



# MSC NETHERLAND TERMS AND CONDITIONS

# Table of Contents

1.	DEFINITIONS .....	3
2.	APPLICABILITY .....	4
3.	NATURE OF SERVICES RENDERED BY MSCNL. ....	4
4.	CONDITIONS APPLICABLE ON THE SERVICES RENDERED BY MSCNL .....	5
5.	PRICES AND QUOTATIONS .....	6
6.	LIABILITY AND INDEMNITY .....	6
7.	COLLECTION OF FREIGHT AND CHARGES .....	7
8.	PAYMENT .....	7
9.	LIEN .....	8
10.	EXPORT BOOKINGS .....	8
11.	HAZARDOUS AND IMDG CARGOES .....	13
12.	IMPORT SHIPMENTS.....	13
13.	APPLICABLE LAW .....	14
14.	DISPUTES.....	14
15.	LEGAL ADMINISTRATION FEE .....	15
16.	CARGO WEIGHT DECLARATION AND VGM COMPLIANCE, SUBMISSION'S DEADLINE .....	15

MEDITERRANEAN SHIPPING COMPANY (NEDERLAND) B.V, UNLESS EXPRESSLY INDICATED OTHERWISE, ALWAYS ACTS 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.

This was deposited at the Chamber of Commerce on the 25th of June with reference number 24237526

# 1. DEFINITIONS

- **Bill of Lading:** means a document issued in relation to and evidencing the contract of carriage and its terms regardless of its form, consigned in name, to order, to bearer, negotiable or not , Sea waybill, express release);
- **Carrier:** means the party that signed or on whose behalf the Bill of Lading has been issued and signed;
- **Container:** includes any container, trailer, transportable tank, flat or pallet, or any similar article used to consolidate goods and any ancillary equipment;
- **Combined Transport:** arises when the Carrier under the Bill of Lading has agreed to carry the Goods from a Place of Receipt of the Goods (to be designated in the Bill of Lading) to the Port of Loading and/or from the Port of Loading to a Place of Delivery (to be designated in the Bill of Lading);
- **Conditions of Carriage:** the Terms and Conditions printed on the Bill of Lading, issued or to be issued by the Line and printable from the Carrier Website at [www.msc.com](http://www.msc.com)
- **General Conditions:** the Agency Terms and Conditions of MSCNL deposited with the Registry of the District Court Rotterdam on 1st September 2003 under no 140/2003;
- **Goods:** means the whole or any part of the cargo received from the Shipper and includes the packing and any equipment or Container not supplied by or on behalf of the Carrier;
- **Line:** means the Carrier designated in the Bill of Lading;
- **Merchant:** means any Person who at any time has been or becomes the party with whom any contract of carnage is negotiated and / or concluded, and includes the booking party, the Shipper, Holder of the Bill of Lading, Consignee, Receiver of the Goods, any Person who owns or is entitled to the possession of the Goods or of the Bill of Lading and any Person acting on behalf of any such Persons;
- **MSCNL:** Mediterranean Shipping Company (Nederland) B.V.;
- **Person:** includes an individual, group, company or other entity;
- **Place of Delivery:** means any inland place at which the Carrier in case of Combined Transport delivers the Goods provided such a Place of Delivery has been expressly mentioned on the Bill of Lading;
- **Place of Receipt:** means any inland place at which the Carrier in case of Combined Transport receives the Goods provided such a Place of Receipt has expressly mentioned to on the Bill of Lading;
- **Port of Loading:** means any port at which the Goods are loaded on board any vessel as mentioned in the Bill of Lading;
- **Port of Discharge:** means any port at which the Goods are discharged from any vessel after Carriage under the Bill of Lading;

- **Port to port Transport:** arises if Carriage is not Combined Transport;

## **2. APPLICABILITY**

- 2.1 These MSCNL Agency Terms and Conditions and the Conditions stipulated in article hereunder apply — depending on the nature of the services rendered — on all contracts concluded with the Line through MSCNL as agents, and contracts concluded between the Merchant and MSCNL. Where mention of these Agency Terms and Conditions is made in the above or the following, the Conditions stipulated in article 4 hereof shall always be included therein.
- 2.2 In case of any inconsistency between these MSCNL Agency Terms and Conditions and the Bill of Lading, the Terms and Conditions of the Bill of Lading shall prevail.
- 2.3 In case of any inconsistency between these MSCNL Agency Terms and Conditions and the Conditions stipulated in article 4 hereof, these Agency Terms and Conditions shall prevail.
- 2.4 These Agency Terms and Conditions shall be deemed to form part of all contracts between the Merchant and MSCNL. Orders and instructions of the Merchant shall be considered as his acknowledgement and acceptance of these General Conditions.
- 2.5 General Conditions declared by the Merchant will not be applicable and shall in any way be superseded by these Agency Terms and Conditions. Deviations from these Agency Terms and Conditions and in particular General Conditions of the Merchant shall only apply if this has been explicitly agreed in writing.

