



MSC NICARAGUA TERMS AND CONDITIONS

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MEDITERRANEAN SHIPPING COMPANY S.A. (NICARAGUA) 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.
- **Mediterranean Shipping Company S.A. (Nicaragua):** means Mediterranean Shipping Company S.A., an independent company incorporated in Nicaragua, with address in Residencial Bolonia, Calle El Nogal, Casa N° 30, Frente a la Embajada de Canada, Managua.
- **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 Mediterranean Shipping Company S.A. (Nicaragua). 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- 2.3 General Conditions of the Merchant will not be applicable and shall in any way be superseded by these AGENCY TERMS AND CONDITIONS and the terms and conditions of the MSC Bill of Lading and/or Sea Waybill.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 and to the extent only this has been explicitly agreed in writing by MSC.

3. QUOTATIONS

- 3.1 Mediterranean Shipping Company S.A. (Nicaragua) acts as agent for and on behalf of MSC MEDITERRANEAN SHIPPING COMPANY S.A. (the "Carrier", "MSC") only. All quotations made by Mediterranean Shipping Company S.A. (Nicaragua) are on behalf of the Carrier.
- 3.2 Quotations made by Mediterranean Shipping Company S.A. (Nicaragua) are not binding until Mediterranean Shipping Company S.A. (Nicaragua) final booking confirmation has been transmitted in writing to the Merchant. Unless the Merchant has accepted the quotation in writing, it will become null and void after 30 days of receipt.

- 3.3 Quoted times and dates for empty positioning and loading are always subject to equipment availability and space on board vessels. 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 Mediterranean Shipping Company S.A. (Nicaragua) quotations.
- 3.6 Unless stated otherwise and expressly confirmed in writing, each quotation always relates to:
- Routing of the service.
 - Transit times do not include any possible delays in transshipment ports.
 - Rates are valid only for general cargo (unless stated otherwise).
 - DGR shipments are subject to approval of Vessel's Master.
 - Maximum weight allowed according to Nicaraguan Transportation Guideline, chassis usage is as follows:

Chassis Usage Restrictions		
0.01 - 20 Tons	20.01 - 23.50 Tons	Over 23.51 Tons
2 Axle Chassis	3 Axle Chassis	Not Allowed

- Containers loaded over 23.5 tons will require cargo stripping and may be subject to fines (all fines will be for the Merchant account).
- Over-width cargo will require additional permits from local authorities which must be obtained by the merchant, otherwise MSC will not deliver the container.
- All bookings to Nicaragua whose commodities include: rice, beans or construction materials with payment terms in "Freight Collect Basis" must be approved by Mediterranean Shipping Company S.A. (Nicaragua) prior Booking Confirmation.
- We do not offer carrier haulage for out of gauge cargo.
- The charges for all wood exports must be on prepaid basis. Furthermore, a container deposit equivalent to the total freight is required to confirm the shipments in order to cover any possible additional costs incurred in case of any delay in obtaining Customs permit to proceed with the export. Such deposit is refundable upon vessel departure.
- Used cars above ten years from manufacturing date are not allowed to entry in Nicaragua.
- Cargo is considered in abandonment after 20 days from discharging date for Customs.
- Household goods shipments must be consigned to a freight forwarder.
- 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).

4. CARRIER'S RESPONSIBILITY IN NICARAGUAN JURISDICTION

The Merchant acknowledges and agrees that pursuant to clause 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 of London, save as otherwise stipulated in clause 10.3.

