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Item No. 4 on the agenda: Adoption of Draft UNIDROIT instruments

(a) Model Law on Warehouse Receipts

(prepared by the Secretariat)

<i>Summary</i>	<i>Update regarding the progress on the joint UNCITRAL/UNIDROIT Model Law on Warehouse Receipts Project and submission of the draft Model Law for approval</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the progress made on the project since its last session in June 2022, as well as on the next steps concerning the Guide to Enactment.</i> <i>Moreover, the Governing Council is invited to adopt the draft Model Law on Warehouse Receipts (as enclosed in the Annexe) for submission to UNCITRAL</i>
<i>Mandate</i>	<i>Work Programmes 2020-2022 and 2023-2025</i>
<i>Priority level</i>	<i>High</i>
<i>Related documents</i>	<i>UNIDROIT 2020 C.D. (99) A.8; UNIDROIT 2020 C.D. (99) A.2; UNIDROIT 2020 A.G. (79) 10; UNIDROIT 2021 C.D. (100) B.24; UNIDROIT 2022 C.D. (101) 21; UNIDROIT 2022 A.G. (81) 9</i>

I. INTRODUCTION

1. The purpose of this document is to update the Members of the Governing Council on the progress made on the Model Law on Warehouse Receipts Project since the 101st session of the Governing Council in June 2022, to consider the next steps concerning the drafting of a Guide to Enactment, as well as to invite the Council to adopt the draft Model Law on Warehouse Receipts for submission to UNCITRAL.

II. BACKGROUND OF THE PROJECT

2. Upon proposal by the Secretariat to the Governing Council at its 99th session in April-May 2020, the Council unanimously agreed to recommend that the General Assembly include the drafting, jointly with UNCITRAL, of a Model Law on Warehouse Receipts as a new project with high-priority status in the 2020-2022 Work Programme, subject to approval of a parallel mandate by UNCITRAL's Commission ([C.D. \(99\) A.8, para. 21](#)). UNCITRAL's Commission duly approved the project at its 53rd session in

September 2020 ([UN Doc. A/75/17](#)). The General Assembly of UNIDROIT then approved the recommended inclusion of the proposed project with high-priority status in the Work Programme at its 79th session in December 2020 ([A.G. \(79\) 10, paras. 39 et seq. in conjunction with para. 47](#)).

3. Warehouse receipts are documents, in paper or in electronic form, issued by warehouse operators that state the ownership of a commodity and may be traded or used as collateral to obtain credit. A supportive legal framework is widely regarded as a prerequisite for a well-functioning warehouse receipts system that can foster transactions and facilitate access to finance, especially in the agricultural sector and with particular importance for small entrepreneurs.

4. It is recalled that the project consists of two phases. First, the tentative calendar for the implementation of the project anticipated that the preparation of the first draft for the proposed Model Law by an UNIDROIT Working Group would take place over four in-person sessions (2020-2022), followed by the adoption by the Governing Council of the complete draft to be sent to UNCITRAL at its 101st session in May 2022. At the 100th session of the Governing Council in September 2021, the Council authorised the extension of the project for one calendar year, with the adoption by the Governing Council of the complete draft foreseen at its 102nd session in May 2023 ([C.D. \(100\) B.24](#), para. 101). In the second phase, upon approval by the Governing Council, the draft Model Law would be submitted for intergovernmental negotiations through an UNCITRAL Working Group.

5. Furthermore, in parallel to the discussion of the draft Model Law at UNCITRAL, the UNIDROIT Working Group would develop a Guide to Enactment to the Model Law, as authorised by the Council at its 101st session in June 2022 ([C.D. \(101\) 21](#), para. 223). Such Guide to Enactment would not only explain the provisions included in the Model Law text to legislators seeking to implement it into domestic legislation, but also provide guidance on the preparation of implementing regulations and other subsidiary legislation.

6. Consequently, at its 101st session, the Governing Council recommended that the General Assembly retain the drafting of a Model Law on Warehouse Receipts in the 2023-2025 Work Programme as a high-priority activity until its final completion: for the text of the Model Law in 2023, and for the Guide to Enactment in 2024 ([C.D. \(101\) 21](#), para. 224). The General Assembly approved the recommendation (see [A.G. \(81\) 9](#), para. 67).

