



## GENERAL TERMS OF SALE of the MSF Logistique Association

### Article 1 - Prerequisites

- 1.1 The MSF Logistique association (hereinafter referred to as "MSF LOG") was formed by the Médecins Sans Frontières France association with the aim of: "facilitating the direct supply of all Médecins Sans Frontières sections, whatever their nationality, and possibly of other NGOs or international agencies with a humanitarian and non-profit objective, with the various products necessary for the accomplishment of their humanitarian missions."
- 1.2 The general terms of sale set forth below detail the rights and obligations of MSF LOG and its client in connection with the sale of the products included in the catalogue (hereinafter referred to as the "Products"). Products may be subject to modification; in such case, any change can be made upon notification by MSF LOG, and shall incur no obligation for MSF LOG in regard to Products previously ordered.
- 1.3 In consideration of the stipulations of Article 1.1, any MSF LOG client undertakes not to resell the products purchased from MSF LOG on the commercial market: Products may only be transferred, distributed or resold only for public interest or humanitarian purposes.
- 1.4 In order to be registered with MSF LOG, the client will first provide to MSF LOG its signed and valid articles of association, the exact contact details for its organisation, and, where applicable, its VAT liability status, its VAT number and the purchasing authorisation number for its intra-Community VAT exemption.
- 1.5 The client shall remain fully liable for its use of the Products. It is incumbent upon the client to verify the legislation regarding import conditions in advance and, if necessary, to obtain the proper authorisations, import licenses and other specific documents from the competent authorities. MSF LOG cannot be held responsible for the confiscation, destruction or refusal of entry of products sold that do not comply with the local legislation in force.

### Article 2 - Ordering Process

- 2.1 All orders must be sent to MSF LOG as provided in the "First Order" document attached hereto as Appendix 1. Note that MSF LOG reserves the right to request payment upon order confirmation, or to request an international bank guarantee in the case of a first order.
- 2.2 Any order approved by the client and confirmed by MSF LOG will be considered to have been accepted by MSF LOG, and will be deemed equivalent to a sales contract and thus governed by these GTS (the "Contract").
- 2.3 All MSF LOG offers are valid for a period of thirty (30) days as of the date when they are sent to the client, except in case of express indications to the contrary in the offer. If an order is confirmed once the corresponding offer has expired, MSF LOG reserves the right to modify the parameters of the offer.

### **Article 3 - Quantities**

- 3.1 If a client order is for a quantity that does not correspond to the standard packaging of MSF LOG or its supplier, the quantity ordered will be deemed to be rounded up to the next higher standard quantity.
- 3.2 MSF LOG will inform the client of this fact in the order confirmation, and except upon express client request to round down to the next lower standard quantity sent within 48 hours to MSF LOG, the order, rounded up to the next higher standard quantity, will be definitively binding upon the client.

### **Article 4 - Price**

- 4.1 In consideration of the stipulations of Article 2.4, unless otherwise specifically agreed between the client and MSF LOG, price offers shall be valid for a maximum of thirty (30) days from the date when they are sent to the client.
- 4.2 Within the limits of the application of any mandatory legal provisions, MSF LOG may modify the price of sale of the goods and of transportation based on elements independent of its will (pricing applied by its suppliers, exchange rate fluctuations, unanticipated increases in raw materials, etc.).
- 4.3 Any taxes of any kind applicable in general to the Products sold are the responsibility of the client. If another applicable rate for VAT or other taxes takes effect after the order is placed, the latest rate will be applied.
- 4.4 Unless otherwise stated, all prices are quoted ex-MSF LOG warehouses, excluding transport costs and excluding any special packaging costs.

### **Article 5 – Availability lead times**

Lead times for making the Products available shall be established upon order confirmation. MSF LOG may nevertheless be obliged to modify said lead times in the event of a supplier failure, after notifying the client.

### **Article 6 - Force majeure**

- 6.1 MSF LOG will not be held responsible for any delay in the execution of the Contract or non-compliance with its obligations brought about by a force majeure event. Cases of force majeure may include, but are not limited to, war, riots, strikes, lock-outs, epidemics, transport interruptions, scarcity of raw materials, machinery and equipment breakdowns, impediments resulting from Government provisions regarding imports and exports, foreign exchange, or internal economic regulations, accidents, or any other cause resulting in the disemployment of all or part of the work sites.
- 6.2 Any fortuitous circumstances or force majeure event shall automatically allow the temporary or definitive suspension of any Contracts in progress or their late execution. The client may not under any circumstances invoke a delay in delivery to justify the cancellation of orders, refusal to receive Products, or to bring claims for compensation or damages.

