



MSC UNITED STATES TERMS AND CONDITIONS

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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

1.1 MSC or Carrier: means MSC MEDITERRANEAN SHIPPING COMPANY S.A., 12-14 Chemin Rieu, 1208 Geneva – Switzerland. Any reference to MSC or Carrier herein shall include MSC USA.

1.2 – MSC USA: means MEDITERRANEAN SHIPPING COMPANY (USA) INC. with its head office located at 420, 5th Avenue (at 37th Street) – 8th Floor, New York, N.Y. 10018-2702, and with offices in Atlanta, GA; Baltimore, MD; Boston, MA; Charleston, S.C; Charlotte, NC; Chicago, IL; Cleveland, OH; Costa Mesa, CA; Detroit, MI; Houston, TX; Miami, FL; New Orleans, LA; Norfolk, VA; Warren, NJ is General Agent in U.S.A. for MSC MEDITERRANEAN SHIPPING COMPANY S.A. ("MSC").

1.3 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 anyone acting on behalf of this Person and when the context so requires means those persons jointly and severally.

2. APPLICABILITY

2.1 All cargo booked by MSC USA is for and on behalf of MSC Mediterranean Shipping Company S.A., Geneva, who is the Carrier, and any reference to MSC herein shall include MSC USA.

2.1 THE TERMS AND CONDITIONS OF THE CARRIER'S BILL OF LADING OR SEA WAYBILL (available at <https://www.msc.com/usa/contract-of-carriage/seawaybill-terms-conditions>) APPLY AS FROM THE ISSUANCE OF ANY BOOKING CONFIRMATION AS IF INCORPORATED BY REFERENCE.

2.3 Although above Terms and Conditions are deemed to form part of all contracts between the Merchant and MSC via its local agent 'MSC USA', in case of any inconsistency between above Terms, Conditions and Exceptions, and the Terms, Conditions, and Exceptions of the MSC MEDITERRANEAN SHIPPING COMPANY S.A. Bill of lading and/or Sea Waybill, the latter shall prevail. Orders and instructions of the Merchant shall be considered as his acknowledgement and acceptance of MSC Bill of lading Terms, Conditions and Exceptions incorporated therein. General Conditions of the Merchant will not be applicable and shall in every case, be superseded by MSC Bill of Lading Terms and Conditions. Deviations from MSC Bill of Lading Terms and Conditions, and in particular any general conditions of the Merchant shall not apply unless they have been explicitly agreed to in writing by the Carrier MSC Mediterranean Shipping Company S. A..

3. EXPORT PROCEDURE

3.1 Any booking note or booking confirmation ("Booking Confirmation") forms a contract between MSC and the booking party as such term is defined in the Contract of Carriage.

3.2 The information provided in the fields of any booking confirmation is that which is anticipated and declared by the Merchant at the time of the booking. MSC reserves the right to change any such information. The information listed on the Booking Confirmation, together with any shipping instructions, will be used to issue the Contract of Carriage.

3.3 Every Person defined as "Merchant" in clause 1 shall be jointly and severally liable to MSC for the payment of all Freight and charges and for the performance of the obligations of each of them hereunder. Any Person engaged by the Merchant to perform forwarding services with respect to the Goods shall be considered to be exclusively the Merchant's agent for all purposes, and any payment of Freight to such Person shall not be considered payment to MSC in any event whatsoever. Failure of such third parties to pay any part of the Freight to MSC shall be considered a default by the Merchant in the payment of Freight.

3.4 Should the description of the Goods provided at the time of booking or as amended be inaccurate, the Merchant is liable for any increased charges, costs, expenses, losses and damages whatsoever which arise from such inaccuracies.

3.5 Where the Merchant uses a booking agent, the Merchant warrants that the booking agent has the authority to enter into this contract, arrange shipment, receive original bills of lading and provide confirming instructions to MSC, until the Merchant advises MSC otherwise in writing.