III. DEVELOPMENT OF THE DRAFT MODEL LAW ON WAREHOUSE RECEIPTS

7. As consistent with the Institute's established working methodology, the draft Model Law has been developed by a Working Group composed of experts selected for their expertise related to warehouse receipt systems. Experts participate in a personal capacity and represent different legal systems and geographical regions. The Working Group was chaired by Governing Council Member Professor Eugenia Dacoronia.

8. The Working Group held a total of six sessions from 2020 to 2023. The Secretariat reported to the Governing Council on the first four sessions of the Working Group in detail at the 101st session in June 2022 (see [C.D. \(101\) 8](#)). The corresponding summary reports of the Working Group meetings and relevant documents are available on the dedicated [project page](#) on the UNIDROIT website.

9. The fifth session of the Working Group took place on 5-7 December 2022. At that session, the Group considered the drafting suggestions as revised by the Drafting Committee for three chapters of the future Model Law, namely Chapter I on "Scope and general provisions", Chapter II on "Issue of a warehouse receipt", and Chapter III on "Transfer of warehouse receipts". Furthermore, the Group considered the drafting suggestions for two new chapters, namely Chapter IV on "Rights and Obligations of the Warehouse Operator", and Chapter V on "Application and transition of this Law". The Group also discussed a note with drafting suggestions on security rights in warehouse receipts, as well as a note on conflict of law issues suggesting certain draft provisions for inclusion

in the Model Law. A focus of the discussion during the fifth session was on deciding the approach that the draft Model Law should adopt with regard to accommodating both the single and the dual format of warehouse receipts in a single text, and it was decided to include an optional chapter dedicated to the dual warehouse receipts system. With this optional chapter, the draft Model Law would be complete. The report of the fifth session is contained in [Study LXXXIII – W.G.5 – Doc. 6](#).

10. The fifth session was followed by the second in-person meeting of the Drafting Committee on 8-9 December 2022. The Committee revised the suggested chapters according to the Working Group's discussions. Furthermore, it prepared a first draft for the optional chapter on Pledge Bonds aiming to accommodate dual receipt systems.

11. Subsequently, the revised and complete draft Model Law text was shared with Working Group members and observers, as well as with industry representatives, for written consultation. The Secretariat integrated all comments received during the consultation into the draft text for consideration by the Working Group at its sixth session.

12. The sixth Working Group session was held on 1-3 March 2023 in a hybrid format. The session was dedicated to reviewing the complete draft Model Law, deciding any outstanding issues, and finalising the draft text. The report of this session is contained in [Study LXXXIII – W.G.6 – Doc. 3](#).

13. The sixth Working Group session was again followed by an in-person meeting of the Drafting Committee on 6-7 March 2023. During that meeting, the Committee revised the draft Model Law text according to the decisions adopted by the Working Group.

14. Finally, the Secretariat circulated the complete draft of the Model Law to all members and observers of the Working Group for final comments. All comments were considered and incorporated as appropriate in the final draft.

IV. OVERVIEW OF THE DRAFT MODEL LAW ON WAREHOUSE RECEIPTS

15. The draft Model Law is conceived as a stand-alone instrument for adoption by States seeking to enact national legislation introducing or modernising warehouse receipt systems. It consists of a set of black-letter rules covering all the essential aspects necessary to regulate the private law side of a warehouse receipts system, with a focus on the financing function of warehouse receipts.

16. The draft Model Law is compatible with both civil and common law systems. Accommodating different legal traditions with regard to the format of warehouse receipts, the Model Law allows for both single and dual warehouse receipt systems. Moreover, the Model Law is harmonised with the approaches and terminology adopted in other relevant international instruments, including the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, the UN Convention on International Bills of Exchange and International Promissory Notes, and the UNCITRAL Model Laws on Secured Transactions and Electronic Transferable Records.

17. The scope of the Model Law covers both paper-based and electronic warehouse receipts that are issued for any kind of goods, not being limited to agricultural goods. Importantly, the Model Law contemplates the issuance and transfer of electronic warehouse receipts, including using electronic platforms, distributed ledger technology systems, and other technological mechanisms.

