Booking complies with all applicable trade sanctions and import/export control Laws and Regulations. Merchant shall keep the Carrier and its servants and agents fully harmless and indemnified (including for the avoidance of doubt, legal expenses) against any expense, fine, arrest of vessel or other assets, loss or liability whatsoever incurred in connection with a breach of this provision.

## **14. HAZARDOUS GOODS/IMDG CARGOES**

Hazardous and IMDG cargoes are booked on provisional basis only and subject always to the acceptance of the hazardous department of the Carrier. A dangerous good declaration (DGD) shall always be provided by the Merchant and the time of booking.

The signed "container packing certificate" needs to be presented at the latest 24 hours prior to cargo closing time at Terminal. Even if hazardous cargo booking is accepted by MSC in the first instance MSC reserves

the right to reject the shipment since final approval is with Vessel's Master.

Dangerous or hazardous Goods are accepted by MSC Canada and the Carrier in reliance on the Merchant's notice of their full and true nature. The Merchant's dangerous or hazardous Goods declarations must be in format required by all applicable regulation.

## **15. REEFERS TEMPERATURE CONTROLLED CARGOES**

Reefer cargo booking is only accepted together with a reefer booking form which must be duly filled out.

The Merchant is responsible to check the pre-settings of the container temperature, ventilation and humidity prior to stuffing. MSC and MSC Canada shall not be held liable for temperature damages generated by hot stuffing or non-disputed wrong pre-settings. Refrigerated containers are not designed to cool or freeze cargo which has been loaded in a container at a temperature higher than the designated carrying temperature. MSC shall not be responsible for the consequences of the cargo being loaded at a higher temperature than the one required for carriage.

The (red-marked) maximum load line shall not be exceeded under any circumstance, as this would impair the correct circulation of the cooling air and neither MSC nor MSC Canada shall accept any liability due to a non-respect of this safety measure.

In case of any dispute relating to temperature damage, the Merchant agrees that the data logger provided by the Carrier is the utter evidence of the reefer functioning. The disclosure of such element will be subject to a financial compensation.

## **16. BOOKING CANCELLATION**

MSC reserves the right to cancel the Booking should the container(s) not be loaded/picked up on the dates agreed or if the Carrier has reasonable grounds to doubt that the Goods may be not complaint with any relevant applicable regulation. In the event of booking cancellation for any reason including when the application of the preceding sentence, any and all charges (including administration fees) incurred by MSC shall remain due and payable by the Merchant.

## **17. RELEASE**

Cargo will not be released (or Delivery order shall not be issued) until freight and/or charges have been paid and until original Bill of Lading duly endorsed has been surrendered.

Pick-up numbers / Steam Ship Release is provided only once OBL and full payment are received by MSC Canada.

## **18. RETURNING OF CONTAINERS**

The empty container has to be returned within the agreed time at the place designated by MSC Canada in a clean, odorless, and undamaged condition and completely free of residues, with all chemicals, dangerous Goods (in accordance with applicable regulation) and fumigation labels removed according to Carrier's Terms and Conditions.

Failure to comply with this requirement may result in additional costs for account of the cargo.

## 19. LOCAL CHARGES (STORAGES, DEMURRAGES, DETENTIONS...)

MSC Canada import desk should be contacted directly for such information.

Demurrage Charges / Calculation:

- Reefer containers:
  - Free time starts: day after full container is discharged;
  - Standard fee time (in calendar): 4 days;
  - Day 5 to 6: USD 300 /per day; Day 7 and plus: USD 400 per day
- Dry containers:
  - Free time starts: day after full container is discharged;
  - Standard fee time (in calendar): 5 days;
  - Day 6 to 9: USD 115 /per day; Day 10 to 20: USD 230 per day; Day 21 and plus: USD 345 per day
- Late return Fee:

Please note that any container (dry or reefer) held for longer than 29 days will incur a late return penalty fee of \$5,000USD on Day 30 in addition to the on-going \$345 USD or \$400USD tariff (DV vs. RE respectively). (In other words, LATER RETURN FEE/ LRF will be applicable on Day 30-th calculated from the date of discharge)

Note that demurrage tariffs do not stop at day 30 and will continue to accumulate until the container is returned.

Lastly, late return fee is applicable independently of free time.

### Canada Customs

All import shipments are subject to the standard demurrage time, regardless of delays caused by Canada Customs/CFIA inspections/holds.

MSC Canada will not bear any responsibility nor be involved in any action taken by Canada Customs that results in a delay.

### Storage Charges

Storage charge is on the account of the receiver.

Please refer to terminal /yard website for further information concerning storage policy and rates:

- Termont: <http://www.termontmtl.com>
- Cast: <https://www.mtrtml.com>
- Delta Port: <http://www.tsi.bc.ca>
- CN: <https://www.cn.ca>

Once cargo is available (customs cleared & steamship released), 24 hours is required to set up delivery.