3.6 In compliance with the Shipping Act of 1984, 46 U.S.C. App. § 1701 et seq., MSC Mediterranean Shipping Company S.A. Geneva has, in its quality of Common Carrier, filed with the Federal Maritime Commission a copy of its Tariff containing the MSC Bill of Lading Terms, Conditions and Exceptions.

3.7 Freight and charges are based on the instructions provided at the date of the Booking Confirmation's issuance and may change if the Shipper's instructions change. Unless otherwise agreed in advance, the applicable tariff for Freight and charges for the Goods is the tariff in effect as of the date that MSC takes possession of the Goods. MSC reserves the right to amend the freight and charges if MSC's tariff changes after the date hereof up until the time in which MSC takes possession of the Goods.

3.8 Goods, Packing and Container Weights:

(a) "Goods" include any packaging and any packing materials used to secure the cargo in the Container. It is the Merchant's responsibility to ensure that packaging and packing materials, especially timber, comply with all applicable requirements and their import is permitted in the country of destination. The weight of packaging and packing must be included in the total weight declared for each container. Incorrectly declared weights of Goods directly affect the safety of the Vessel and all persons involved in the transportation of the Goods and the Merchant must take care to properly evaluate the weight of the Goods. Overloaded containers cannot be lawfully be carried and the Merchant must not exceed the maximum weight limit indicated on each container.

(b) If the Merchant fails to comply with any terms herein concerning weight, packing or packaging, MSC reserves the right to deal with such Goods as it sees fit including but not limited to refusing to load the Goods, stopping Goods in transit, discharging Goods at the next port and/or repacking them and levying extra charges. The Merchant is strictly liable to indemnify MSC for all costs, losses, delays, damages, fines, increased charges and any other consequences whatsoever arising from Merchant's misconduct or negligence regarding the foregoing. MSC and its agents rely upon the weight information provided by Shippers and will not be liable for any loss or damage arising from reliance on this information, including any delays in delivery of the goods. Any extra costs, liabilities and financial consequences, whether direct or not and including but not limited to Cargo / Container re-stow on board the Vessel, caused by a mistake or omission of the Shippers in properly describing the cargo when it was booked or to details erroneously inserted by the Shippers in the Dock Receipt shall be for the sole account of the Shippers.

(c) 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 VGM cut off) to the vessel loading process. Neither MSC nor MSC USA shall be responsible for any costs linked with the declaration of incorrect container weights. 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 with VGM requirements.