## **3. NATURE OF SERVICES RENDERED BY MSCNL.**

- 3.1 Whether expressly stipulated in letters, quotations, booking confirmations, arrival notices, invoices etc. or not, MSCNL - in relation to Contracts of Carriage evidenced by a Bill of Lading issued or to be issued — shall always act as agents to the Line only, in the performance by the Line of its obligations under the Bill of Lading, these Contracts of Carriage being concluded between the Merchant and the Line, MSCNL not being the Carrier.
- 3.2 In arranging for carriage of the Goods from the Port of Loading stipulated or to be stipulated in the Bill of Lading to the actual place where the Goods shall be loaded on board of the ocean-going vessel, or in arranging for carriage of the Goods from the port where the Goods shall be discharged from the ocean-going vessel to the Port of Discharge stipulated in the Bill of Lading, MSCNL shall always also act as agents to the Line only, in the performance by the Line of its obligations under the Bill of Lading.
- 3.3 If the Contract of Carriage evidenced by a Bill of Lading issued or to be issued is for Combined Transport, MSCNL in arranging transport from the Place of Receipt to the Port of Loading, and/or from the Port of Discharge to the Place of Delivery, does so as agent to the Line only, in the performance by the Line of its obligations under the Bill of Lading.
- 3.4 In the performance of services rendered by MSCNL under the instruction of the Merchant and not as agents to the Line in the performance by the Line of its obligations under the Bill of Lading as defined in article 3.1-3.3, MSCNL will at all times act as forwarding agent to the Merchant only.

- 3.5 Without prejudice to the generality of article 3.4, in the performance of services rendered by MSCNL under the instruction of the Merchant in relation to issuance of custom documents for Goods carried or to be carried by the Line or otherwise, or in arranging for custom clearance of Goods carried or to be carried by the Line or otherwise, MSCNL will at all times act as forwarding agent to the Merchant only.
- 3.6 Without prejudice to the generality of article 3.3, in the performance of services rendered by MSCNL in making arrangements to have the Goods picked up at the Merchant premises (being his own or those of any third party as per Merchant's instructions) and to bring the Goods into the custody of the Line, or, as the case may be, in making arrangements to have the Goods conveyed from the place where the Contract of Carriage evidenced by the Bill of Lading ends to the drop off place as per Merchants' instructions, MSCNL will at all times act as forwarding agent to the Merchant only, irrespective of the wording of instructions provided by the Merchant. Notwithstanding instructions provided by the Merchant include the term "carrier haulage" or "merchant haulage" or "carrier inspired merchant haulage", MSCNL will remain acting as forwarding agent to the Merchant only in the performance of services rendered.
- 3.7 In the performance of services by MSCNL in storing of Goods, pursuant to instructions received by the Merchant and not being storage of Goods in the Port of Loading awaiting shipment under Bill of Lading or awaiting delivery at the Port of Discharge under Bill of Lading, MSCNL will act storage keeper as defined in article 7:600-609 Civil Code of the Netherlands.

