



MSC FRANCE S.A TERMS AND CONDITIONS

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MSC FRANCE 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 Carrier: means MSC MEDITERRANEAN SHIPPING COMPANY S.A.,12-14 Chemin Rieu, 1208 Geneva – Switzerland, company registration number CHE-111.954.803.

MSC FRANCE: means MSC FRANCE SA, 23 Avenue de Neuilly 75116 Paris, France, company registration number : 390 549 822, including all its branch offices in France and acting as agent of MSC MEDITERRANEAN SHIPPING COMPANY S.A. 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 anyone acting on behalf of this Person and when the context so requires means those persons jointly and severally.

2. APPLICABILITY

- 2.1 In case of any inconsistency between these AGENCY TERMS AND CONDITIONS and the Terms and conditions of the MSC Bill of Lading and/or Sea Waybill, the latter shall prevail.
- 2.2 These AGENCY TERMS AND CONDITIONS shall be deemed to form part of all contracts between the Merchant and MSC via its local agent MSC FRANCE. Orders and instructions of the Merchant shall be considered as his acknowledgement and acceptance of these AGENCY TERMS AND CONDITIONS.
- 2.3 General Conditions of the Merchant will not be applicable and shall in any way be superseded by these AGENCY TERMS AND CONDITIONS and the terms and conditions of the MSC Bill of Lading and/or Sea Waybill. Deviations from these AGENCY TERMS AND CONDITIONS and in particular general conditions of the Merchant shall not apply unless this has been explicitly agreed in writing.

3. QUOTATIONS

- 3.1 MSC FRANCE acts as agent for and on behalf of MSC MEDITERRANEAN SHIPPING COMPANY S.A. (the "Carrier", "MSC") only and all quotations made by MSC FRANCE are made on behalf of the Carrier unless expressly indicated otherwise.
- 3.2 Quotations made by MSC FRANCE are not binding until MSC FRANCE'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.
- 3.3 Quoted times and dates for empty positioning and loading are always subject to equipment availability and space
- 3.4 All charges are "VATOS" (Valid at Time of Shipment). Unforeseeable and additional expenses (such as statutory increase, war risk, congestion, etc.) before, during and after the sea-carriage may at any time be charged by the Carrier to the Merchant.
- 3.5 Alterations caused or requested by the Merchant, for instance release of cargo to alternative third parties, issuance of switch bills of lading etc., are not included in MSC FRANCE quotations.
- 3.6 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
 - Sanctions and import/export control laws: The Merchant shall ensure that its booking and related shipment are at all time compliant with each and every trade sanctions and/or import/export laws applicable to the Merchant, the Carrier or the cargo ("sanctions"). The Merchant will not cause the carrier to breach any sanctions, including but not limited to swiss and EU regulations, and, when applicable, US regulations. In case of any failure by the Merchant to comply with sanctions, the Merchant shall indemnify, defend and hold the carrier, its servants and agents harmless from any and all claims, demands, costs, losses, expenses, and liabilities (including attorney's fees and costs). The carrier may, at its sole discretion, cancel this booking, refuse loading or discharge or otherwise take any action needed to ensure compliance with sanctions at merchant's costs, risks, and expense.
 - Cargo shipped and stowed on deck, under-deck stowage depending on availability and at carrier's discretion, subject to IMDG requirements.
 - In gauge cargo, if quoted for open top containers, flat racks and platforms
 - Cargo valued below USD 200.000,00 per reefer container for Pharmaceutical goods, if cargo value is not presented upon quotation-request. For high-value-cargo on reefer-containers containing pharmaceutical goods (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, to pay an additional HVP (high-value-premium). Exception for human blood and plasma which are subject to special quotations
 - Cargo valued below USD 500.000,00 per container, if cargo value is not presented upon quotation-request. For high-value-cargo on containers (exceeding USD 500.00,00 - five 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)

4. CARRIER'S RESPONSIBILITY IN FRENCH JURISDICTION

- 4.1 The Merchant acknowledges and agrees that pursuant to cl 10.3 of the Carrier's Terms and Conditions the transport contract is subject to English law and the exclusive jurisdiction of the High Court in London, save as otherwise stipulated in cl 10.3. Should nevertheless ever French law be applied by any court or tribunal assuming jurisdiction in respect of the Carrier's responsibility, then, in such event, **the Agency's Terms and Conditions** shall apply in addition to the Carrier's Terms and Conditions.

