

FL WAREHOUSE RECEIPT TERMS AND CONDITIONS OF CONTRACT

1. **DEFINITIONS** "Warehouse" means Merc Logistics Group, Inc "Depositor" means the shipper, consignee, owner of the goods or its agents, including, without limitation, motor carriers, drayage companies, forwarders, brokers, and/or any entity that places or maintains a chassis/trailer pool at any of the warehouse's facilities. "Equipment" means any chassis, container, trailer, or tractor. "Goods" means the merchandise, cargo, or freight that the depositor tenders for storage, set forth on the front page of this warehouse receipt. "Yard storage" means the placement of containers or trailers, with or without tractors, empty or loaded, secured or unsecured, in the yard of the warehouse for the benefit of the depositor and/or the depositor's goods.
2. **ACCEPTANCE** (a) By the depositor's tender of the goods for storage, the depositor agrees to these Terms and Conditions of Contract, which no agent or employee of the parties may alter. (b) In the event that the goods do not conform to the description set forth on the front page of this warehouse receipt, the warehouse may refuse to accept such goods. If the warehouse accepts such goods, the depositor agrees to rates and charges that the warehouse may assess and invoice and to all terms of this contract. (c) Either party may cancel this contract by giving 30 days' written notice to the other party.
3. **SHIPPING** The depositor shall not designate the warehouse to be the consignee for any goods under any bill of lading, waybill, air waybill, or any other transportation contract, receipt, or delivery document. If, in violation of the terms of this warehouse receipt, goods arrive at the warehouse and it is the named consignee, the depositor agrees to notify the carrier in writing prior to such shipment, with copy of such notice to the warehouse, that the warehouse is in fact a warehouse that has no beneficial title or interest in such goods and the depositor further agrees to indemnify and hold harmless the warehouse from any and all claims for unpaid transportation charges, including, without limitation, undercharges, demurrage, detention, or charges of any nature, that arise out of or are in any way connected to the goods. The depositor further agrees that if it fails to notify the carrier as the preceding sentence requires, the warehouse shall have the right to refuse such goods and it shall not be liable or responsible for any loss, injury, or damage that arises out of or is in any way connected to such goods.
4. **TENDER FOR STORAGE** The depositor has the duty to properly mark and package all goods that it tenders for storage. Before or at the time of such tender, the depositor shall furnish the warehouse a manifest showing any marks, brands, or sizes that the warehouse is to keep and account for separately, and the class of storage and other services that the depositor desires.
5. **STORAGE PERIOD AND CHARGES** (a) All charges for storage are per package or other agreed unit, per month. (b) Storage charges commence upon the date that the warehouse accepts care, custody, and control of the goods, regardless of the unloading date or the date of issue of a warehouse receipt. (c) Except as set forth below in sub-paragraph (d) of this section, a full month's storage charge shall apply on all goods the warehouse receives between the first and the fifteenth, inclusive, of a calendar month; one-half month's storage charge shall apply on all goods the warehouse receives between the sixteenth and the last day, inclusive, of a calendar month, and a full month's storage charge shall apply to all goods in storage on the first day of the next and succeeding calendar months. All storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of each succeeding calendar month. (d) When the warehouse and the depositor so agree, a storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the storage month.