18. The draft Model Law is organised into six chapters:

Chapter I Scope and general provisions

Chapter II Issue and contents of a warehouse receipt; Alteration and replacement

Chapter III Transfers and other dealings in negotiable warehouse receipts

Chapter IV	Rights and obligations of the warehouse operator
[Chapter V	Pledge bonds]
Chapter VI	Application of this Law

19. As to its contents, Chapter I on “Scope and general provisions” sets out the scope of application of the Law and definitions of key terms. It also contains provisions on party autonomy and the interpretation of the Law. Chapter II on “Issue and contents of a warehouse receipt; Alteration and replacement” establishes an obligation on the warehouse operator to issue a warehouse receipt if requested by the depositor. It determines the mandatory content of receipts and proposes additional, voluntary content. This Chapter further contains provisions on subsequent alteration, loss, and destruction of a warehouse receipt, as well as concerning a change of medium from paper to electronic and vice versa. Chapter III regulates “Transfers and other dealings in negotiable warehouse receipts”, including protected holder status, third-party effectiveness of security rights, and representations by transferors and intermediaries. To the extent required for the functioning of the Law, Chapter IV stipulates the “Rights and obligations of the warehouse operator”, including the duty of care, the duty to keep goods separate, and the obligation to deliver. The Chapter also contains provisions on the warehouse operator’s lien, partial delivery, and excuses from the delivery obligation, as well as termination of storage by the warehouse operator. Chapter V on “Pledge bonds” is suggested as an optional chapter for enacting States that seek to implement a system of dual warehouse receipts, consisting of a warehouse receipt and a pledge bond. This Chapter addresses the issue and form of a pledge bond, its effects and transfers, and other dealings in the pledge bond, as well as rights and obligations of the warehouse operator regarding the pledge bond. The final Chapter VI, “Application of this Law”, contains the transitional provisions on the entry into force of the Law and repeal and replacement of other laws.

20. The final text of the draft Model Law text is enclosed in the Annexe to this document.

V. NEXT STEPS

21. As authorised by the Council at its 101st session in June 2022, following approval of the draft Model Law by the Governing Council and submission of the draft to UNCITRAL, the UNIDROIT Working Group will prepare a Guide to Enactment of the Model Law, the submission of which is expected for the Council’s 103rd session in 2024 ([C.D. \(101\) 21](#), para. 224). Subsequently, as with the Model Law itself, the draft Guide will be submitted to UNCITRAL for intergovernmental negotiation and approval at its Commission.

22. With regard to the working methodology for the preparation of the Guide to Enactment, it is tentatively envisaged that a limited number of experts from the Working Group, in close collaboration with the Secretariat, prepare a draft over the period from May 2023 to April 2024. This would in principle include two in-person sessions at the seat of the Institute, in addition to regular remote intersessional meetings. The preparation for this Guide to Enactment has been happening in parallel over the course of the drafting of the Model Law, when references to the need to include specific parts in the Guide were frequent and duly recorded. In order to ensure that the Guide to Enactment reflects modifications that might be included in the Model Law, as and when they happen, the Institute’s Secretariat will attend all Working Group sessions at UNCITRAL and draft the text in close collaboration with the Secretariat of UNCITRAL.

23. As to the future Guide’s content and structure, it is suggested that it contains commentary and illustrations of the Model Law provisions, on the one hand, and guidance on the implementing legislation, on the other. The commentary could be structured article-by-article, explaining for each provision the background (including the *travaux préparatoires*); how the provisions should be interpreted and applied; and the relationship with other domestic legislation that might complement or be otherwise relevant for its application. The second part on the implementing legislation would

set out the core aspects that need to be specified in regulations or other subsidiary legislation to implement the Model Law at domestic level. It would describe how these could be addressed through subsidiary legislation. This part would propose model provisions where appropriate, in particular with regard to technical regulations implementing electronic warehouse receipt systems. Accordingly, a first draft structure for the Guide to be taken as a starting point for the work of the Working Group could be as follows:

I. Purpose of this Guide

II. Introduction to the Model Law

- A. Background
- B. Objectives
- C. Scope
- D. Structure
- E. Financing practices involving warehouse receipts
- F. Types of warehouse receipt systems: the single and the dual format
- G. Electronic warehouse receipts (including an explanation of the decision to draft the MLWR in a technology-neutral manner, an outline of the currently existing systems (registry-based and token-based), and an explanation of how the MLWR can be adapted to different models that may develop in the future)

III. Article-by-article commentary

IV. Implementing subsidiary legislation

24. In addition to the work on the Guide to Enactment, the Secretariat will liaise with associated experts to devise a promotion strategy for the Model Law and Guide to Enactment upon their adoption expected in May 2024.