Cargo moving in bond has to be clearly mentioned with sub location code in the delivery instructions. \$100 CAD is applicable for bond charges.

Effective July- 1st 2014, all door deliveries performed by MSC from Delta Port will incur RV fee of \$50 USD per container.

#### Other Additional Charges

Empty equipment is to be returned to the container depot mentioned on the arrival notice. \$135 USD per container will be charged to the consignee/notify if empty is returned to wrong depot.

If containers are being re-used for export, MSC Canada must be notified before the last free day of demurrage and new booking number must be provided to the following email address: [CAMTREQUIPMENTREUSE@msccanada.ca](mailto:CAMTREQUIPMENTREUSE@msccanada.ca).

If MSC is not notified, demurrage charges will apply.

All Reefers will be subject to plug-in charges of \$75 USD per day if they are not picked up within the standard time. Placards must be completely removed before returning the empty container.

#### Summary on Import local charges

| IMPORT LOCAL CHARGES     |              |  |
|--------------------------|--------------|--|
| LOCAL CHARGE             | Charge Value | Applicability  |
|                          | USD          |  |
| Delivery Order Fee       | 35           | always - Except: Eagle & Maple Service, and some selected Global account clients |
| Reefer Cleaning          | 50           | Only Reefers   |
| Container Return Fee     | 10           | always   |
| ISPS Import              | 19           | always   |
| ISPS Import US           | 8            | always   |
| Administration Fee (TPB) |              |  |
| Customs Exams            | 78.74        | for customs exams only   |
| TPIs                     | 50           | for TPis only  |
| Late_Return_Fee          | 5000         | when applicable  |

## 20. COILS AND COILED METAL PRODUCTS

#### MSC booking and Bill of Lading

Booking and Bill of Lading must identify the commodity as “Coils” or “COILED METAL PRODUCTS”, along with the utilization of the appropriate HS Code or Standard of Transportation Commodity Code (STCC).

The HS Codes that can be used are the following: 7208, 7209, 7210, 7211, 7212, 7213, 7214, 7219 or 7220.

Additionally, the commodity term “Coils” or “COILED METAL PRODUCTS” includes multi-packs of coils and individual stacks, which are unitized in such a manner as to maintain vertical alignment.

For export shipments out of Canada: MSC Canada LOA (Letter of Acknowledgement) and LOI (Letter of Indemnity) must be sent to MSC Canada’s Claims department to obtain their approval that will be valid for 3 years from when the original date is signed.

By signing the MSC Canada Letter of Acknowledgement’s Terms and Conditions, the shipper, freight forwarder, booking client and the CN certified loader (if applicable) assumes full responsibility for “ALL COSTS” associated with any incident resulting from non-compliance with the conditions noted above.

Furthermore, the shipper, freight forwarder, booking client and the CN certified loader will hold CN, MSC Canada and all its affiliated companies harmless with respect to any claims and/or costs arising from any breach of these conditions.

For ALL rail loads, please refer to the CN policy for coiled metal products transported by rail.

#### CN Rail: the certified loader

CN Rail will accept coils and coiled metal products for transportation movements in containers on rail only when coiled metal products are loaded by a CN Certified Loader.

The CN Certified Loader must execute the CN Letter of Agreement and the CN Letter of Agreement must be sent to CN Rail to obtain their approval that is valid for 3 years.

The CN Letter of Agreement is to be filled in and sent to CN Rail as per the document CN 9100 Tariff under sub header Item 10100.

<https://www.cn.ca/-/media/files/customer-centre/shipping/coiledmetals-certifiedloaders-letterofagreement-2013-en.pdf>

<https://www.cn.ca>

#### CN Rail: securing/container age/weight distribution

The CN Certified Loader is responsible for securing “Coiled Metal Products”, such that it will prevent coils from shifting during the stresses of rail transportation or when being lifted to/from railcars by Intermodal lift equipment.

The CN Certified Loader is responsible for ensuring Coiled Metal Products are not loaded in Intermodal units (i.e. containers) that are under seven (7) years old.

The CN Certified Loader is responsible to load an individual coil no more than 12,500 lbs – inclusive of bracing and support material.

Coils exceeding 12,500 lbs must be loaded on a Load and Roll Pallet, Sled or similar type of weight distribution system/device, which evenly distributes the weight over the entire floor of the container.

Coils exceeding 3,500 lbs, but less than 12,500 lbs, need to meet securement and weight distribution requirements as stated in the CN Rail policy.

The CN Certified Loader is responsible for photos to be taken at the time of Coiled Metal Products stuffing with doors opened and clearly showing the loaded contents.