## **4. CONDITIONS APPLICABLE ON THE SERVICES RENDERED BY MSCNL**

- 4.1 In performing services as agents to the Line as defined in article 3.1 to 3.3 of these Agency Terms and Conditions MSCNL shall under no circumstance be under any liability to the Merchant for any loss or damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on the part of MSCNL while acting in the course of, or in connection with the employment of MSCNL as agents to the Line, 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, exception from liability, defense and immunity of whatever nature available to the Line or to which the Line is entitled under the Conditions of Carriage shall also be available and shall extend to protect MSCNL.
- 4.2 The performance of services by MSCNL as forwarding agent to the Merchant as defined in article 3.4 to 3.6 of these General Conditions, is subject to the Dutch Forwarding Conditions of the Netherlands Association for Forwarding and Logistics (Fenex) as deposited with the Courts at Amsterdam, Arnhem, Breda and Rotterdam on 4th January 1999. If these conditions are revised, the revised Dutch Forwarding Conditions shall apply.
- 4.3 The performance of services by MSCNL as storage keeper as defined in article 3.7 of these General Conditions, is — save for mandatory rules in articles 7:600-609 Civil Code of the Netherlands — subject to the Dutch Storage Conditions of the Netherlands Association for Forwarding and Logistics (Fenex) as deposited with the Court at Rotterdam on 15th November 1995. If these conditions are revised, the revised Dutch Storage Conditions shall apply.
- 4.4 In performing services as forwarding agent or storage keeper to the Merchant, MSCNL is at liberty to have orders and/or the work connected therewith carried out by third parties or the servants of third parties at the choice of MSCNL.
- 4.5 When performing services as forwarding agent or storage keeper to the Merchant, MSCNL may at any time declare applicable provisions from the conditions stipulated by third parties with whom MSCNL has made contracts for the purpose of carrying out the orders given the MSCNL.

## 5. PRICES AND QUOTATIONS

- 5.1 Quotations made by MSCNL are not binding until MSCNL's final booking confirmation has been transmitted in writing to the Merchant. Any quotation will become null and void unless the Merchant has accepted it in writing within 30 days after receipt.
- 5.2 Quotations made by MSCNL are without obligation on MSCNL or MSC side unless they have been expressly accepted and until the confirmed date of their validity. Regardless of what precedes, all prices quoted and agreed shall be based on the rates and exchanges rates applicable at the time of quotation. In case of any change in the rates applicable to the service quoted or agreed, MSCNL is entitled to likewise alter the rates quoted or agreed retroactively to the time such change occurred.
- 5.3 Quotations of MSCNL in respect of services under article 3.4 to 3.6 are deemed to include forwarding fees. For services rendered under articles 3.4 to 3-7, lump sum or fixed quotations or prices shall, unless expressly agreed otherwise, always be exclusive of any duties, taxes, levies, consular and attestations fees, or costs in relation to security or insurance premiums.
- 5.4 Freight and charges are based on the instructions provided at the date of this Booking Confirmation 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 at the date the Carrier takes possession of the Goods. The Carrier reserves the right to amend the freight and charges if the Carrier's tariff changes after the date hereof up until the Carrier take possession of the Goods.

## 6. LIABILITY AND INDEMNITY

- 6.1 In respect of damages of whatever nature claimed by the Merchant, MSCNL shall not be liable, unless the Merchant proves that these damages were caused by the willful misconduct or gross negligence of MSCNL itself.
- 6.2 In respect of services rendered by MSCNL as forwarding agent to the Merchant, liability of MSCNL shall in all cases be limited to SDR 7,000 per occurrence or series of occurrences with one and the same cause damage, being expressly agreed that in the event of damage, loss of value or loss of the Goods, the liability shall be limited to SDR 4 per kilogram of cargo so damaged or gross weight lost subject however to a maximum of SDR 2,000 per consignment.
- 6.3 In respect of services rendered by MSCNL as storage keeper to the Merchant liability of MSCNL shall in all cases be limited to SDR 2 per kilogram of the gross weight of Goods damaged or lost subject to a maximum of SDR 100,000 per occurrence or series of occurrences with one and the same cause.
- 6.4 The damages to be indemnified by MSCNL shall never exceed the invoice value of the Goods, to be proved by the Merchant, in default whereof the market value — to be proved by the Merchant — at the time when the damage has occurred shall apply. MSCNL shall not be liable under any circumstance for loss of profit, consequential loss, duties or fines imposed by any authority or pain and suffering.
- 6.5 MSCNL stipulates for the benefit of its employees and servants that every exception, limitation, condition and liberty herein contained and every right, exception from liability, defense and immunity of whatever nature applicable to MSCNL or to which MSCNL is entitled hereunder, shall also be available and shall protect every such Servant or employee and for the purpose of the foregoing provisions of this clause MSCNL is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all Persons who might be its servant or employee.

- 6.6 In so far as third parties referred to in article 4.4 of these Agency Terms and Conditions bear statutory liability towards the Merchant, it is stipulated on their behalf that in doing the work for which MSCNL employs them they shall be regarded as solely under the employment of MSCNL. All the provisions (inter alia) regarding liability and limitation of liability and also regarding indemnification of MSCNL as described herein shall apply to such third parties.

