



MSC HAITI
TERMS AND CONDITIONS

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MSC HAITI 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 Haiti:** means MEDITERRANEAN SHIPPING COMPANY OF HAITI LIMITED S.A 6, Rue Georges Coles, route de l'Aéroport, Port Au Prince, Haiti registration number: HT346, including all its branch offices in Haiti 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, 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 Haiti. 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- 2.3 General Conditions of the Merchant will not be applicable and shall in any way be superseded by these Agency Terms and Conditions and the terms and conditions of the MSC Bill of Lading.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 Haiti acts as agent for and on behalf of MSC MEDITERRANEAN SHIPPING COMPANY S.A. (the "Carrier", "MSC") only and all quotations made by MSC Haiti are made on behalf of the Carrier unless expressly indicated otherwise.
- 3.2 Quotations made by MSC Haiti are not binding until MSC Haiti'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 Haiti quotations.

4. CARRIER'S RESPONSIBILITY IN HAITI 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 Haitian law be applied by any court or tribunal assuming jurisdiction in respect of the Carrier's responsibility, then, in such event, the Agency's Term 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 of 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 labor 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.

5. EXPORT AND CROSS-TRADE BOOKINGS

- 5.1 The MSC Haiti 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 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 Haiti 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 given to MSC Haiti 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 Haiti. **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 USD 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 Shipping documents will be issued upon receipt of loading confirmation and kept at Merchant's disposition at the MSC Haiti 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.
 - 5.10 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 Haiti 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.
 - 5.11 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.
 - 5.12 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.

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

MSC Haiti does not accept any forbidden goods of any countries.

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

9. EXPORT LOCAL CHARGES (STORAGE / DEMURRAGE / DETENTIONS ETC.)

The Merchant is asked to check MSC Haiti Export Local Charges at <https://www.msc.com/country-guides/haiti> 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 8 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
- 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 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 Haiti shall not entertain any claim for waiting time or dead freight if this obligation is neglected.
- 11.3 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 Haiti at least four working days prior estimated time of arrival (ETA) at discharge port in order to arrange the positioning. MSC and MSC Haiti shall not be held liable for delay and additional costs generated due to a disrespect of this obligation.
- 11.4 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.
- 11.5 Invoices must be paid in USD without deduction or set-off prior the release of cargo.

12. IMPORT LOCAL CHARGES (STORAGE/ DEMURRAGE/DETENTION ETC.)

The Merchant is invited to check the MSC Haiti Import Local Charges by contacting the Import Desk directly at <http://members.mscev.ch/php/demurrage/index.ph> or on the agency website under www.msc.com. For any local charges in other countries, please visit webpage of the local MSC office.

13. DATA PROTECTION

Any 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.

14. LEGAL ADMINISTRATION FEE

14.1 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

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

15. 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.