5. EXPORT- AND CROSS-TRADE BOOKINGS

- 5.1 The Mediterranean Shipping Company S.A. (Nicaragua) Booking Confirmation formalizes the Contract of Carriage between the Merchant and MSC, as a consequence of which both Booking Party and Shipper become jointly and severally contractual partners towards 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 declared weights. They must inform Mediterranean Shipping Company S.A. (Nicaragua) 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.
- 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, during transit and at destination. They are expressly reminded that overstuffing of containers is not permitted by law 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 its representatives with High Security Bolt Seal provided by Mediterranean Shipping Company S.A. (Nicaragua), 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 Vessel's Command. All goods are stowed "option deck" at Merchant's risk. Requests for "under deck" stowage are subject to written approval and confirmation by MSC or Mediterranean Shipping Company S.A. (Nicaragua).
- 5.6 All Freight is earned and due upon the Goods are loaded and the vessel has started the voyage, whether the Freight is prepaid or collect and the Carrier shall be entitled to all Freight due under all circumstances, ship and/or cargo lost or not lost or the voyage abandoned. All Freight shall be paid when due without any set-off, counter claim, or deduction.
- 5.7 Payments of all Freight and Charges have to be effected within 48 hours after vessel departure. Any Bank service charges/ transaction costs are for account of the payer. The Failure to comply with this delay might subject the merchant to the payment of a default interest.
- 5.8 Shipping Instructions must be submitted to Mediterranean Shipping Company S.A. (Nicaragua) latest at closing time specified at the booking confirmation stage. 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 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.
- 5.11 Shipping documents will be issued immediately upon receipt of loading confirmation and kept at Merchant's disposition at the Mediterranean Shipping Company S.A. (Nicaragua) 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, expense and responsibility and shall be deemed remitted to the Merchant upon sending.
- 5.12 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. Any later refusal of container will cause additional costs for account of the Merchant and neither MSC nor Mediterranean Shipping Company S.A. (Nicaragua) shall be held liable for the costs of changing/replacing a container accepted during empty positioning. 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 Mediterranean Shipping Company S.A. (Nicaragua) for costs of exchanging a container found with holes or cracks at a later stage.
- 5.13 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 Mediterranean Shipping Company S.A. (Nicaragua) for this specific container. Neither MSC nor Mediterranean Shipping Company S.A. (Nicaragua) 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.
- 5.14 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 of atmospheric temperatures whether the cargo was carried on or under deck.
- 5.15 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 its agent shall be responsible for any costs linked with the declaration of incorrect container weights.

IMPORTANT NOTICE

Nicaraguan Customs Authorities have strictly prohibited delivery of goods to Port of Corinto without proper corresponding customs documents. Any costs resulting from a breach of this regulation are for account of the Merchant. To ensure proper allocation of documents to cargo in Corinto, customs documents have to state clearly the corresponding container, BL and seal number.

6. HAZARDOUS GOODS / IMDG CARGOES

- 6.1 Booking Party and Shipper are responsible for ensuring that all prior IMDG (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.
- 6.2 Hazardous cargo bookings are only accepted together with a dangerous goods declaration (DGD)
- 6.3 The signed "Container Packing Certificate" needs to be presented at the latest 48 hours prior cargo closing at Terminal.
- 6.4 Even if a hazardous cargo booking is accepted by MSC in the first instance, MSC reserves the right to reject the shipment as per Vessel's Master discretion.
- 6.5 Importing hazardous cargo to Corinto: POL must request approval from the vessel operator in order to confirm if IMO class is accepted via Balboa on their feeders.
- Hazardous cargo must be delivered alongside the vessel. Therefore, proper requirements (special permissions, BL release, delivery instructions, etc.) must be ready at the arrival, otherwise cargo is not discharged and all the related costs will be for the Merchant's account.
 - Cargo manifest is submitted to local Customs 72 hours before vessel arrival, within this period, local authorities may declare shipments as dangerous cargo and the aforementioned procedure will be required in order to discharge unit(s).

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 USD 500 per container for account of the Merchant in addition to the liability exposed under the Contract of Carriage for any other charges, costs or penalties that may arise for the Carrier due to miss-declaration.
- 7.3 IMO/Waste cargo is not accepted onboard of our partner's vessel in Corinto.