## **7. COLLECTION OF FREIGHT AND CHARGES**

With respect to freight and charges indebted by the Merchant to the Line pursuant to the Contract of Carriage between the Merchant and the Line, MSCNL is empowered by the Line to collect payment of same from the Merchant, in the own name of MSCNL but for the account of the Line.

## **8. PAYMENT**

- 8.1 The Merchant shall pay to MSCNL freights, duties and remunerations according to and in the currency mentioned on the invoice issued by MSCNL, the risk of fluctuations in the exchange rate between the invoice amount currency and the payment currency being for Merchant's account, within the deadline stipulated on the invoice. If the invoice does not make reference to a deadline for payment, the invoice is due and payable immediately from the invoice date.
- 8.2 The Merchant shall at all times be obliged to indemnify MSCNL for any amounts to be levied or additionally demanded by any authority in connection with the order, as well as any related fines imposed upon MSCNL, MSC or its agencies network, and any sums indebted by the Merchant in the strength of this article to MSCNL shall be due and payable to MSCNL upon receipt by MSCNL of the notice for payment from the authorities, or the date of payment of such amounts or fines as the case may be. The same applies if a third party called in by MSCNL demands payment from MSCNL of such amounts or fines.
- 8.3 The Merchant shall not be entitled to apply any set-off in respect of sums charged by MSCNL to the Merchant under any contract existing or having existed between parties.
- 8.4 In case the Merchant fails to arrange payment of any invoice within the deadline mentioned on the invoice, or in absence of such deadline, the deadline mentioned in article 6.1 of these Agency Terms and Conditions (late-payment), MSCNL is entitled to charge interest on the strength of EU Regulation 2000/35. This article supersedes article 17 section 3 of the Dutch Forwarding Conditions and article 27 section 3 Dutch Storage Conditions.
- 8.5 The Merchant shall upon demand by MSCNL furnish security for any amount for which the Merchant is or may be indebted to MSCNL.
- 8.6 Payments of Ocean Freight have to be effected in Euro only unless otherwise invoiced. Payments made in USD will only be accepted upon request and our written approval, and have to be paid within 48 hours after vessel departure/vessel arrival. Any Bank service charges/ transaction costs are for account of the payer.

## 9. LIEN

MSCNL shall have a lien on the Goods and any documents relating thereto or otherwise in the hands of MSCNL, for all sums payable to MSCNL or to its Principal MSC. MSCNL shall also have a lien against the Merchant on the Goods and any documents for all sums due from him to MSCNL under any other or previous contract whether or not relating to the Goods or documents so lined. MSCNL may exercise its lien at any time and at any place at its sole discretion, whether the services contracted have been completed or not. In any event the lien shall extend to cover the cost of recovering any sums due, and for that purpose MSCNL shall have the right to sell the Goods by public auction or private treaty, without notice to the Merchant, at any place at the discretion of MSCNL. If upon sale of the Goods the sale-proceeds fail to cover the amount due and costs of recovering same incurred, MSCNL shall be entitled to recover the difference from the Merchant.

## 10. EXPORT BOOKINGS

The MSCNL Booking Confirmation formalizes the transport contract concluded between the Merchant and MSC, as a consequence of which both Booking Party and Shipper become jointly and severally contractual partners of MSC MEDITERRANEAN SHIPPING COMPANY S.A.

Any export booking concluded with MSCNL will be subject to the following conditions:

- 10.1 **Use of Booking Agents:** Where the Merchant uses a booking agent, the Merchant warrants that the booking agent has the authority to enter into this contract, receive original bills of lading and provide confirming instructions to the Carrier, until the Merchant advises the Carrier otherwise in writing.
- 10.2 **Sanctions and Import/Export Control Laws:** It is the Merchant's responsibility to ensure that this Booking Confirmation complies with all applicable trade sanctions and import/export control laws ("Sanctions"). The Merchant is strictly liable to indemnify the Carrier for all costs, losses, damages and consequences whatsoever arising out of any failure by the Merchant to comply with Sanctions. Carrier reserves the right to ensure compliance with Sanctions applicable to the Carrier.

The Carrier does not accept any arms and/or their spare parts, or ammunition.

- 10.3 **Cargo Description:** The information furnished in the Booking Confirmation will be used to and will serve as basis to issue the Bill of Lading.