## Damages / container repairs / fines

Damage, container repairs and fines attributed to improper cargo and or weight declaration, stuffing, blocking and bracing will be considered as an act of violation of MSC and CN Rail steel coiled product policy.

All associated costs and charges will be on the account of the shipper, freight forwarder, booking client and the CN certified loader (if applicable). Fines/penalties will be applied upon misdeclarations by weight, commodity and/or HS Code(s).

The shipper, freight forwarder, booking client and the CN certified loader (if applicable) are fully accountable for respecting MSC and CN policy regarding container and cargo requirements placed by CN rail transportation.

Failure to comply with MSC and CN policies for coil and coiled metal products will result in both parties not accepting full containers for rail move and the possibility of any additional fines and charges that are associated with these shipments.

## **21. DAMAGES AND LOSSES**

The consignee/notify, or any party acting on their behalf, is responsible for damage or loss of MSC equipment, whether full or empty, and any cargo within any container or trailer.

In the event of any damage /loss to MSC equipment or any cargo contained therein, the carrier must be notified of the same immediately.

## **22. NOTICE OF CLAIMS, TIME BAR**

Notice of loss or damage to Goods shall be given in writing to the Carrier or its agent at the Port of Discharge before or at the time of delivery. If the loss or damage is not apparent before or at the time of delivery, notice must be given within three (3) days of delivery to the Merchant or its agent. Claims shall be submitted in writing addressed by the Merchant to the Carrier's agent at the Port of Discharge.

Time bar - In any event, the Carrier shall be discharged from all liability if suit is not commenced within one (1) year after delivery of the Goods or the date that the Goods should have been delivered for claims related to loss or damage during the Port-to-Port carriage, and for claims related to loss or damage during Inland Transport the shorter of nine (9) months or any time limit provided for by any applicable international convention, national law, regulation or contract by virtue of clauses 5.2.2 (a) or (b) of the carrier's terms and conditions.

## **23. LEGAL ADMINISTRATION FEE**

MSC shall charge the Merchant a Legal Administration Fee (LAF) covering the extra coordination / organization work and subsequent follow-up necessitated by any situation of damage or risk of damage to the cargo, container,

crew and/or vessel caused or generated by the Merchant's negligence, fault or misconduct. This fee will be charged in addition to the costs actually as the result of the situation itself and its remedy.

|   |                              |
|---|------------------------------|
| <b>FOR COSTS UP TO 500 USD:</b>             | <b>40 USD PER CONTAINER</b>  |
| <b>FOR COSTS BETWEEN 500 AND 1000 USD:</b>  | <b>80 USD PER CONTAINER</b>  |
| <b>FOR COSTS BETWEEN 1000 AND 2000 USD:</b> | <b>140 USD PER CONTAINER</b> |
| <b>FOR COSTS OVER 2000 USD:</b>             | <b>200 USD PER CONTAINER</b> |

The Carrier and its Agent are authorized to charge the Legal Administration Fee in any other legal currency locally.

**NOTE:** The basis for our invoicing being the number of containers involved in the incident /casualty, not the number of containers listed on the Bill(s) of Lading. The extra handling costs to be taken into account for the determination of the LAF being the final amount charged to MSC/MSC agents, including all taxes and charges.

## **24. CARGO WEIGHT DECLARATION AND VGM COMPLIANCE, SUBMISSION'S DEADLINE**

All VGM must be submitted electronically or transmitted to MSC prior loading, failing which containers will not be planned on the scheduled vessel. All costs, consequences shall be on Shipper's account for any delay in submitting VGM, non-submission of VGM and/or for any noncompliance to VGM statutory guidelines.

MSC does not permit its Containers to be used in any manner whatsoever to lift, load, move or carry cargoes that:

- a. are wrongly declared, or
- b. weigh in excess of the VGM or commercial / manifest weight declared, or
- c. weigh in excess of the payload of the equipment.

Should MSC be made aware, prior or during carriage, that its Containers have been used in breach of any of the above prohibitions, the container(s) concerned may be refused for loading, kept onboard for return to origin, discharged at the next convenient port and/or corrective measures such as, but not limited to, restuffing into other containers may be taken at MSC' sole discretion and at the Merchant's sole risks and expenses.

Merchant shall be liable towards MSC and its agents for all losses, claims, fines, demands, suits and actions of any kind whatsoever including in respect of death and personal injury, legal and court expenses, whether directly or indirectly resulting from or connected to such unauthorized use of the MSC's Containers.

Any extra work generated due to a breach of any of the above prohibitions shall give rise to an ad hoc surcharge and MSC reserves it rights to exercise its lien over the infringing cargo and/or any other cargo carried on behalf of the Merchant until the costs due to MSC, including surcharge, have been fully paid.