In the case of any dispute relating to 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 fora 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.

- 4.2 The Carrier shall not be responsible for:

- a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship.
- b) Fire, unless caused by the actual fault or privity of the carrier.
- c) Perils, dangers and accidents of the sea or other navigable waters.
- d) Act of God : including force majeure
- e) Act of war.
- f) Act of public enemies.
- g) Arrest or restraint or princes, rulers or people, or seizure under legal process.
- h) Quarantine restrictions.
- i) Act or omission of the shipper or owner of the goods, his agent or representative.
- j) Strikes or lockouts or stoppage or restraint of labour from whatever cause, whether partial or general.
- k) Riots and civil commotions.
- l) Saving or attempting to save life or property at sea.
- m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods.
- n) Insufficiency of packing.
- o) Insufficiency or inadequacy of marks.
- p) Latent defects not discoverable by due diligence.
- q) Any other cause arising without the actual fault or privity of the carrier, or without the actual fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

- 4.3 In accordance with the custom in use in La Reunion and Mayotte ports and the cl 5.a.1 of MSC Bill of lading or Sea Waybill, it is expressly agreed between the Carrier and the Merchant, whether it is represented during loading and/or discharge operations by their local stevedore or not, that the due delivery of the cargo within the meaning of the article L 5422-12 of the code des transports is physically and effectively carried out by the loading and/or discharging of the cargo under tackle of the vessel. Merchant will bear, directly or through its stevedore, any risk arising out the cargo or in relation with it from the moment it enters the terminal until it is loaded on the vessel or from the moment it is discharged under tackle of the vessel until its exit from the terminal.

5. EXPORT – AND CROSS-TRADE BOOKINGS

5.1 The MSC FRANCE 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.

5.2 The Booking Party and Shipper are jointly and severally responsible for and have to recheck all information provided on the draft Bill of Lading concerning description of goods, hazardous cargoes, reefer and out of gauge details as well as for the correctness of weights indicated in the booking confirmation. They must inform MSC or MSC FRANCE immediately in writing in case of any discrepancies or missing details. 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. In particular, discrepancies may lead to Status Change costs as per quay / terminal tariff.

For cross-trade bookings, any instruction cancelling, suspending or modifying the booking before issuance of the Bill of lading or Sea Waybill given to MSC France by the booking party must be confirmed by the shipper.

5.3 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 nor by the Carrier and may result in severe injuries and casualties for which the Merchant will be held fully liable.

5.4 For security reasons all containers for all destinations must be sealed by the Booking Party and Shipper or their representatives with High Security Bolt Seal or equivalent directly after stuffing. For a detailed instruction about correct placement of seals please see our Sealing Procedure (.pdf). Unsealed and incorrectly sealed containers will be resealed upon arrival at the terminal at the Merchant's costs and responsibility and may be short-shipped. Any resulting costs are for account of the Merchant.

5.5 Loading and stowage of goods is carried out under sole instructions of the Ship's Command. All goods are stowed **on deck** at Merchant's risk. Requests for "under deck" stowage are subject to written approval and confirmation by MSC or MSC FRANCE. **MSC never undertakes or accept requests for a specific stowage position on or under deck.**

5.6 Payments of Ocean Freight have to be effected in Euro only. Payments made in USD will only be accepted under the condition fees are paid cash. Any Bank service charges/ transaction costs are for account of the payer.

5.7 Unless expressly agreed otherwise, all invoices are payable immediately and without deduction or rights of retention or of set-off whatsoever.

5.8 B/L or Shipping Instructions must be submitted latest at closing time. For shipments to countries/areas requiring an AMS-filing or comparable procedures, special deadlines shall apply. The Booking Party and Shipper are responsible to enquire the specific deadline applicable to their shipment.

5.9 The Merchant declares that all used wooden packing materials comply with ISPM 15 regulations.

5.10 In case of Sea Waybills, Shipper and Consignee named on Sea Waybill automatically agree to be party to the Contract of Carriage and accept the Terms and Conditions mentioned on page 1 and 2 of the MSC MEDITERRANEAN SHIPPING COMPANY SA Sea Waybill and under www.msc.com. The Shipper is further responsible to inform the designated 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.