The Merchant is requested to check all relevant details mentioned on the Booking Confirmation e.g. port of loading/discharge combination, rates, commodity, weight, type of equipment etc. Unless discrepancies are reported at time of receipt of this Booking Confirmation MSC will not accept any responsibilities for any mistake or inconsistencies established afterwards.

The Merchant is reminded that 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.



The Merchant is obliged to provide a detailed cargo description upon booking as booking acceptance is not unlimited and unconditional. The freight quotations are formulated on the basis of the understanding that the cargo value is not exceeding USD 200.000,00 per container and neither MSCNL nor MSC shall be deemed having accepted a declaration of value unless expressly agreed and a special Insurance HVP (high-value-premium) Premium charged. For high-value-cargo-containers (exceeding USD 200.000,00 cargo value) the Merchant has to submit a written warning notice upon booking and, unless included in the freight, to pay an additional HVP (high-value-premium). Regardless from their value, will be considered as rare and valuable goods and therefore subject to an obligation of notification: bullion, precious or rare metals or stones, plate, works of art or other objects of a rare or precious nature, bank notes, or other forms of currency, bonds or other negotiable instruments.

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 Netherlands shall be responsible for any costs linked with the declaration of incorrect container weights.

10.4 **Shipping instructions:** must be presented prior to the commencement of vessel's loading operations; if they are received after shipment then any fines or extra costs incurred by the Carrier or its Agent will be for the Shipper's account. For shipments to the USA, Mexico, Canada, Caribbean, West Coast South America, China, Turkey, Europe these are required 48 hours prior to vessels arrival at the load port. Failure to receive instructions prior to dispatch of electronic manifest requires the issuance of a Manifest corrector for which a charge of USD 65 will be collected.

**Shippers have to provide full and complete name, physical address, phone and fax numbers of the notify party. If this information is not provided, shippers will be responsible for all costs and consequences arising due to delay in collection of the container by receivers at destination.**

Important Notice: correct weights per container have to be advised to MSCNL prior to delivery of the container at the terminal. In case of missing or incorrect weight declaration, the Merchant must inform MSC or MSCNL immediately in writing and any accrued costs and consequences which may occur in relation to it will be for account of the booking party and/or Shipper jointly and severally. Any discrepancies or wrong information at the time of receipt of the goods, especially in respect of the cargo's weight, may lead to substantial risk and costs for account of the Merchant and might result in short-shipments.

Special attention should be given to weight/road limited both; domestically as abroad. Any violation might result in fines/extra expenses which are for account of the cargo.

- 10.5 **A Booking Confirmation:** does not automatically guarantee equipment availability and neither MSCNL nor MSC can be held liable for delays/shortage at depots.
- 10.6 **Mode of Transport, Vessel, and Voyage Number:** The information provided in these fields, such as sailing and arrival dates, transit times and vessel names is anticipated at the time of the booking and is given without warranty. The Carrier reserves its right to change any of them without prior notice.
- 10.7 **Extra Charges:** The Merchant is advised that extra charges may be levied by local authorities in addition to the freight and charges in the Carrier's tariff and payable before the Goods can be delivered. The Carrier or its agent may be required to collect the extra charges on behalf of the local authorities. Similarly, Pre-/On-carriage are subject to third party increases, with/without notice (e.g. low/high water surcharge, congestion surcharge, fuel adjustments surcharge) which always fall on Merchant's account.
- 10.8 **Damage to Cargo Due to Atmospheric Conditions:** Save where Goods are carried in an operating refrigerated Container, the Carrier has no liability whatsoever for loss or damage to the Goods caused by variations in atmospheric conditions (e.g. temperature, humidity).
- 10.9 **Container inspection:** 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 MSCNL 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 the Carrier or MSCNL for costs of exchanging a container found with holes or cracks at a later stage.
- 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 MSCNL for this specific container. Neither MSC nor MSCNL shall 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.
- 10.10 **Cargo stuffing, weight control and proper lashing:** The Booking Party and Shipper have to 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. They are expressly reminded that overstuffing of containers is not permitted by law and the Carrier and may result in severe injuries and casualties for which the Merchant will be held fully liable.

Generally speaking, overloaded Containers are not permitted to be carried by law and the Merchant must not exceed the maximum weight limit indicated on each Container. If the Merchant fails to comply with these provisions the Carrier reserves the right to deal with such Goods as it sees fit including but not limited to not loading the Goods, stopping 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.