6. **TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS, AND WAREHOUSE'S LIEN** (a) The warehouse claims a lien for all lawful charges for storage and preservation of the goods and/or equipment, and also, for money the warehouse has advanced, as well as interest, insurance, transportation, labor, weighing, cooperating, and other charges and expenses in relation to such goods, and for the balance on any other accounts that may be due. The warehouse also claims a lien under its invoice "Terms & Conditions of Service." The warehouse reserves the right to exercise its lien rights under the terms of any applicable law and/or agreement between the depositor and the warehouse. (b) Instructions to the warehouse to transfer goods are not effective until the warehouse receives and accepts such instructions, and all charges up to the time transfer are chargeable to the depositor of record. The warehouse shall assess a charge for transfers that require, in the warehouse's sole discretion, the re-handling goods. For transfers of goods to a third party through the issuance of a new warehouse receipt, the date of transfer shall be the new storage date. (c) The warehouse, at its expense, reserves the right to move goods in storage from the warehouse complex identified on the front page of this warehouse receipt to another storage location of the warehouse within fourteen days after the warehouse sends notice of the same, by certified or registered mail, to the depositor of record or to the last known holder of the negotiable warehouse receipt. But if such depositor or holder takes delivery of such goods in lieu of transfer, no storage charge shall apply for that storage month. The warehouse shall store the goods at, and may without notice move the goods within and between, any one or more of the warehouse buildings within the warehouse complex identified on the front page of this warehouse receipt. (d) The warehouse may, upon written notice to the depositor of record and any other person known by the warehouse to claim an interest in the goods, require the removal of any goods by the end of the next succeeding storage month. The warehouse shall give such notice to the last known place of business or residence of the person(s) to be notified. If the depositor or its successor fails to remove the goods before the end of the next succeeding storage month, the warehouse may sell them under the applicable law. (e) If the warehouse in good faith believes that the goods are about to deteriorate or decline in value in an amount less than the amount of the warehouse's then current and otherwise outstanding storage or other charges before the end of the next succeeding storage month, the warehouse may specify in the notification any reasonable shorter time for the removal of the goods, and failing their removal, the warehouse may sell them at public sale held one week after a single advertisement or posting as provided by law. (f) If, as a result of a quality or condition of the goods of which the warehouse had no notice at the time of deposit or because of which the goods have deteriorated and become a hazard to other property or to the warehouse or to any persons, the warehouse, at its sole discretion, may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If the warehouse after a reasonable effort is unable to sell the goods, it may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale, or return of the goods, the warehouse may remove the goods from the warehouse and it shall incur no liability by reason of such removal. (g) The warehouse claims a lien for all lawful charges for storage and preservation of the goods and/or equipment, and also, for money the warehouse has advanced, interest, insurance, transportation, labor, weighing, cooperating, and other charges and expenses in relation to such goods, and for the balance on any other accounts that may be due. The warehouse also claims a lien under its invoice "Terms & Conditions of Service." The warehouse reserves the right to exercise its lien rights under the terms of any applicable law and/or agreement between the depositor and the warehouse. **THE DEPOSITOR UNDERSTANDS AND AGREES THAT THE WAREHOUSE HAS NOT INSURED THE GOODS FOR THE BENEFIT OF THE DEPOSITOR AGAINST FIRE OR ANY OTHER CASUALTY. PROCUREMENT OF SUCH INSURANCE IS THE SOLE RESPONSIBILITY OF THE DEPOSITOR, AT ITS SOLE DISCRETION AND EXPENSE.**
7. **HANDLING** (a) Handling charges cover the ordinary labor to receive the goods at the warehouse door, place the goods in storage, and return the goods to the warehouse door. Handling charges are due and payable on the warehouse's receipt of the goods. (b) Unless the warehouse and depositor otherwise agree in a writing signed by both, labor for unloading and loading goods will be subject to a separate charge. Additional expenses that the warehouse may incur in receiving and handling damaged goods, and unloading from or loading into cars, trailers, or other vehicles not at the warehouse door will be subject to an additional charge. (c) Labor and materials used in loading rail cars or other vehicles are chargeable to the depositor. (d) When the depositor or any third party orders out goods in a quantity less than that which the depositor originally tendered, the warehouse may make an additional charge for each order or each item of an order. (e) The warehouse shall not be liable for demurrage or detention, delays in unloading inbound cars, trailers or other containers, or delays in obtaining and loading cars, trailers, or other containers for outbound shipment unless the warehouse has failed to exercise reasonable care.