5.11 Shipping documents will be issued upon receipt of loading confirmation and kept at Merchant's disposition at the MSC FRANCE local office. 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 and expense. No further information regarding the effective loading will be transmitted to the Shipper. Information is available on MSC Website.

- 5.12** If a Container has not been packed by or on behalf of the Carrier: The Merchant shall inspect the Container for suitability for carriage of the Goods before packing it. The Merchant's use of the Container shall be prima facie evidence of its being sound and suitable for use. 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 MSC FRANCE for costs of exchanging a container found with holes or cracks at a later stage. What is more, Merchant has to perform a careful check of container's floor.
- 5.13** 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.
- 5.14** The use of dry-van containers, even insulated dry-vans, 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.
- 5.15** Container's full redelivery to the port prior to loading is only possible issuing the right updates on AP+ system (or similar for La Reunion and Mayotte). For container delivery to the ports of Le Havre it is mandatory to make an appointment with the stevedore to enter the container on the terminal. Any delay, costs and consequential damages resulting from a breach of this port regulation will be for Merchant's account.
- 5.16** 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 FRANCE for this specific container. Neither MSC nor MSC FRANCE 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.

6. HAZARDOUS GOODS / IMDG CARGOES

- 6.1** Hazardous cargo bookings are only accepted together with a dangerous goods declaration (DGD)
- 6.2** The signed "Container Packing Certificate" needs to be presented at the latest 24 hours prior cargo closing at Terminal.
- 6.3** 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 with the Vessel's Master.

7. WASTE & SCRAP CARGOES

- 7.1** The Merchant is responsible to ensure that each booking of waste and/or scrap cargo complies absolutely with the requirements of EU-Regulation 1013/2006 of 14th June 2006 on shipment of waste – <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1013>.
- 7.2** Any wrong declaration or missing documentation will lead to a Misdeclaration Fee of EUR 500 being levied per container for account of the Merchant, and the latter shall in addition indemnify MSC for any other charges, costs or penalties that it may incur in connection with the misdeclaration.

8. REEFERS AND TEMPERATURE-CONTROLLED CARGOES

- 8.1 Reefer cargo bookings are only accepted together with our special reefer booking form, which must be duly filled out and is available upon request at the MSC FRANCE export desk.
- 8.2 In case of any dispute relating to temperature damage, the Merchant agrees that the datalogger provided by the Carrier is the utter evidence of the reefer functioning. The disclosure of such element will be subject to a financial compensation and remains at the sole discretion of the Carrier.

9. EXPORT LOCAL CHARGES

The Merchant is asked to check MSC FRANCE Export Local Charges at <https://www.msc.com/fra/country-guides/France> concerning local charges for ports in other countries, please visit the webpage of the MSC offices at www.msc.com

10. IMPORT BOOKINGS

- 10.1. The provisions and under clauses 4 to 7 above apply mutatis mutandis to the Import bookings
- 10.2 In addition to the above, the following Form / List must be properly filled out with all corresponding information and provided to MSC France for any / all Import Bookings:
- Client reference (if any)
 - Pre-carriage (if any)
 - POL
 - POD
 - On carriage (if any)
 - Volume
 - Commodity
 - Shipper
 - Freight Forwarder (for export from USA only)
 - Origin (for export from USA only)
 - Consignee
 - Notify
 - Notify 2 (if any)
 - Rate reference
 - Agreed Ocean/Sea-Freight
 - Ocean/Sea-freight payable at
 - D-THC and local charges payable at
 - B/L type
 - Estimated time of shipment