Correct packing and securing of the cargo within the container is of vital importance. MSC reserves the right to do spot checks of the loaded containers on terminals to ascertain the correct stuffing and to refuse loading in case of Improper stuffing. In the event of any damage to our equipment the Shippers must assume full responsibility for the damage and this is a precondition for accepting the shipment.

Very specifically, coils must be stowed on wooden supporting battens and equally spaced over the length of the container.

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.

- 10.11 **Container Seal(s):** In the event the Merchant does not use Carrier's seals, the Merchant shall use seals which are compliant with the latest ISO regulations or with equivalent security requirements. The Merchant shall indemnify Carrier against any loss, damage, liability or expenses whatsoever and howsoever arising, caused by the Merchant's use of a seal which does not comply with this provision. For FCL shipments the shipper/stuffing party is responsible for the sealing of container with a High Security Bolt Seal immediately after the goods have been loaded.

The seal number and relevant Carrier's Booking Reference must be recorded on all documents. Containers which are delivered without a High Security Bolt Seal (or are improperly sealed), will be sealed upon receipt at the Gate-In, for account of the shipper. In order to avoid delays at the Gate, shippers or their representative will only be advised after the event. The Dutch Labor inspectorate found inadequacies resulting in dangerous situations, for the workers when checking container seal numbers at the Deep-sea and feeder terminals. Therefore effective 1 January 2014 stevedores will no longer check/record the actual seal number on deep-sea and feeder and barge vessels.

- 10.12 **Fumigation / Phytosanitary:** It is the Merchant's responsibility to provide fumigation and/or phytosanitary certificates in good time for presentation to authorities as required and the Merchant is responsible for all consequences of failing to do so.

- 10.13 **Late Customs Declaration Fines:** It is the Merchant's responsibility to file customs declarations and if the Carrier or MSCNL is fined as a consequence of the Merchant's late, incomplete or erroneous filing, the Merchant shall indemnify the Carrier or MSCNL for the fine and for all costs, losses and expenses whatsoever incidental thereto.

- 10.14 **Sending / posting of Bills of Lading and Sea Waybills:** Shipping documents will be issued immediately upon receipt of loading confirmation and kept at Merchant's disposition at the MSC Netherlands. Transfer and dispatch of documents (by registered mail or courier) will only be effected upon receipt of the Merchant's order confirmation and at his sole risk, expense and responsibility and shall be deemed remitted to the Merchant upon sending.

- 10.15 **General provisions:** MSCNL cannot be held liable for any charges incurred for wasted labor, crane hire, inspections or other on site costs due to late arrival of vehicles.

The relevant container pick-up reference number will remain valid for 7 calendar days after the agreed pick-up date indicated at time of booking and automatically deleted from the system when passed this date. Re-activating this booking can only be done through our customer service desk. No liability in any form can be accepted if attempted to collect latter container prior or after the agreed term. Any costs resulting from such an attempt are for account of the shipper and/or his representative.

10.16 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 per container, if cargo value is not presented upon quotation-request. For high-value-cargo-containers (exceeding USD 200.000 - two hundred thousand US dollar cargo value) the Merchant has to submit a written warning notice upon booking and, unless included in the freight, to pay an additional HVP (high-value-premium).

10.17 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 High 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.

# 11. HAZARDOUS AND IMDG CARGOES

- 11.1 Hazardous and IMDG cargoes are booked on provisional basis only and subject to the acceptance of the hazardous cargo center to which they are referred to. Hazardous and IMDG cargoes must be declared to the Port Authorities latest 24 hours before arrival of the container on quay at Antwerp and/or Rotterdam and the complete Dangerous Goods Declaration (incl. container(s)) has to be addressed to MSCNL together with the confirmation of the date at which the container(s) will be delivered to the quay
- 11.2 Dangerous or hazardous Goods are accepted by the MSCNL and the Carrier in reliance of the Merchant's notice of their full and true nature. The Merchant's dangerous or hazardous goods declarations must be in the format required by all applicable regulations.
- 11.3 **Strict 36-hours cut-off for IMO cargo:** In order to fully comply with the international IMDG rules and for timely and safe planning purposes on board of the vessels, the complete and final IMO file (i.e. the Dangerous Goods Declaration for each container containing IMO cargo) must be presented to MSCNL latest 36 hours before vessel's arrival at the terminal at Rotterdam and/or Antwerp. The Dangerous Goods Declaration must show the complete cargo description, the container number(s), the stuffing contractors, shippers and consignee, emergency phone number(s) and must be properly stamped and signed by a competent person. Any container for which the Dangerous Goods Declaration has not been presented in time and/or with missing data will be put on hold for account of and at risk and liability of the shippers.