8. **DELIVERY REQUIREMENTS** (a) The warehouse shall neither deliver nor transfer goods except upon receipt of complete written instructions. Written instructions shall include, without limitation, e-mail, facsimile, EDI, or similar communications, provided that the warehouse has no liability when relying on the information set forth in such instructions. But when no negotiable receipt is outstanding, the warehouse may deliver goods upon instruction by telephone, in accordance with a prior written authorization, but the warehouse shall not be responsible for losses or errors subsequent to such telephone instructions. (b) For goods for which the warehouse issues a negotiable receipt, the warehouse shall neither deliver nor transfer such goods, in whole or in part, unless the receiver presents the corresponding receipt, properly endorsed. If a negotiable receipt is lost or destroyed, the warehouse shall only deliver the corresponding goods upon order by a court of competent jurisdiction and the posting of court-approved security. (c) When the depositor or other authorized persons orders out goods, the warehouse shall have a reasonable amount of time to carry out the instructions, and if the warehouse is unable to do so because of acts of God, war, public enemies, seizures under legal process, strikes, lockouts, riots and civil commotions, or any reason beyond the warehouse's control, or because of the loss or destruction of the goods for which warehouse is not liable, or because of any other excuse or justification under law, the warehouse shall not be liable for its failure to carry out such instructions and the goods remaining in storage shall remain subject to regular storage charges.
9. **EXTRA/SPECIAL SERVICES** (a) The depositor understands and agrees that it is responsible to pay for warehouse labor for services other than ordinary handling and storage. (b) At the request of the depositor, and for an additional charge, the warehouse may provide the following non-exhaustive list of special services: compiling of special stock statements, reporting marked weights, serial numbers or other data from packages, physical checking of goods, and handling transit billing. (c) At the request of the depositor, and for an additional charge, warehouse may provide blocking-and-bracing, packing materials, or other supplies. (d) By prior arrangement, and for an additional charge, the warehouse may receive or deliver goods at other than normal business hours. (e) The warehouse shall separate charge for communication expenses, including, without limitation, postage, facsimile, telegram, or telephone, if such expenses concern more than normal inventory reporting or if, at the request of the depositor, the warehouse makes such communications by other than first-class United States mail.
10. **BONDED STORAGE** (a) The depositor understands and agrees that goods in bond are subject to a charge in addition to regular rates. (b) Where a warehouse receipt covers goods in U.S. Customs bond, such receipt shall be void upon the termination of the storage-period fixed by law.
11. **MINIMUM CHARGES** (a) There is a minimum handling charge per lot and a minimum storage charge per lot per month. When a warehouse receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, and/or variety shall apply. (b) A minimum monthly charge to one account for storage and/or handling shall apply. That minimum will also apply to each account when one customer has several accounts, each requiring separate records and billing.
12. **LIABILITY AND LIMITATION OF DAMAGES** (a) The warehouse shall not be liable for any loss or injury to goods stored, however caused, unless such loss or injury resulted from the warehouse's failure to exercise reasonable care. The warehouse shall have no liability for damages that the warehouse could not have avoided despite its exercise of such care. (b) The warehouse does not insure or undertake to insure the goods against loss or injury, however caused. (c) The depositor understands and agrees that in the absence of its declaration of a higher value and payment of a corresponding additional charge, damages are limited to \$.50 per pound for all services that the warehouse has provided or arranged. The depositor may avoid the aforementioned limitation of liability by, prior to tendering the goods, make a written declaration of value for those goods, in which event the depositor shall be responsible to pay an additional monthly charge based upon such increased valuation. (d) Where loss or injury occurs to goods, for which the warehouse is not liable, the depositor shall be responsible for the cost of removing and disposing of such goods and the cost of any environmental clean-up and site remediation resulting from the loss or injury to the goods.
13. **ARBITRATION** (a) In lieu of litigation, the warehouse and depositor agree to submit any dispute that arises out of or is in any way connected to this warehouse receipt to binding arbitration by the American Arbitration Association, under its rules then in force. The parties shall be bound by the arbitration decision and a party receiving an award may enter judgment upon the same in any federal or state court of competent jurisdiction in the County of Los Angeles. The parties shall conduct any arbitration in the City of Los Angeles, to the exclusion of all other places. (b) The depositor agrees that the time for commencement of such arbitration proceedings by the depositor against the warehouse shall be limited to 9 months after date of delivery by the warehouse or within 9 months after the warehouse notifies the depositor of record or the last known holder of a negotiable warehouse receipt of a loss or injury to part or all of the goods, whichever time is shorter. The depositor's compliance with the foregoing time-for-commencement requirement shall be a condition precedent to the depositor's right to recover and failure to commence a timely arbitration shall be a bar to any and all further proceedings.