11. IMPORT REQUIREMENTS FOR RELEASE OF CARGO

- 11.1 No release of cargo/ container(s) will be authorized until the MSC Original Bill of Lading has been duly accomplished / fully executed by surrender and endorsement (if negotiable).
- 11.2 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 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 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.
- Without limitation the indemnity shall include where the consignee refuses to abide by the terms and conditions contained in the sea waybill; or where there is a claim for wrongful delivery against Carrier even though Carrier has delivered the cargo to the consignee named in the sea waybill or to the consignee to whom the Shipper, directly or by its agents or subcontractors, has directed the cargo should be delivered; where the consignee refuses to pay any additional charges that the Shipper has agreed will apply to the carriage.
- 11.4 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 MSC FRANCE shall not entertain any claim for waiting time or fault-freight if this obligation is neglected.
- 11.5 In case of on-carriage, the Merchant's delivery instruction, together with all documents and information necessary to the performance of such on-carriage, must reach MSC FRANCE at least four working days prior estimated time of arrival (ETA) at discharge port in order to arrange the positioning. MSC and MSC France shall not be held liable for delay and additional costs generated due to a disrespect of this obligation.
- 11.6 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.
- 11.7 Invoices must be paid in Euro without deduction or set-off prior the release of cargo.

12. DATA PROTECTION

No data given to MSC for the purpose of the contract of carriage, or in relation with the contract of carriage, is confidential. Where confidentiality is previously and expressly agreed by MSC, MSC only undertakes to provide the Merchant with normal cares for data protection. In any event, MSC shall not be responsible for any loss and/or consequential loss arising out or from any detrimental act such as, but not limited to, the breach, transfer, disclosure of any data by a third party.

Data given by MSC to the Merchant for the purpose of commercial discussions and the contract of carriage performance are said to be confidential. Merchant undertakes to keep such data confidential. Any disclosure of such data by whomsoever will give rise to financial compensation and/or lawsuit.

13. IMPORT LOCAL CHARGES

The Merchant is invited to check the MSC France Import Local Charges by contacting the Import Desk directly at <https://www.msc.com/fra/country-guides/France> or on the agency website under www.msc.com. For any local charges in other countries, please visit webpage of the local MSC office

14. ELECTRONIC RELEASE AT ANTWERP, BELGIUM

As from January 2011, MSC started with the Electronic Release of the containers at Antwerp MSC Home terminal 730. MSC will no longer work with Delivery Order (Laatvolgen) in Antwerp. The Customer will receive via MSC France a pin-code per container which will be automatically generated by MSC Belgium. Container(s) can only be picked up at the terminal by entering the container number and pin-code in the system at the terminal. Provision of the PIN code shall be deemed provision of a Delivery Order within the meaning of the MSC Terms and Conditions of Carriage.

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 accrued 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 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.

17. RORO TRANSPORTATION AND CARRIAGE OF VEHICLES

Shall the Merchant commit to MSC's care the transportation of vehicle(s) or any assimilated cargo, the following conditions will be deemed as expressly acknowledged and agreed upon:

- The definition of "Goods" of the clause 1 (Definition) of the MSC Bill of Lading / Seaway Bill terms and conditions encompasses for the purpose of the contract of carriage any vehicle, trailer, road assembly, mobile tank and/or machinery, whether laden or not, including any accessories and fittings.
- The Shipper warrants that the Goods carried comply with the MSC Bill of Lading / Seaway Bill terms and conditions and are stacked, lashed and secured in a manner permitting their safe transport by sea. The Merchant agrees that MSC shall not be responsible for any damage or loss sustained by or onboard the Goods and that the Merchant shall be fully responsible for any damage caused directly or indirectly to MSC due to a breach of this obligation.
- MSC shall not be responsible for scratches, dents, bumps, rusty spots, damaged upholstery fittings and/or engine/mechanical malfunctions/breakdowns on used/second hand Goods nor for any consequence whatsoever resulting therefrom.
- MSC shall not be responsible for pilferage and/or damage to personal effects and accessories, equipment, removable fittings, cargo and/or other possessions left onto or inside the Goods carried.

- The Merchant warrants that the Goods shipped under this Bill of Lading / Seaway bill, including anything left onto/inside it, are gas free and do not contain used refrigerators, freezers or air-conditioning equipment and cannot be considered toxic or harmful/hazardous waste or any other prohibited goods banned for import under the legislation applicable at the country of the Port of discharge.
- The Merchant agrees to be fully responsible for and to indemnify and hold MSC harmless against any inaccuracy in the Goods details such as, but not limited to, chassis/VIN number, age, weight, measure, marks, number, quality, contents etc. furnished at the time of booking to MSC.