VI. ACTION TO BE TAKEN

25. *The Governing Council is invited to take note of the progress made in the implementation of the project on developing a Model Law on Warehouse Receipts, as well as of the proposed next steps concerning the drafting of a Guide to Enactment.*

26. *Furthermore, the Council is invited to adopt the draft Model Law on Warehouse Receipts for submission to UNCITRAL.*

ANNEXE**Draft UNCITRAL/UNIDROIT Model Law on Warehouse Receipts**

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DRAFT MODEL LAW ON WAREHOUSE RECEIPTS

CHAPTER I

SCOPE AND GENERAL PROVISIONS

Article 1 – Scope of application

1. This Law applies to warehouse receipts.
2. For the purposes of this Law, a warehouse receipt is an electronic record or paper document issued and signed by a warehouse operator that identifies itself as a warehouse receipt and by which the warehouse operator:

acknowledges holding goods described in it on behalf of the holder; and
promises to deliver the goods to the holder.

Article 2 – Definitions

For the purposes of this Law:

1. “Depositor” means a person who deposits goods for storage with a warehouse operator.
2. “Electronic record” means information generated, communicated, received or stored by electronic means, including, where appropriate, all information logically associated with or otherwise linked together so as to become part of the record, whether generated contemporaneously or not.
3. “Holder” of a warehouse receipt means:
 - (a) in the case of an electronic negotiable warehouse receipt - the person who has control of the receipt;
in the case of a paper negotiable warehouse receipt that is issued to the order of a named person - that person, or the most recent endorsee, if in possession of the receipt;
in the case of a paper negotiable warehouse receipt that is issued to bearer or endorsed in blank - the person in possession of the receipt; and
in the case of a non-negotiable warehouse receipt - the person to whom delivery of the goods is to be made in accordance with the terms of the receipt.
4. “Negotiable warehouse receipt” means a warehouse receipt that is issued:
 - (a) to the order of a named person; or
 - (b) to bearer.
5. “Non-negotiable warehouse receipt” means a warehouse receipt that is issued in favour of a named person.
6. “Protected holder” means a person that satisfies the requirements of Article 17(1).
7. “Storage agreement” means an agreement between a warehouse operator and a depositor that sets out the terms on which the warehouse operator agrees to store goods.

8. “Warehouse operator” means a person who is in the business of storing goods for other persons for reward.

Article 3 – Control of an electronic warehouse receipt

A person controls an electronic warehouse receipt if a reliable method is used:

(a) to establish exclusive control of that electronic warehouse receipt by the person; and to identify that person as the person in control.

Article 4 – Party autonomy

ALTERNATIVE A:

Parties may not derogate from or vary by agreement any provision of this Law.

ALTERNATIVE B:

1. Parties may derogate from or vary by agreement the following provisions of this Law: [...].¹
2. Such an agreement does not affect the rights of any person who is not a party to that agreement.

Article 5 – Interpretation

In the interpretation of this Law, regard is to be had to its international origin and the need to promote uniformity in its application.

¹ The enacting State may consider which provisions of the Model Law, if any, the parties may derogate from or vary by agreement.

CHAPTER II

ISSUE AND CONTENTS OF A WAREHOUSE RECEIPT; ALTERATION AND REPLACEMENT

SECTION A. ISSUE AND CONTENTS OF A WAREHOUSE RECEIPT

Article 6 – Obligation to issue a warehouse receipt

1. A warehouse operator must issue a warehouse receipt in relation to goods, after taking possession of the goods, if requested by the depositor.
2. The lack of issuance of a warehouse receipt by the warehouse operator does not affect the validity of the storage agreement.

Article 7 – Representations by the depositor

The depositor represents to the warehouse operator, at the time of deposit, that:

- (a) it has the authority to deposit the goods; and
the goods are free of any rights or claims of third parties except as agreed by the warehouse operator.

Article 8 – Incorporation of storage agreement in the warehouse receipt

A warehouse receipt is taken by operation of this Law to include all terms of the storage agreement that are not inconsistent with the express terms of the warehouse receipt.