- 3.9 Save where Goods are carried in an operating refrigerated Container, the MSC has no liability whatsoever for loss or damage to the Goods caused by variations in atmospheric conditions (e.g., temperature, humidity).
- 3.10 Notwithstanding the provision of Container seal(s) by MSC, it is the Merchant's responsibility to ensure the type of Seal affixed to the Container(s) is in compliance with all applicable regulations. The Shipper is to affix, upon stuffing of cargo inside the containers, seals on the container doors, in compliance with International Organization for Standardization / Publicly Available Specification 17712 (ISO / PAS 17712) failing which, all cost and consequences arising out of Shipper's failure to affix such seals shall be for Shipper's account.
- 3.11 It is the Merchant's responsibility to timely provide fumigation and/or phytosanitary certificates for presentation to authorities as required, and the Merchant is responsible for all consequences of delay in doing so.
- 3.12 It is the Merchant's responsibility to ensure that their shipment complies with all applicable trade sanctions and import/export control laws ("Sanctions"). The Merchant shall indemnify MSC for all costs, losses, damages and consequences whatsoever arising out of any failure by the Merchant to comply with Sanctions. MSC reserves the right to take whatever action necessary or prudent to ensure compliance with Sanctions applicable to MSC.
- 3.13 Issued Bills of Lading or Sea Waybills are available for collection by the Merchant at the MSC Agency office. Should the Merchant request them to be sent via courier, this shall be at the sole Merchant's risk and expense MSC shall not accept any liability whatsoever for the delay or loss of such parcel.
- 3.14 It is the Merchant's responsibility to file customs declarations. If MSC is fined or suffers expenses in consequence of the Merchant's late, incomplete or erroneous customs filing, the Merchant shall indemnify MSC for the fine and for all costs, losses and expenses whatsoever incidental thereto.
- 3.15 Any Prepaid Foreign Currency will be charged and converted at the charge applicability dates' exchange rate.
- 3.16 Empty pick-up / Check of empty equipment / Removal of IMCO label:
- (a) In case of Merchant's Haulage, the Booking Party and Shipper are responsible for inspecting the empty container for its suitability to carry the specific shipment booked at the time of empty pick up from the depot/terminal either directly or via their truckers. Any later refusal of container will cause additional costs for account of the Merchant and neither MSC nor MSC USA shall be held liable for the costs of changing/replacing a container accepted during empty positioning unless the vice affecting the container was not detectable during a summary check; in which case the costs of the container changing shall be equally shared. Notwithstanding the above, a light-test is compulsory prior to each empty container's acceptance and no liability shall be borne by MSC for costs of exchanging a container found with any holes or cracks at a later stage.
 - (b) The Booking Party, the Shipper and their trucker are jointly responsible to check that the empty container picked up at the depot is used for the booking confirmed by MSC for this specific container. MSC shall not be responsible for any costs linked to the repatriation or additional on-carriage costs of wrongly swapped cargoes carried within correct containers due to a mistake during the empty pick-up.
 - (c) The Booking Party and Shipper are responsible for ensuring that all prior IMO (hazardous goods) placards and labels have been removed from the container before pick-up or latest during stuffing of its non-hazardous cargo. Costs resulting from neglect will be for the account of the Merchant.
- 3.17 Before attempting a full load delivery for shipment, the trucker must verify that vessel is open for Receiving. For receiving dates for a particular vessel, Shippers need to check with Loading Terminal prior dispatching a trucker.
- 3.18 Hazardous Cargo Cut-off is 24 hours prior to the regular cut-off both at the port and the rail. Automobile Cut-off deadlines vary by location, the date for which can be found on the Booking Confirmation.
- 3.19 If Cargo is in gated after Deadline it may be accepted but may be subsequently rolled to following ship if Coast Guard or Customs procedures are not satisfied. Rollover and Re-Handle charges will be applied and payable by the Merchants.

3.20 MSC will not be responsible for non-compliance with the local customs regulations on forbidden goods. The Shipper is responsible for ensuring, prior to booking, that the cargo remitted to MSC is compliant with all applicable legislation and international sanctions as of the time of booking, and is maintained lawful under such regulations throughout the complete sea-voyage. Any costs or liability imposed on MSC due to a violation of this obligation or any charge arising from shipping of forbidden goods will be to Shipper's account.

3.21 Shippers can track & trace their containers through the MSC website at: <https://www.msc.com/usa/help-centre/tools/track-a-shipment>.

3.22 A Dock Receipt may be required for the return of export containers depending on the cargo at issue, and the ports involved.

3.23 In consideration of MSC issuing, at the booking party or the Shipper's request, a Sea Waybill instead of Bill of Lading for the contract of carriage of the cargo, the booking party and the shipper hereby indemnify MSC for all and any claims, losses, costs, expenses and liabilities of any nature whatsoever that arise in consequence of the use of a Sea Waybill instead of a Bill of Lading. The booking party and the Shipper further undertake to ensure that the Consignee designated on the Sea Waybill receives a legible copy of, by fax or e-mail, and agrees to abide by, the terms, conditions, exceptions and limitations contained in the MSC Sea Waybill as freely accessible under www.msc.com and to inform the Consignee that a formal letter of acceptance of the MSC Sea Waybill Terms and Conditions will be requested from him at destination prior to delivery, being made expressly clear that oversight from MSC or its agent to obtain such a letter of acceptance prior release of the cargo shall not be deemed in any way as a waiver by MSC of its rights to rely upon, nor as a non-acceptation by the Consignee, of these Terms and Conditions.

