



MSC GUINEA TERMS AND CONDITIONS

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MSC GUINEA S.A. 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. DEFINITION

- **MSC** or Carrier: means MSC MEDITERRANEAN SHIPPING COMPANY S.A.,12-14 Chemin Rieu, 1208 Geneva – Switzerland.
- **MSC Guinea**: means MSC Guinea, 4^{ème} Etage, Immeuble UGAR – Sandervalia BP:2401 – Conakry Guinea 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 of the MSC Bill of Lading, the later 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 Guinea. 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- 2.3 General Conditions of the Merchant will not be applicable and shall in any way be superseded by these agency terms and conditions and the terms and conditions of the MSC Bill of Lading. 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 GUINEA acts as agent for and on behalf of MSC MEDITERRANEAN SHIPPING COMPANY S.A. (the "Carrier", "MSC") only. All quotations made by MSC Guinea are on behalf of the Carrier.
- 3.2** Quotations made by MSC Guinea are not binding until MSC Guinea'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 15 days after issuance.
- 3.3** Quoted times and dates for empty positioning and loading are always subject to equipment availability and space. Advertised transit times, sailing and arrival dates are estimated times only; and such schedules may be advanced, delayed or cancelled without notice. In no event, shall the carrier be liable for consequential damages or for any delay in scheduled departures or arrivals of any vessel or other conveyances used to transport the goods by sea or otherwise.
- 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 by the Merchant, for instance release of cargo to alternative third parties, issuance of switch bills of lading etc., are not included in MSC Guinea quotations.
- 3.6.1** 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 Vessel Master's final approval at time of loading
 - Cargo shipped and stowed with "deck option"
 - In gauge cargo, if quoted for open top containers, flat racks and platforms
 - Cargo valued below USD 200.000,00 per container, if cargo value is not presented upon quotation request. For high-value-cargo-containers (exceeding USD 200.00,00 - two hundred thousand US dollar cargo value) the Merchant has to submit a written warning notice upon booking and, unless included in the freight, to pay an additional HVP (high-value-premium).

4. CARRIER'S RESPONSIBILITY IN GUINEAN 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.
- 4.2** 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.

5. EXPORT- AND CROSS-TRADE BOOKINGS

- 5.1 This 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 responsible for and have to recheck all information provided concerning description of goods, hazardous cargoes, reefer and out of gauge details as well as for the correctness of weights indicated. They must inform MSC or MSC Guinea 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.
- 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 and 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. Unsealed or incorrectly sealed containers will release MSC from any liability related to the goods.
- 5.5 Unless expressly agreed otherwise, all invoices are payable immediately and without deduction.
- 5.6 B/L or Shipping Instructions must be submitted EU DECLARATION 48 hours before loading time, rest of cargo 24 hours before loading 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.
- 5.8 The Merchant declares that all used wooden packing materials comply with ISPM 15 regulations.
- 5.9 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 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.

- 5.10** Shipping documents will be issued immediately upon receipt of loading confirmation and kept at Merchant's disposition at the MSC Guinea local office.
- 5.11** 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 Guinea 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 MSC Guinea for costs of exchanging a container found with holes or cracks at a later stage.
- 5.12** 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 nonhazardous cargo. Costs resulting from neglect will be for the account of the Merchant.
- 5.13** The use of dry-van containers 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.
- 5.14** 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 Guinea for this specific container. Neither MSC nor MSC Guinea 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.
- 5.16** The Booking party is responsible of giving the customs declaration in due time before vessel arrival. Any discrepancy or erroneous information given by merchant represents an important risk for the carriage and implicates additional costs to be assumed by merchant. Additionally, it could be possible that the cargo may not be shipped once it has not been granted with authorization by Customs. Merchant will assume all costs caused by the inobservance of this clause.
- 5.17** Merchant will be held responsible and shall pay or reimburse any costs incurred by MSC arising because of container detention ordered by local authorities, as consequence specially but not exclusively of drug contamination or any other criminal activity.
- 5.18** 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 Guinea shall be responsible for any costs linked with the declaration of incorrect container weights.

6. HAZARDOUS GOODS / IMDG CARGOES

- 6.1 Hazardous cargo bookings are only accepted together with a Dangerous Goods Declaration (DGD) jointly with the "Container Packing Certificate" and needs to be presented at the latest 72 hours prior loading time cargo closing at Terminal.
- 6.2 The following dangerous goods should be directly delivered full from ship's under tackle failing which same will be reloaded and the shipper/consignee will bear all relating costs: Class 1, 2.1, 2.3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1 and 7
- 6.3 To import dangerous goods class 1, acceptance is required from Guinean army
- 6.4 To import dangerous goods class 7, acceptance is required from President of Republic of Guinea

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 Guinean and respective POD regulations.
- 7.2 All documentation is responsibility of the merchant, and any misdeclaration will make him liable to any costs or penalties according to the contract of carriage.
- 7.3 Arm and ammunition scraps including old fired rockets are forbidden to be stuffed into container to/from Guinea
- 7.4 All scraps from radioactive materials are forbidden to be stuffed into container to/from Guinea
- 7.5 Scraps batteries should be completely emptied/acid free before stuffing into container for export

8. REEFERS AND TEMPERATURE-CONTROLLED CARGOES

- 8.1 Booking Party, Shipper and its representatives are responsible to check the pre-settings of the container temperature prior to stuffing, and MSC nor MSC Guinea shall not be held liable for temperature damages generated by hot stuffing or non-disputed wrong pre-settings. Usage of the container will be enough evidence of its good condition and workability.
- 8.2 Reefers are not designed to cool or freeze goods at higher temperatures than those designated. Carrier will not be held responsible for any damages to goods consolidated at higher temperatures than those required.

9. EXPORT LOCAL CHARGES (STORAGE/ DETENTION /DOCUMENTATION ETC.)

The Merchant is asked to contact MSC Guinea Export Local Charges at <https://www.msc.com/gni/contact-us> concerning their local charges. For ports in other countries, please visit webpage in MSC Guinea country guides section.

10. IMPORT REQUIREMENTS FOR RELEASE OF CARGO

10.1 No release of cargo/ container(s) will be authorized until the MSC Original Bill of Lading has been duly accomplished / fully executed (including endorsement) at MSC Guinea office.

10.2 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 (9) days of the delivery becoming due under 1) 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.

10.3 The cargo will seize by customs after three months from discharging date according to the customs law in Guinea (art 290 until 299)

10.4 The empty container has to be returned to the container depot designated by MSC in a clean, undamaged condition, completely free of cargo residues and free of odors, and if the cargo was dangerous goods same must be cleaned in accordance with applicable regulations, and free of any labels. Failure to comply with this requirement may result in additional costs for account of the cargo on behalf on merchant.

11. IMPORT LOCAL CHARGES (STORAGE / DEMURRAGE / DOCUMENTATION ETC.)

The Merchant is asked to contact MSC Guinea Import Local Charges team at <https://www.msc.com/gni/contact-us> concerning their local charges. For ports in other countries, please visit the webpage in MSC Guinea's country guides section.

12. 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.

13. LEGAL ADMINISTRATION FEE

MSC or MSC Guinea 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.

14. 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:

- a. 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.
- b. 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.
- c. 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.

- d. 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.

- e. 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.

- f. 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.