## **Article 7 - Transport**

- 7.1 MSF LOG will arrange transportation to the port/airport nearest to the agreed final destination, unless specifically agreed otherwise. The terms of sale, availability, shipping, transfer of risks and responsibilities, insurance, and the receipt of Products will be defined by the Incoterm indicated in the order (version 2010 or possibly a more recent revised version).
- 7.2 MSF LOG undertakes to inform the client of the dates and, if applicable, the arrival times provided by carriers; the client will be responsible for receiving them as soon as possible upon their arrival. MSF LOG cannot be held responsible for additional costs and/or Product losses related to any breach of this responsibility.
- 7.3 MSF LOG shall issue the documents necessary for customs clearance operations (contract of carriage, packing list, cargo manifest, goods invoices, carriage amounts, deeds of donation, inter alia) and transmit them to the client or to its forwarder. Requirements for specific regulatory documentation for medical products should be communicated by the client prior to placing order.
- 7.4 Subject to the incoterm indicated in the order, MSF LOG shall not be held responsible for the customs clearance corresponding to the importation of the Products to the country of destination specified by the client. The client itself must take the necessary measures to remove the Products from Customs. All customs costs are the responsibility of the client, and not MSF LOG.

## **Article 8 - Insurance of Products Transported**

- 8.1 If transport is carried out by MSF LOG, it shall provide insurance for the Products. If insurance is provided by MSF LOG, it shall be incumbent upon the client to grant discharge to the carrier only after ensuring that the shipment is intact and complies with the transport documents and the indicated quantities, or after having placed all the reservations required by the ad hoc documents provided by MSF LOG for such purpose under the provisions of Article 11.
- 8.2 If, on the contrary, carriage and insurance are to be provided by the client, the latter will assert its rights directly to the carrier or its insurer, and MSF LOG shall be held harmless.

## **Article 9 - Terms of payment**

- 9.1 All MSF LOG invoices are payable under the terms stipulated on the order confirmation. In the absence of express stipulation to the contrary on the order confirmation, Products shall be payable sixty (60) days from the invoice date, notwithstanding any dispute that may be brought by the client.
- 9.2 Failure to pay an invoice or bill of exchange on the due date, even in part, shall incur the following consequences:
- (i) interest shall automatically be applied to all amounts due, with no prior notice required, equal to 3 times the legal interest rate, plus a lump sum penalty of forty Euros for collection costs; it is specified that in cases where the collection costs are higher than the amount of this penalty, it is agreed that MSF LOG may seek a supplementary compensation upon the provision of evidence of said costs.
  - (ii) MSF LOG shall be entitled, without prior notice or judicial intervention, to deem any outstanding Contracts terminated in whole or in part, with any consequences borne by the client, or to

suspend the execution thereof in whole or in part, without prejudice to its right to claim compensation for any damages incurred.

9.3 MSF LOG reserves the right, even after the confirmation of the sale, to require performance bonds to guarantee the client's proper fulfilment of its obligations. MSF LOG will be entitled to suspend the execution of the Contract until the same has been provided.

9.4 Payments will be made by transfer to the standard MSF LOG bank account.

#### **Article 10 - Transfer of ownership and transfer of risk**

10.1 The transfer of ownership of the Products delivered is subject to effective payment in full of the amount of the order, including all principal and accessory amounts.

10.2 As long as the Products are owned by MSF LOG, the client may not dispose of them or pledge them without written permission from MSF LOG.

10.3 The client hereby irrevocably grants a mandate to MSF LOG to retrieve (or arrange for the retrieval of) any Products remaining unpaid after formal notice, as its own property, and for such purposes to enter (or permit entry to) the site where such unpaid Products are warehoused.

10.4 The risks of Product loss or deterioration, as well as any damages that may be caused thereby shall be transferred to the client, even prior to payment.

#### **Article 11 - Claims - Warranty**

11.1 Without prejudice to the stipulations of Article 8.2., claims concerning the absence of certain Products included on the order form, or concerning apparent defects in the Product as delivered shall be admissible only if they are provided by the client to MSF LOG in writing within seventy-two (72) hours of delivery for Products transported under normal conditions, and within twenty-four (24) hours of delivery for Temperature Controlled Products, and in any case prior to any use, modification or dispatch thereof; such notice must be provided using the form made available on the MSF LOG website/orders section.

11.2 Under penalty of inadmissibility, claims relating to defects not apparent upon delivery must be sent to MSF LOG by the client in writing as soon as they are discovered.

11.3 MSF LOG warrants the Products delivered within the limits and conditions stipulated by the manufacturer; it is specified that in any event, in case of claims found admissible, the liability of MSF LOG shall be strictly limited to the reimbursement or replacement (at the discretion of the manufacturer or MSF LOG) of any non-compliant Products, to the exclusion of any other compensation, particularly for loss of profit or indirect damages.