3.24 High Value Commodity Mis-Declaration Fee- Any cargo with a commercial value exceeding USD 250,000 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 Higher Value Commodity Mis-Declaration Fee of 25,000 USD, 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.

3.25 Military cargo: For any intended booking regarding the shipment of military and/or para-military cargo (defined in the broadest sense as cargo which has or might have a military purpose and/or cargo that is destined to or originating from military or para-military authorities, including so-called dual-use cargo), it is mandatory to submit the following documents to MSC prior to any possible acceptance of such booking: packing list, commercial invoice, HS Codes consisting of minimum 6 digits, full details of the manufacturer and end user of such cargo, copy of the import license and/or export license of the importer/exporter of such cargo, final destination of the goods. In any case no booking of military/para-military cargo can be accepted without MSC having received the prior approval from the relevant Authorities. Furthermore, compliance policy requirements of MSC will have to be adhered to. Any quotation obtained on the basis of incomplete or inaccurate information as to the nature or value of the goods shall not be binding for MSC and/or will be considered a material breach of contract, entitling MSC to suspend, modify or cancel the transportation at Merchant's sole risk and expenses. MSC reserves the right to apply a charge equal to 25% of the cargo value for any misdeclaration of said commodity with a minimum of USD 5,000. For reference this shall include, without limitation (i) any commodity on the US Munitions List or on the Wassenaar Arrangement Dual List Categories, (ii) any commodity which by its design or characteristics, is on any similar list applicable to the Carrier, and (iii) any commodity consigned to a firearms or munitions manufacturer, or to any state police or defense ministry or equivalent entity."

4. HAZARDOUS CARGO

4.1 Dangerous or hazardous Goods are accepted by MSC in reliance of the Merchant's disclosure of their full and true nature. The Merchant's dangerous or hazardous goods declarations must be in the format required by all applicable regulations. Even if a hazardous cargo booking is accepted by MSC in the first instance, MSC reserves the

right to reject the shipment, since final approval is at the discretion of the Vessel's Master.

4.2 A DGD (Dangerous Goods Declaration) must be submitted and approved prior to a hazardous booking being confirmed by MSC. Any inconsistencies between the Master Bill of Lading / Shipping instructions and submitted DGD will result in the application of an additional fee. This fee shall not deprive MSC of the right to recover from the Merchant any fines, costs or liabilities associated with the misdeclaration.

4.3 If a container is booked as non-hazardous and upon departure is found to be hazardous, a non-declaration fee of \$500 will be billed to the Shipper. Such liquidated damages for the extra work generated for MSC USA shall not prevent nor deprive MSC USA or MSC from their rights to recover from the Merchant any fines, costs or liabilities associated with the non-declaration of hazardous cargo.

4.4 The Merchant is responsible to ensure that for each Booking of waste and / or scrap cargo and Hazardous Wastes and / or Scrap Cargo complies with [applicable domestic laws and regulations](#), which include regulations under the Resource Conservation and Recovery Act ([RCRA](#)), contained in the Code of Federal Regulations (CFR), at 40 CFR Part 262, Subpart E and Subpart H and, where applicable, also complies with EU-Regulations 1013/2006 of 14th June 2006 on shipment of Waste: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1013>.

5. EXTRA CHARGES

5.1 The Merchant is advised that extra charges may be levied by local authorities in addition to the Freight and charges described in MSC's tariff and payable before the Goods can be delivered. MSC may be required to collect the extra charges on behalf of the local authorities.

5.2 All Cargo Booked by MSC is subject to documentation fees due at the destination, in addition to other local charges, payable prior to delivery. For further information, please contact your local MSC agent.