# 12. IMPORT SHIPMENTS

- 12.1 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 endorsement.
- 12.2 In consideration of Carrier issuing, at the booking party or the shipper's request, Sea Waybill instead of Bill of Lading for the contract of carriage of the cargo, the booking party and the shipper hereby indemnify the Carrier 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 Carrier Sea Waybill as freely accessible under [www.msc.com](http://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
- 12.3 The Merchant always has and is solely responsible to check container(s) availability in respect of release and/or transportability with the Terminal Interchange before taking delivery to avoid failure trucking and waiting time. MSC and MSCNL shall not entertain any claim for waiting time or fault-freight if this obligation.
- 12.4 In case of on-carriage, the Merchant's delivery instruction, together with all required documents, must reach Mediterranean Shipping Company (Nederland) B.V. at least four working days prior estimated time of arrival (ETA) at discharge port in order to arrange the positioning. Non-respect of such obligation can lead to important costs, amid others, of storage, monitoring and plugging costs and/or D&Ds and MSC / Mediterranean Shipping Company (Nederland) B.V. shall not be held liable for delay and additional costs generated due to a disrespect of this obligation.

12.5 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.

12.6 Delivery

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 and Sea Waybill Terms and Conditions.

Shall 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 of the MSC Bill of Lading and Sea Waybill Terms and Conditions and the Carrier shall not thereafter have any further responsibilities or liability in respect of these goods.

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 costs of such storage (if paid or payable by the Carrier or any agent or sub-contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.

If, whether by act or omission, the Merchant directly or indirectly prevents, delay or hinder the discharge or the delivery of the Goods, any costs, expenses or liability so resulting shall be for its full and sole account.

## 13. APPLICABLE LAW

13.1 Any contract concluded between the Merchant and MSCNL, while not acting as agent to the Line and only as agent of the Merchant, shall be Governed and construed by the Law of the Netherlands.

13.2 Without prejudice to the foregoing, any other contract concluded with MSCNL on behalf and as agent of MSC shall be subject English Law exclusively whether or not a Bill of Lading has actually been issued. In case of Goods carried under Bill of Lading to or from the United States of America, the law of the United States of America shall apply.

## 14. DISPUTES

14.1 All disputes that may arise between MSCNL, acting as an agent for the Merchant, and the Merchant shall be decided in arbitration to the exclusion of the ordinary court of law. A dispute shall exist whenever any of the parties declares this to be so and the arbitration rules of the Netherlands Association for Forwarding and Logistics (article 23 Dutch Forwarding Conditions) shall apply. Without prejudice to the foregoing, MSCNL shall remain at liberty to bring before the judicial Courts any claim for sums of money due payable, the indebtedness of which has not been disputed in writing by the Merchant within four weeks after the invoice date.

- 14.2 Without prejudice to the foregoing, claims or disputes that may arise between the Line (or MSCNL acting as agent of the MSC S.A.) and the Merchant under or in connection with the Bill of Lading or the transport of good by Sea, shall be referred to the jurisdiction of the High Court of London, United Kingdom in accordance with the jurisdiction clause incorporated in the Terms and Conditions of carriage of the MSC Bill of Lading, to the exclusion of any other jurisdiction. Without prejudice to the foregoing, MSC shall however remain at liberty to bring before the judicial Courts any claim for sums due by the Merchant to the Line pursuant to the Bill of Lading, the court of the Port of Loading and the court at the Port of Discharge and/or at the place of final destination shall have jurisdiction.

## **15. LEGAL ADMINISTRATION FEE**

MSC or MSC Croatia shall charge the Merchant a Legal Administration Fee (LAF) covering the extra coordination / organization work and subsequently 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 cost actually as the result of the situation itself and its remedy. Its amounts will be:

For cost up to 500 USD:	40 USD per container
For cost between 500 and 1000 USD:	80 USD per container
For cost between 1000 USD and 2000 USD:	140 USD per container
For cost over 2000 USD:	200 USD per container

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

The basis for our invoicing being 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.

## **16. 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 its 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.