ABOUT LOANS / LIENS & THE UCC1 FINANCING STATEMENT

UCC1 stands for Uniform Commercial Code. View the UCC here: <u>http://www.law.cornell.edu/ucc/</u>. It is not an agreement. It is public notice that someone claims an interest in someone else's property, usually as collateral for a debt. This form is filed in order to "perfect" a creditor's security interest by giving public notice that there is an ability to take possession of certain assets for repayment of a specific debt. This process is also called "perfecting the security interest" in the property. <u>This type of loan is a secured loan.</u>

There should be another agreement, called a **Security Agreement** that actually grants the security interest and defines the terms of the deal. A security agreement is a document that gives the lender security interest in some type of collateral and is commonly used in commercial loans. **The security agreement and the UCC1 combined are like a mortgage on real estate.**

The importance of the UCC1 to the secured party and other lenders/creditors is the first in time, first in line priority. Real and personal property can be involved. The filing creates a lien against the property, so the borrower may not dispose of the property without paying off the debt.

Promissory Notes can be secured or unsecured. If Note is to be secured, be sure to include a statement of same and reference corresponding security Agreement. Promissory Notes can be secured at a later date, once collateral is acquired <u>and if agreed upon and stated in a Promissory Note.</u>

The UCC1 Financing Statement is generally filed with the office of the state Secretary of State, in the state where the debtor is located - for an individual, the state where the debtor resides, for a business organization the state of incorporation or organization. Many states have a state agency which operates under the secretary of state, which is tasked with overseeing business organizations and activities, including receipt of financing statements. However, an exception exists if the collateral is something that is tied to a particular piece of real property. In that case, the filing must be made in the county where the property is located, usually in the recording office or county court, because that is where third parties are most likely to search for such records.

Note: Although the UCC Forms are stated to be "NATIONAL" there is little "UNIFORM" or "NATIONAL" about them. Most states accept the "NATIONAL" form but many require their own version of the form to be completed and filed in the fashion they set forth. Contact the specific state or county in which real property or Debtor is located for any specific instructions in that state.

STEPS TO LOAN AND LIEN

- 1. Every time funds are loaned, have the BORROWER sign a **PROMISSORY NOTE** giving the LENDER their promise to repay the debt (see below sample). The BORROWER is called the MAKER of the NOTE. The debt is "unsecured" until assets are obtained that can be used to "secure" the note. You may wish to build in a clause that states, "Both parties agree that note shall be secured by Borrower's future asset acquisitions to the full amount of the note" (or something to this effect).
- 2. Every time the BORROWER acquires an asset, the LENDER may wish to LIEN the asset to protect his interest and "secure" all or part of the PROMISSORY NOTE up to the full amount of the LOAN. The LENDER may wish to LIEN assets as the BORROWER acquires them. Let's say that I loan you \$100,000 and you buy a house for \$50,000 and you signed a note stating to the effect that it shall be secured by Borrower's acquisition of future assets to the full amount of the note, I may wish to LIEN that house. Later, you buy a car for \$25,000, same scenario. I may wish to LIEN that car too, providing that the BORROWER agreed to future security in the Promissory Note, and signs a SECURITY AGREEMENT.

EVERY TIME YOU WISH TO LIEN AN ASSET:

- Execute a SECURITY AGREEMENT (see below sample).
- Execute and file a UCC1 FINANCING STATEMENT (see below sample). Note: Some counties allow collateral, such as the SECURITY AGREEMENT, to be filed and recorded along with the UCC1 FINANCING STATEMENT and some do not.

Also, a UCC1 FINANCING STATEMENT may be AMENDED at a later date if the value of the property already liened increases in value (refer to UCC1 AD).

PROMISSORY NOTE

\$ 00,000.00 [CITY STATE]

[DATE]

DOLLARS, (\$000,000.00). Interest shall be set at the annual rate of _____% on the unpaid balance.

Note shall be payable in lawful money of the United States of America at ______ or at such place as may hereafter be designated by written notice from the holder to the maker hereof.

Term of note is for a period of one (1) year, renewable annually, upon mutual agreement.

Borrower agrees that until principal and interest owed under this Promissory Note are paid in full, future assets acquired may be "secured".

If the Borrower fails to make payment when due or fails to comply with any term of this Promissory Note, the loan will be considered in default and LENDER may declare the entire balance, together with principal and accrued interest, due immediately.

This Note may be prepaid in whole or in part at any time without penalty or premium.

If Lender prevails in a lawsuit to collect on this note, Borrower will pay Lender's costs and lawyer's fees in an amount the court finds to be reasonable.

Maker's Name

Maker's Address

Maker's Signature ______(Warrants his/her full authority to enter into this agreement)

NOTARY SEAL

SAMPLE SECURITY AGREEMENT

SECURITY AGREEMENT

Lender's Name:
Lender's Address:
Borrower's Name:
Borrower's Address:
1. Whereas the Borrower executed a Promissory Note in favor of the Lender on the day of 20 in the principal amount of \$ (). In consideration of that Note, the Borrower grants the Lender a security interest in the following:
(hereinafter referred to as "the Collateral")

2. The Lender acknowledges receipt of security.

3. Upon full and final settlement of all monies due under the Note, the Lender shall release the Collateral to the Borrower.