6. REFRIGERATION AND INSULATION

6.1 MSC has the right but not the obligation to refuse to accept any Container loaded by the Merchant for shipment where the Goods are not or were not loaded into the Container within plus or minus 2 degrees Celsius of the contracted carrying temperature. Please see further MSC B/L Terms, Conditions and Exceptions.

6.2 The use of dry-van containers in lieu of reefer or temperature-controlled containers is left to the sole Merchant's discretion and MSC 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.

7. IMPORT PROCEDURE

7.1 CBP Requirements:

(a) Merchant shall undertake to comply with the below U.S. Customs and Border Patrol ("CBP") requirements, in addition to any other applicable CBP requirements which may be in effect from time to time. All costs, consequences, and penalties imposed by CBP for Importers failing to comply with CBP requirements shall be for Merchant's account.

(b) Before merchandise arriving by vessel can be imported into the United States the 'Importer Security Filing (ISF) Importer' or their agent (e.g. licensed customs broker), must electronically submit advance cargo information to CBP in the form of an Importer Security filing. The ISF Importer is the party causing the goods to arrive within the limits of a port in the United States by vessel. Typically, the ISF Importer is the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. ISF Importers, or their agent, must provide eight data elements, no later than 24 hours before the cargo is laden aboard a vessel destined to the United States. Those data elements include: Seller, Buyer, Importer of record number / FTZ applicant identification number Consignee number(s), Manufacturer (or supplier), Ship to party, Country of origin, Commodity Harmonized Tariff Schedule of the United States (HTSUS) number.

(c) U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE M1) is both an imported merchandise inventory control system and a cargo release notification system. Ace M1 is interactive with other systems such as Automated Broker Interface (ABI) and the cargo Selectivity System. ACE M1 allows CBP to place and remove holds against Bills of Lading, specific containers, or entire manifests. Holds prevent MSC from releasing merchandise to the importer until MSC has received hold removal notifications through ACE M1. Demurrage / Detention on Cargo / Containers due to CBP Hold shall be for Merchant's account.

(d) The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has set standards for wood packaging material (WPM) imported into the U.S. through 7 CFR 319.40 – Importation of Wood Packaging Material. This rule states that all regulated wood packaging material shall be appropriately treated

(NPPO) in the country of export. WPM that arrives in the U.S. and which is not compliant with these provisions must be immediately exported. There are no post-arrival treatment options. All expenses incurred by CBP and MSC in connection with Non-Compliant Wood Packing Material (NCWPM) removal will be billed to the Merchant. NCWPM and associated merchandise that is re-exported will be at the Merchant's expense.

7.2 The Merchant shall comply with all regulations or requirements of the 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 MSC in respect thereof, including reasonable legal expenses and costs.

7.3 No representation is made by MSC as to the weight, contents, measure, quantity, quality, description, condition, temperature, marks, numbers or value of the Goods and MSC shall be under no responsibility whatsoever in respect of such description or particulars. MSC is not responsible for the accuracy of cargo information manifested since manifested cargo information is provided to MSC by Freight Forwarder / Shippers / Merchant.

7.4 MSC allows a period of free time for the use of the containers and other equipment in accordance with the Tariff. 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 MSC 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.

7.5 For 'Merchant Haulage' cargo / containers, the Merchant is required to hire Trucker(s) enrolled with and operating under the Terms, Conditions and Exceptions of the [Uniform Intermodal Interchange and Facilities Access Agreement \(UIIA\)](#) and any addenda thereto, administered by The Intermodal Association of North America. [Please see copy of the Protocol attached.](#) Trucker(s) hired by the Merchant are required to have 'Transportation Worker Identification Credential (TWIC)' cards.

7.6 Any mention in MSC Bill of Lading of parties to be notified of the arrival of the Goods is solely for information of MSC. Failure to give such notification shall not subject the MSC to any liability nor relieve the Merchant of any obligation hereunder.