Article 9 – Information to be included in a warehouse receipt

1. A warehouse operator must include the following information in a warehouse receipt:
 - (a) whether it is negotiable or non-negotiable;
 - (b) if it is negotiable, the name of the person to whose order the receipt is issued or a statement that it is issued to bearer;
 - (c) if it is negotiable, any limitations on the manner in which it may be transferred;
 - (d) if it is non-negotiable, the name of the person in whose favour it is issued;
 - (e) the name of the depositor;
 - (f) the name of the warehouse operator;
 - (g) the type and quantity of the goods;the fixed period of the storage, if any;
the place where the goods are stored;
a unique identification number for the receipt;
the date of issue; and

the date of the storage agreement and a statement that a copy of the storage agreement will be made available to potential transferees on demand.

2. An incomplete or incorrect statement of information required by paragraph 1 does not affect the validity of the warehouse receipt. The warehouse operator is liable for any losses suffered by any person as a result of any such incomplete or incorrect statement.

3. If a negotiable warehouse receipt does not name a person to whose order it is issued, it is issued to bearer.

Article 10 – Additional information that may be included in a warehouse receipt

1. A warehouse operator may also include any other information in a warehouse receipt, such as:

- (a) the name of the insurer, if any, who has insured the goods;
- (b) the amount of the storage fees if they are a fixed amount or, if they are not a fixed amount, how the fees are calculated;
- (c) the quality of the goods; or
- (d) if the goods are fungible, whether the goods may be commingled.

2. An incorrect statement of information referred to in paragraph 1 does not affect the validity of the warehouse receipt. The warehouse operator is liable for any losses suffered by any person as a result of any such incorrect statement.

3. If a warehouse receipt covers fungible goods but does not state the quality of the goods, the goods are presumed to be of average quality.

Article 11 – Goods in sealed packages and similar situations

1. If the warehouse operator has no practicable or commercially reasonable means of assessing the goods, the warehouse operator may describe the goods, including their type, quantity and quality:

- (a) in accordance with information provided to it by the depositor; and
- (b) in the case of goods in a sealed package, by a statement to the effect that the package is said to contain the described goods, and that the warehouse operator otherwise has no knowledge of the contents or condition of the contents of the package.

2. A warehouse operator who describes goods in accordance with paragraph 1 will not be liable for any losses suffered by any person, unless the warehouse operator knew or had reasonable grounds to believe that the description was false or misleading.

SECTION B. ALTERATION AND REPLACEMENT

Article 12 – Alteration of a warehouse receipt

If a field in a negotiable warehouse receipt is left blank by the warehouse operator and is later filled in without the warehouse operator's authorization, the insertion will be effective as against

the warehouse operator if a subsequent holder has no knowledge of the lack of authorization at the time that person becomes the holder.

Article 13 – Loss or destruction of a warehouse receipt

1. In the event of the loss or destruction of a warehouse receipt, the holder at the time of loss or destruction may require the warehouse operator to issue a replacement warehouse receipt, by providing:

- (a) such proof of its entitlement to the warehouse receipt; and
- (b) such indemnity in relation to the issue of the replacement warehouse receipt and security in support of that indemnity,

as the warehouse operator may reasonably require.

2. In the case of an electronic warehouse receipt:

- (a) “loss” in paragraph 1 means loss of control; and
- (b) “issue a replacement warehouse receipt” in paragraph 1 may include reinstatement of control of the warehouse receipt over which control has been lost.

3. If a warehouse operator fails to issue a replacement warehouse receipt pursuant to paragraph 1, the holder at the time of loss or destruction may apply to the Court for an order that the warehouse operator issue a replacement warehouse receipt, including by way of proceedings in the form of [the expeditious proceedings to be specified by the enacting State]. In the case of a lost negotiable warehouse receipt, the applicant must deposit with the Court adequate security to indemnify the warehouse operator against claims by a holder of the lost warehouse receipt.

4. A replacement warehouse receipt issued under this Article must state that it is a replacement warehouse receipt.

Article 14 – Change of medium of a warehouse receipt

1. If the holder of a warehouse receipt so requests, a warehouse operator may change the medium of the warehouse receipt from paper to electronic or from electronic to paper.

2. At the time of the change of medium, the warehouse operator must ensure that the warehouse receipt can no longer be used in its previous medium.

3. The change of medium does not affect the rights and obligations of the parties.

CHAPTER III

TRANSFERS AND OTHER DEALINGS IN NEGOTIABLE WAREHOUSE RECEIPTS

SECTION A. HOW A NEGOTIABLE WAREHOUSE RECEIPT MAY BE TRANSFERRED

Article 15 – Transfer of a negotiable warehouse receipt

1. A paper negotiable warehouse receipt may be transferred:
 - (a) by endorsement and delivery, if it is issued or endorsed to the order of the person transferring it; or
 - (b) by delivery, if:
 - (i) it is issued to bearer; or
 - (ii) it is endorsed in blank or to bearer.
2. An electronic negotiable warehouse receipt may be transferred by change of control.