14. **NOTICE OF CLAIM AND COMMENCEMENT OF ARBITRATION** (a) Claims by the depositor and all other persons must be presented in writing to the warehouse within a reasonable time, and in no event longer than either 60 days after delivery of the goods by the warehouse or 60 days after the warehouse provides notice to the depositor of record or the last known holder of a negotiable warehouse receipt of a loss of or damage to all or part of the goods, whichever time is shorter. (b) Neither the depositor nor any other person may commence an arbitration against the warehouse for loss of or damage to the goods stored unless timely written claim has been given as provided in sub-paragraph (a) of this section. (c) In cases of non-delivery of goods, the warehouse may give notice of loss of or damage to the goods by mailing a registered or certified letter to the depositor or to the last known holder of a negotiable warehouse receipt. The time limitations for presenting a claim in writing and commencing an arbitration after notice begin on the date of mailing of such notice by the warehouse.
15. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES** The warehouse shall not be liable for any loss of profit or for any special, indirect, or consequential damages of any kind whatsoever.
16. **LIABILITY FOR MIS-SHIPMENT** If the warehouse negligently mis-ships goods, it shall pay the reasonable transportation charges return the mis-shipped goods to the warehouse. If the consignee fails to return the goods, the warehouse's maximum liability shall be for the lost or damaged goods, as specified above in section 12, and the warehouse shall have no liability for damages due to the consignee's acceptance or use of the goods.
17. **MYSTERIOUS DISAPPEARANCE** The warehouse shall not be liable for loss of goods due to inventory shortage or unexplained or mysterious disappearance of goods unless the depositor establishes that such loss occurred because of the warehouse's failure to exercise reasonable care. Any presumption of conversion imposed by law shall not apply to such loss and a claim of conversion must be established by affirmative evidence that the warehouse converted the goods to the warehouse's own use.
18. **RIGHT TO STORE GOODS** The depositor represents and warrants that it has lawful possession of the goods and the right and authority to store them with the warehouse. The depositor agrees to indemnify and hold harmless the warehouse from all loss, cost, and expense, including, without limitation, attorneys' fees that the warehouse pays or incurs as a result of any dispute or litigation that arises out of or is in any way connected to the depositor's right, title, or interest in the goods. Such amounts shall be "charges in relation to the goods" and subject to the warehouse's lien.
19. **ACCURATE INFORMATION** The depositor will provide the warehouse with information on the goods that is accurate, complete, and sufficient to allow the warehouse to comply with all laws and regulations concerning the storage, handling, and transporting of the goods. The depositor shall indemnify and hold the warehouse harmless from all loss, cost, penalty, and expense, including, without limitation, attorneys' fees that the warehouse pays or incurs as a result of depositor's failure to fully discharge this obligation.
20. **SEVERABILITY AND WAIVER** (a) If any of the Terms and Conditions of Contract of this warehouse receipt shall for any reason be held to be invalid or unenforceable by any court, regulatory body, or arbitration tribunal, then the remainder of the Terms and Conditions of Contract shall be unaffected thereby, and remain in full force and effect. (b) The warehouse's failure to require strict compliance with any provision of the warehouse receipt shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this warehouse receipt. (c) These Terms and Conditions of Contract are final expression of the parties' agreement on the storage of goods and they shall be binding upon and inure to the benefit of the parties' respective executors, administrators, personal representatives, heirs, successors, assigns, and transferees.
21. **YARD STORAGE** The liability of the warehouse for any yard storage of containers or trailers, whether loaded or empty, secured or unsecured, shall be subject to these Terms and Conditions.
22. **GOVERNING LAW** These Terms and Conditions of Contract shall be interpreted in accordance with and governed in all respects by the laws of the State of Florida.