7.7 Where MSC has contracted for Intermodal Inland Delivery, in order to comply with the local / Federal laws and in interest of Public Safety, MSC will not participate in the transportation of any container that exceeds applicable over the road weight regulations. Merchant must comply with local / Federal regulations respecting any container for which MSC is arranging inland transportation. If any container exceeds weight regulations, that container will be re-handled to within the legal limits with all related and resultant charges and costs shall be for Merchant's account. [Please see Protocol attached.](#)

7.8 In cases of returned cargo from overseas which had initially originated from U.S., this cargo must first be cleared with U.S. Customs before it is imported into U.S. or removed from the Terminal or Rail Ramp.

7.9 In cases of Delivery at an inland destination involving Rail Transportation, MSC will route container to Rail and send notification when container arrives destination Rail Ramp. 'Free Time' on 'Rail Ramp' is shorter than on Marine Terminals. The Merchant is required to familiarize itself with Rail Road Ramp Free Time. Any delay in Merchant picking up its container once Free Time has expired shall be charged to Merchant as Rail Detention as per Rail Road Tariff.

7.10 MSC shall abide by Customs and Border Patrol Regulations pertaining to General Order Merchandise, Unclaimed Merchandise, and Abandoned Merchandise, the Storage and Sale thereof, and the Distribution of Proceeds from Sale thereof. Any and all Fines, Penalties imposed by CBP on account of General Order Merchandise shall be for Merchants account. MSC reserves its rights to limit and recover any expenditure incurred by and due to MSC either by way of legal actions against the Merchant or by disposal or sale of the unclaimed cargo.

8. PICK-UP AND DELIVERY

8.1 The Procedure for Pick Up of 'Import Loaded' container(s) at U.S.A. Terminals requires the following: (a) Valid Sea Link Card (number id), (b) Container Number, (c) Bill of Lading Number, and (d) License Plate Number.

8.2 If a negotiable (To Order) Bill of Lading was issued to Merchant, one duly endorsed original Bill of Lading must be surrendered by the Merchant to MSC (together with outstanding Freight) in exchange for the Goods or a Delivery Order. If a non-negotiable (straight) Bill of Lading was issued to Merchant, MSC shall deliver the Goods or issue a Delivery Order (after payment of outstanding Freight) against the surrender of one original Bill of Lading, duly endorsed, at the Port of Discharge or Place of Delivery, whichever is applicable. Any Demurrage / Detention incurred due to Merchant's failure to timely submit requisite documents shall be for Merchant's account.

8.3 No release of cargo/ container(s) will be authorized until the MSC Original Bill of Lading has been duly accomplished / fully executed by presentation and/or endorsement, and the contract of carriage Terms & Conditions have been acknowledged in writing by the consignee.

8.4 In case of Sea Waybill / Telex Release, no release of cargo/container(s) will be authorized until a Letter of Indemnity / Undertaking has been signed and stamped by the Consignee through which it acknowledges its acceptance of the MSC Bills of lading Terms and Conditions.

8.5 The Bill of lading number and container numbers are proprietary information and should not be shared with any unnecessary Third Party by the Contracting Party.

8.6 Before attempting to pick up a container, the Merchant is required to check with the Terminal / Rail Ramp if the Container(s) is available and grounded. Certain locations have unique delivery requirements with which the Merchant is required to be familiar.

8.7 The Merchant shall take delivery of the Goods within the time provided in MSC's applicable tariff referred to in Clause 3 of the MSC Bill of Lading and Sea Waybill Terms and Conditions. SHOULD THE MERCHANT FAIL TO TAKE DELIVERY OF THE GOODS WITHIN TEN (10) DAYS OF THE DELIVERY BECOMING DUE UNDER A) ABOVE, SUCH DELAY SHALL BE CONSIDERED AS UNREASONABLE IN THE MEANING OF THE CLAUSE 20.3 OF THE MSC BILL OF LADING AND SEA WAYBILL TERMS AND CONDITIONS AND MSC SHALL NOT THEREAFTER HAVE ANY FURTHER RESPONSIBILITIES OR LIABILITY IN RESPECT OF THESE GOODS.