SECTION B. EFFECT OF A TRANSFER OF A NEGOTIABLE WAREHOUSE RECEIPT

Article 16 – Rights of a transferee generally

1. A person to whom a negotiable warehouse receipt has been transferred acquires:
 - (a) such rights to the receipt and the goods; and
 - (b) such benefit of the obligation of the warehouse operator to hold and deliver the goods in accordance with the terms of the receipt,as the transferor was able to convey.
2. Paragraph 1 does not limit the rights of a protected holder of a negotiable warehouse receipt pursuant to Article 18.

Article 17 – Protected holder of a negotiable warehouse receipt

1. A person is a protected holder of a negotiable warehouse receipt if:
 - (a) the receipt has been transferred to the person pursuant to Article 15;
 - (b) the person acted in good faith and without knowledge of any claim to the receipt or the goods covered by it, or of any defence on the part of any person other than the warehouse operator; and
 - (c) the transfer was in the ordinary course of business or financing.
2. [A person does not have knowledge of a claim to a warehouse receipt or the goods covered by it for the purposes of paragraph 1(b) merely because information relating to that claim has been registered in [a registry established pursuant to a secured transactions law as specified by the enacting State].]

3. If a negotiable warehouse receipt is issued by a warehouse operator to the order of a named person other than the depositor, the issue of the receipt to that person by the warehouse operator has the same effect, for the purposes of determining whether that person is a protected holder, as if the receipt had been transferred to that person pursuant to Article 15.

Article 18 – Rights of a protected holder of a negotiable warehouse receipt

1. A protected holder of a negotiable warehouse receipt acquires ownership of the receipt and the goods covered by the receipt, and the benefit of the obligation of the warehouse operator to hold and deliver the goods in accordance with the terms of the receipt, free of any claim or defence of the warehouse operator or any other person, other than any claim or defence that arises under the terms of the receipt or under this Law.

2. Paragraph 1 applies even if:

- (a) the transfer to the protected holder or any prior transfer constituted a breach of duty by the transferor;
- (b) a previous holder of the receipt lost control or possession of the receipt as a result of fraud, duress, theft, conversion, misrepresentation, mistake, accident or similar circumstances; or
- (c) the goods or the receipt had been previously sold, transferred or encumbered to a third person.

3. The ownership and benefit of a protected holder of a negotiable warehouse receipt under paragraph 1 are not subject to [any retention-of-title, security or equivalent right as specified by the enacting State] that any person may have in or in relation to the goods covered by the receipt.

4. The ownership and benefit of a protected holder of a negotiable warehouse receipt under paragraph 1 are not subject to any right pursuant to a judgment against any person other than the protected holder. The warehouse operator is not obliged to deliver the goods to a person claiming pursuant to such a judgment, unless the warehouse receipt is surrendered to it.

SECTION C. SECURITY RIGHTS

Article 19 – Third party effectiveness of a security right

A security right in a negotiable warehouse receipt may be made effective against third parties by:

- (a) [registration in a registry established pursuant to a secured transactions law as specified by the enacting State;]
- (b) in the case of an electronic negotiable warehouse receipt, the secured creditor taking control of the receipt; or
- (c) in the case of a paper negotiable warehouse receipt, the secured creditor taking possession of the receipt.

SECTION D. REPRESENTATIONS AND GUARANTEES BY A TRANSFEROR OF A NEGOTIABLE WAREHOUSE RECEIPT

Article 20 – Representations by a transferor of a negotiable warehouse receipt

A transferor of a negotiable warehouse receipt represents to the transferee that:

- (a) the receipt is authentic; and
- (b) it does not know of any fact that would impair the validity of the receipt, the value of the goods covered by the receipt, or the effectiveness of the transfer of ownership of the receipt and the goods it covers, except as agreed by the transferee.

Article 21 – Limited representation by intermediaries

Notwithstanding Article 20, an intermediary that is entrusted with warehouse receipts on behalf of another or with collection of a negotiable instrument or other claim, represents by the transfer of a negotiable warehouse receipt only that it is authorized to do so.