11.4 Each medicinal product and sterile medical device has a lifespan equal to the period extending from its date of manufacture to its date of expiry. For all medicinal products and sterile medical devices with a service life of at least three (3) years, MSF LOG warrants validity, within the limits mentioned in Article 11.3, for a period extending for one (1) year from the "packaging completion" date (in accordance with WHO standards). For all Products with a service life of less than three (3) years, MSF LOG, as discussed in article 11.3, warrants validity for a period equal to one-third (1/3) of the total service life counted from the packaging completion date. Exceptions will be made for Kits, items without lifespan but managed with expiry dates and vaccines (DVAC family) of less than 36

months lifespan. For those exceptions, MSF Log warrants validity for 6 months minimum from the “packaging completion date”.

11.5 In no case shall these warranty obligations cover normal wear and tear, or any repairs made necessary as a result of the faulty or insufficient maintenance of a delivered Product. Improper use will automatically void the warranty. The warranty shall also not cover any repairs made necessary as the result of accident, theft or attempted theft, fire, intentional damage, lightning, short circuit, or in general any damage to the goods delivered brought about by external causes.

11.6 If the client performs or arranges to have third parties perform any repair or modification without prior consent from MSF LOG, or fails to fulfil its payment obligations, its rights under the warranty shall be void. The client shall have no right to refuse payment on the grounds that MSF LOG has not fulfilled its warranty obligations in whole or in part.

#### **Article 12 - Modifications - cancellation**

12.1 Subject to the provisions of Article 11, Products sold may not be returned or exchanged.

12.2 Any subsequent modification or cancellation of a contract made must be the subject of an agreement made in writing by both parties.

12.3 If, however, the client unilaterally decides to modify or cancel the Contract entered, it will be obliged to compensate MSF LOG for all damages (costs and loss of profits) resulting from this modification or cancellation.

12.4 MSF LOG reserves the right to unilaterally cancel any Contract underway in case of non-compliance with the eligibility conditions as set forth in Article 1 of these GTS, or in the event of a change in the organisation’s corporate object of which MSF LOG has not been notified.

#### **Article 13 - Contract Termination**

13.1 If the client does not fulfil one or more of its obligations, if it is declared bankrupt, if it is put into liquidation, or if its assets are seized in whole or in part, MSF LOG has the right to consider the Contract or the unfulfilled part thereof automatically terminated without the need for judicial intervention, and to demand the return of Products remaining unpaid, without prejudice to its claims for costs and damages.

13.2 If the client files an application for a court-approved composition with creditors, all obligations resulting from the enactment of the Contract shall be suspended.

13.3 In each of the assumptions referred to in Articles 13.1. and 13.2, the Contract shall be automatically terminated upon MSF LOG sending a letter to such effect to the client by certified mail, and MSF LOG shall have the right to claim the return of any Products delivered but remaining unpaid.

13.4 In the event that MSF LOG exercises its aforementioned right to cancel the sale, or in the event of a judicial annulment implicating the client, the client will be liable to MSF LOG for a non-negotiable lump-sum compensation equal to thirty per cent (30%) of the unfulfilled portion of the order.

#### **Article 14 - Automated Processing of Data**

14.1 The client expressly consents to the automated processing of such personal data concerning it as have been communicated to MSF LOG upon the conclusion of each Contract. This data is collected, processed and used by MSF LOG for its own use for purposes of after-sales service.

14.2 The processing of such data is subject to the laws in force governing the protection of personal data.

#### **Article 15 - Intellectual property rights**

15.1 All intellectual property rights attached to the drawings, diagrams, designs, publications and other documents issued by Médecins Sans Frontières (MSF), MSF LOG, or the manufacturer of the equipment or Product in question, shall remain the exclusive property of MSF, MSF LOG or the manufacturer respectively. These documents may not be made available to third parties without the express written consent of MSF LOG.

15.2 No party may use the name, logo or brand of the other party or any adaptation or translation thereof without prior consent in writing from the party whose name logo or brand is intended to be used.

#### **Article 16 - Scope of these conditions**

16.1 Subject to the possible applicability of binding legislation to the contrary (such as public contracts, among others) the client, by placing its order, accepts these Terms and waives the application of any general terms of its own.

16.2 The non-enforcement by MSF LOG of any clause to its benefit shall not be interpreted as a waiver of its right to avail itself thereof.

#### **Article 17 - Applicable law - Jurisdiction**

17.1 All Contracts concluded by MSF LOG are governed and interpreted in accordance with French law.

17.2 Failing an amicable settlement, any dispute in regard thereto shall be brought before the courts of Bordeaux.

17.3 In the event of a conflict between the French and English versions of the General terms of sale, delivery, or payment, the French version thereof shall prevail.