8.8 In case of on-carriage, the Merchant's delivery instruction, together with all necessary documents for the performance of such transport, must reach MSC USA at least four working days prior estimated time of arrival (ETA) at discharge port in order to arrange the positioning. MSC and MSC USA shall not be held liable for delay and additional costs generated due to a disrespect of this obligation.

8.9 If, whether by act or omission, the Merchant directly or indirectly prevents, delays or hinders the discharge or the delivery of the Goods, then any costs, expenses or liabilities so resulting shall be for its full and sole account.

8.10 The empty container has to be returned to the container depot designated by MSC in a clean, undamaged condition and completely free of cargo residues, with all chemicals, dangerous goods (in accordance with applicable regulations), and fumigation labels removed. Failure to comply with this requirement may result in additional costs for account of the cargo.

9. EQUIPMENT RE-USE

Equipment re-use occurs whenever an empty container is re-used for a new shipment by the Merchant without first being returned to an MSC nominated container depot for inspection and maintenance. Such re-use has to be authorised by MSC in advance and a status changeover date ending the import demurrage period will be agreed. Merchant accepts to be charged with a re-use fee.

Re-use is tolerated for the sole benefit and convenience of the Merchant, who shall accordingly bear any and all risks associated with the re-use and shall keep the Carrier and MSC USA fully indemnified (including reasonable legal expenses) against any claim that would be raised by any party in that connection. The Merchant shall inspect the container (internally & externally) for suitability and bear any expense (including without limitation, re-positioning of the re-used unit to a MSC depot and delivery costs of a replacement container) in the event the container is not fit for the intended carriage.

10. 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. Its amounts will be of:

FOR COSTS UP TO 500 USD: 40 USD PER CONTAINER
FOR COSTS BETWEEN 500 AND 1000 USD: 80 USD PER CONTAINER
FOR COSTS BETWEEN 1000 AND 2000 USD: 140 USD PER CONTAINER
FOR COSTS OVER 2000 USD: 200 USD PER CONTAINER

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

11. U.S. TRADE CLAUSE

11.1 Notwithstanding the provisions of MSC B/L clause 5, for carriage to or from any port of the United States, its territories or possessions, or if suit is brought in the United States, this Bill of Lading shall have effect subject to the provisions of the COGSA and to the provisions of the Pomerene Act regardless of whether said Act would apply of its own force. The provisions of the COGSA are incorporated herein and save as otherwise provided herein shall apply throughout the entire time the Goods are in MSC's custody, including before loading and after discharge as long as the Goods remain in the custody of the Carrier or its Subcontractors, including cargo carried on deck. Nothing contained herein is to be deemed a surrender by the Carrier of its rights, immunities, exemptions or limitations or an increase of any of its responsibilities or liabilities under the COGSA. Except for clause 5, every other term, condition, limitation, defense and liberty whatsoever contained in this Bill of Lading shall apply to carriage in the US Trades.

11.2 For limitation purposes under the COGSA, it is agreed that the meaning of the word "package" shall be any palletized and/or unitized assemblage of cartons which has been palletized and/or unitized for the convenience of the Merchant, regardless of whether said pallet or unit is disclosed on the front hereof.

11.3 It is hereby specifically agreed that any suit by the Merchant, and save as additionally provided below any suit by the Carrier, shall be filed exclusively in the High Court of London and English Law shall exclusively apply, unless the carriage contracted for hereunder was to or from the United States of America, in which case suit shall be filed exclusively in the United States District Court, for the Southern District of New York and U.S. law shall exclusively apply. The Merchant agrees that it shall not institute suit in any other court and agrees to be responsible for 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 above agreed fora.