Article 22 – Transferor not a guarantor

A person who transfers a negotiable warehouse receipt does not guarantee, by virtue of the transfer, the performance by the warehouse operator of any obligations in relation to the receipt.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF THE WAREHOUSE OPERATOR

Article 23 – Application of this Chapter

The obligations imposed by this Chapter on a warehouse operator apply if a warehouse receipt has been issued, even if:

- (a) the receipt does not comply with the requirements of this Law; or
- (b) the warehouse operator is in violation of an applicable regulatory requirement.

Article 24 – Duty of care

1. The warehouse operator must store and preserve the goods in accordance with the level of care expected of a diligent and competent operator in that particular trade.
2. The warehouse operator may vary its obligation under paragraph 1 by the terms of the warehouse receipt. However, the warehouse operator may not exclude or limit liability for fraud, wilful misconduct, gross negligence, or conversion of the goods.

Article 25 – Duty to keep goods separate

1. Subject to paragraph 2, the warehouse operator must keep the goods separate so as to permit identification of the goods at any time.
2. The warehouse operator may commingle fungible goods into a mass of goods of the same type and quality, if so stated in the warehouse receipt.

Article 26 – Lien of the warehouse operator

1. The warehouse operator has a lien on the goods and in any proceeds for:
 - (a) charges for storage of the goods;
 - (b) unexpected expenses necessary for the preservation of the goods;expenses reasonably incurred in the sale of the goods in accordance with paragraph 4; and similar charges or expenses owed by the holder in relation to other goods held by the warehouse operator, if so stated in the warehouse receipt.
2. Subject to paragraph 3, the warehouse operator's lien is effective against third parties.
3. As against a protected holder, the lien is limited to:
 - (a) charges and expenses specified on the face of the receipt; or
 - (b) if no charges or expenses are so specified, a reasonable charge for storage after the date of issue of the receipt.
4. The warehouse operator may enforce its lien as permitted by [relevant other law as specified by the enacting State].

Article 27 – Obligation of warehouse operator to deliver

1. Except as provided in Article 30, the warehouse operator must deliver the goods to the holder of the warehouse receipt if the holder:
 - (a) provides the warehouse operator with an instruction to deliver the goods to it;
 - (b) surrenders possession or control of the warehouse receipt to the warehouse operator; and
 - (c) satisfies the amount secured by the warehouse operator's lien under Article 26.
2. Upon delivery of the goods, the warehouse operator must cancel the warehouse receipt.

Article 28 – Partial delivery

1. Except as provided in Article 30, the warehouse operator must deliver part of the goods to the holder of the warehouse receipt if the holder:
 - (a) provides the warehouse operator with an instruction to deliver that part of the goods to it;
 - (b) surrenders possession or control of the warehouse receipt; and
 - (c) satisfies a corresponding proportion of the amount secured by the warehouse operator's lien under Article 26.
2. Upon partial delivery of the goods, the warehouse operator must note the partial delivery on the warehouse receipt and return possession or control of the receipt to the holder.

Article 29 – Split warehouse receipt

If requested by the holder of a warehouse receipt, a warehouse operator may split the warehouse receipt into two or more warehouse receipts that cover in total the goods that were covered by the original warehouse receipt, upon surrender of possession or control of the original warehouse receipt.

Article 30 – Excuses from delivery obligation

The warehouse operator is excused from delivering the goods if and to the extent it establishes any of the following:

- (a) destruction or loss of the goods for which the warehouse operator is not liable;
- (b) that it has sold or otherwise disposed of the goods in enforcement of its lien pursuant to Article 26(4);
- (c) that it has sold or otherwise disposed of the goods pursuant to Article 31;
- (d) that it has received competing claims to the goods and the matter has yet to be resolved; or
- (e) that it is prevented from doing so by court order or otherwise by circumstances beyond its control.

Article 31 – Termination of storage by the warehouse operator

1. The warehouse operator, by reasonable notice to all persons known to the warehouse operator to claim an interest in the goods or if the warehouse operator does not know of any person claiming an interest in the goods by public advertisement, may demand payment of the amounts secured by its lien and removal of the goods:

- (a) at the end of the storage period specified in the warehouse receipt; or
- (b) if the storage period has expired or no storage period is specified in the warehouse receipt, on the date specified in the notice.