8. REEFERS AND TEMPERATURE - CONTROLLED CARGOES

- 8.1 Booking Party, Shipper and/or its representatives are responsible to CHECK THAT THE TEMPERATURE CONTROLS ON THE CONTAINER ARE AT THE REQUIRED CARRYING TEMPERATURE AND THE VENTILATION IS PROPERLY SET PRIOR STUFFING THE GOODS. The Merchant's use of the Container shall be prima facie evidence of its being sound and suitable for use. MSC or Mediterranean Shipping Company S.A. (Nicaragua) shall not be held liable for temperature damages generated by non-disputed wrong settings.
- 8.2 The Merchant must take note that refrigerated Containers are not designed:
- To cool or freeze Goods which have been loaded into a Container at a temperature higher than their designated carrying temperature. The Carrier shall not be responsible for the consequences of the Goods being loaded at a higher temperature than that required for the carriage; nor

- to monitor and control humidity levels, even if a setting facility exists, and because humidity is influenced by many external factors the Carrier does not guarantee and is not responsible for the maintenance of any intended level of humidity inside any Container.

9. IMPORT BOOKINGS

9.1 The provisions and under clauses 4 to 8 above apply mutatis mutandis to the Import bookings

9.2 Collect Freight must be previously approved by Mediterranean Shipping Company S.A. (Nicaragua).

9.3 In addition to the above, the following Form / List must be properly filled out with all corresponding information and provided to Mediterranean Shipping Company S.A. (Nicaragua) 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

10. FORWARDING SERVICES PROVIDED OUTSIDE THE SCOPE OF MSC BILL OF LADING / SEA WAYBILL

In those cases where the Merchant requests Mediterranean Shipping Company S.A. (Nicaragua) for land forwarding services in addition to the voyage expressly covered by the Carrier's Bill of Lading/Sea Waybill (or in cases where no transport documents have been issued, by the Carrier's initial freight quotation or Booking Confirmation), including but not limited to the procurement of pre- or on-carriage, then that agreement will be between Mediterranean Shipping Company S.A. (Nicaragua) and the Merchant and will not involve or include the Carrier. Under this land forwarding service agreement, the Merchant is obliged upon placing the order, to explicitly draw attention to Mediterranean Shipping Company S.A. (Nicaragua) regarding the value of the cargo, in order to enable Mediterranean Shipping Company S.A. (Nicaragua) to arrange for appropriate safety measures during the respective carriage and, where needed, request the arrangement of a special cargo insurance cover.

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 presentation and endorsement.
- 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 Mediterranean Shipping Company S.A. (Nicaragua) shall not entertain any claim for waiting time or dead-freight if this obligation is neglected.
- 11.3 In case of on-carriage (via Puerto Cortes), the Merchant's delivery instruction, together with all required documents, must reach Mediterranean Shipping Company S.A. (Nicaragua) at least one working day 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 S.A. (Nicaragua) 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 and dunnage 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 All freight, demurrage and local charges must be paid without deduction or set-off prior the release of cargo.
- 11.6 Delivery
 - a) 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.
 - b) Shall the Merchant fail to take delivery of the Goods within thirty (30) 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.
 - c) 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.

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

11.7 Mediterranean Shipping Company S.A. (Nicaragua) shall not be held liable for delays and associated charges due to national/local holidays.

11.8 Bill of Lading must be freighted regardless of the manifested terms of payment (Prepaid, Collect or Elsewhere). If this condition is omitted, it is mandatory for Mediterranean Shipping Company S.A. (Nicaragua) to issue a freight letter (according to Freight manifest) to consignee in order to complement the missing information.

References in "RECAUCA": IV (Regulation of Uniform Customs Code of Central America), article No. 324, subsection "g" (Required information on Bill of Lading).

12. LEGAL ADMINISTRATION FEE

MSC shall charge the Merchant a Legal Administration Fee (LAF) covering the extra coordination / organization work and subsequent follow-up necessitated by any situation of damage or risk of damage to the cargo, container, crew and/or vessel caused or generated by the Merchant's negligence, fault or misconduct. This fee will be charged in addition to the costs actually as the result of the situation itself and its remedy.

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

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

13. 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.