2. If the amounts are not paid and the goods not removed before the date contemplated by paragraph 1, the warehouse operator may sell the goods by public or private sale, in a commercially reasonable manner, by reasonable notice to all persons known to the warehouse operator to claim an interest in the goods or if the warehouse operator does not know of any person claiming an interest in the goods by public advertisement pursuant to [relevant other law as specified by the enacting State].

3. If, as a result of a quality or condition of the goods of which the warehouse operator did not have knowledge at the time of deposit, the goods are a hazard, the warehouse operator may sell the goods at public or private sale, in a commercially reasonable manner, on reasonable notice to all persons known to the warehouse operator to claim an interest in the goods. If the warehouse operator, after reasonable efforts, is unable to sell the goods, it may dispose of them in any lawful manner.

**[CHAPTER V
PLEDGE BONDS]²**

Article 32 – Scope and general provisions

1. This Law also applies to pledge bonds.
2. For the purposes of this Law, a pledge bond is an electronic record or paper document issued and signed by the warehouse operator that identifies itself as a pledge bond and satisfies the requirements of Article 33.
3. For the purposes of this Law, “holder” of a pledge bond means:
 - (a) in the case of an electronic pledge bond - the person who has control of the pledge bond;
in the case of a paper pledge bond that is issued to the order of a named person - that person, or the most recent endorsee, if in possession of the pledge bond; and
in the case of a paper pledge bond that is issued to bearer or endorsed in blank - the person in possession of the pledge bond.
4. Article 3 applies in relation to pledge bonds in the same way as it applies to warehouse receipts.

Article 33 – Issue and form of a pledge bond

1. The warehouse operator, at the time it issues a negotiable warehouse receipt, must attach to the receipt (if it is in paper form), or associate with the receipt (if it is in electronic form) a pledge bond that contains the same information as the warehouse receipt.
2. Articles 9 to 14 apply to pledge bonds in the same way as they apply to warehouse receipts.

Article 34 – Effect of a pledge bond

1. A pledge bond grants the holder a possessory security right in the goods covered by the warehouse receipt.
2. The rights of the holder of the warehouse receipt to goods are subject to the rights of the holder of the pledge bond.
3. The holder of the warehouse receipt may pay the amount secured by the pledge bond whether or not the amount is yet due.

² This Chapter is suggested for enacting States that seek to implement a system of dual warehouse receipts consisting of a warehouse receipt and a pledge bond. This text has been presented separately in order to facilitate the use of the Model Law by States that do not want to adopt a dual warehouse receipts system. A State that does want to adopt a dual warehouse receipts system could also consider drafting the content of these provisions into the main part of the Model Law rather than retain them separately here, in order to facilitate understanding and use of the Model Law in that State.

4. If there has been default in payment of the amount secured by a pledge bond, the holder of the pledge bond can enforce its security right over the goods pursuant to [relevant other law as specified by the enacting State].

Article 35 – Transfers and other dealings

1. A pledge bond may be transferred together with the warehouse receipt, or separately.
2. The first holder of a pledge bond to transfer it separately from the warehouse receipt must note the following information in the pledge bond:
 - (a) the amount secured by the pledge bond; and
 - (b) the due date for payment of the amount secured by the pledge bond.
3. Articles 15 to 22 apply to pledge bonds in the same way as they apply to warehouse receipts.

Article 36 – Rights and obligations of the warehouse operator

1. Prior to the due date for payment of the amount secured by the pledge bond, the warehouse operator may only deliver the goods upon presentation of both the warehouse receipt and the pledge bond.
2. After the due date for payment of the amount secured by the pledge bond, the warehouse operator must deliver the goods [upon presentation of the pledge bond whether or not the warehouse receipt is also surrendered and/or as required by the holder of the pledge bond pursuant to its procedure for enforcing the pledge bond].
3. Subject to paragraphs 1 and 2, Articles 23 to 31 apply to pledge bonds in the same way as they apply to warehouse receipts.

CHAPTER VI**APPLICATION OF THIS LAW****Article 37 – Entry into force**

1. This Law enters into force on [date as specified by the enacting State].
2. This Law applies to warehouse receipts [and pledge bonds] that are issued after this Law enters into force.

Article 38 – Repeal and amendment of other laws

1. [The laws as specified by the enacting State] are repealed.
2. [The laws as specified by the enacting State] are amended as follows [the text of the relevant amendments to be specified by the enacting State].