4. The Borrower warrants that he/she is the lawful owner of the Collateral, that it is free of any and all encumbrances and that no other party has any right to the Collateral.

5. The Borrower shall insure the Collateral against all risks with a recognized insurance company at his/her cost. The Borrower shall furnish proof of such an insurance policy to the Lender.

6. The Borrower agrees that upon default under the terms as set out in the Note, the Lender shall have the right to dispose/sell the Collateral in any manner which he/she may deem fit and to apply the proceeds to the repayment of monies due under the Note.

7. The Lender agrees that proceeds from the sale of the Collateral shall first be applied to repayment of monies due under the Note and that any surplus money shall be transferred to the Borrower.

8. The Lender further agrees that if the proceeds from the sale of the Collateral are not sufficient to repay all monies due under the Note, the Borrower shall have no further obligations under the Note.

9. No relaxation, indulgence, waiver, release or concession extended to the Borrower by the Lender and no delay or omission in the enforcement or exercising of the Lender's right under the Note shall affect the rights of the Lender under this security agreement.

10. This agreement shall be binding upon and accrue to the benefit of the parties, their successors, legal representatives and assigns.

11. This agreement shall be construed, interpreted and governed in accordance with the laws of the State of ______ and should any provision of this agreement be judged by an appropriate court of law as invalid, it shall not affect any of the remaining provisions whatsoever.

Signed at	on this	day of	20
Lender's Signature: enter into this agreement.		who warrants hi	s/her full authority to
Borrower's Signature: enter into this agreement.		who warrants	his/her full authority to

Signed in the presence of:

Witness Name		
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Witness Signature _	
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Witness Name _	
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Witness Signature _____

SAMPLE COMPLETED UCC1 FINANCING STATEMENT

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY		_			
A. NAME & PHONE OF CONTACT AT FILER [optional]					
LENDER'S NAME AND CONTACT PHONE # HERE					
B. SEND ACKNOWLEDGEMENT TO: (Name and Address)					
LENDER'S NAME AND ADDRESS					
HERE					
		THE ABOVE S OFFICE USE C	-	IS FOR FILIN	G
1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) – do not abbreviat	e or combine names			
OR DEBTOR/BORROWER LLC NAME					
1b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE	NAME	SUFFIX
1c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY
ADDRESS OF LLC HERE	CITT		STATE	FUSTAL CODE	COUNTRY
1d. TAX ID: SSN OR EIN ADD'L INFO RE 1e. TYPE OF ORGANIZATION		ON OF ORGANIZATION	1a ORG	 GANIZATIONAL ID #, if ar	NV.
LLC EIN ORGANIZATION LLC	SEE AI	RTICLES OF ORG	LLC E	IN # HERE	NONE
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debto	or name (2a or 2b) -	do not abbreviate or combine na	mes		
2a. ORGANIZATION NAME					
OR 2b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE	NAME	SUFFIX
	-				
2c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY
2d. TAX ID: SSN OR EIN ADD'L INFO RE 2e. TYPE OF ORGANIZATION ORGANIZATION	2f. JURISDICTI	ON OF ORGANIZATION	2g. ORG	GANIZATION ID #, if any	
		(0, 0)			NONE
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Ba. ORGANIZATION NAME	 insert only <u>one</u> see 	cured party name (3a or 3b)			
I ENDER'S NAME HERE					
3b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE	NAME	SUFFIX
3c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY
LENDER'S ADDRESS HERE					

4. This FINANCING STATEMENT covers the following collateral:

COLLATERAL: CERTAIN REAL PROPERTY LOCATED AT: 123 EASY STREET, ANYWHERE, STATE 12345, TOGETHER WITH ALL IMPROVEMENTS, FIXTURES AND APPURTENANCES.

LEGAL DESCRIPTION OF PROPERTY: LOT 21, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF ANYWHERE COUNTY, ANYWHERE STATE RECORDED IN BOOK 7 OF MAPS, PAGE 3.

5. A	LTERNATIVE DESIGNATION [if applicable]	LESSEE/LESSOR	CONSIGNEE/CON	SIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LI	EN NO	ON-UCC FILING
6.	X This FINANCING STATEMENT to be file ESTATE RECORDS. Attach Addendur		ded) in the REAL 7. [if applicable]	Check to REQU [ADDITIONAL F	EST SEARCH REPOR	T(S) on Debtor(s) [optional]	All Debtors	Debto	or 1 Debtor 2

8. OPTIONAL FILER REFERENCE DAT.

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY								
A. NAME & PHONE OF CONTACT AT FILER [optional]								
B. SEND ACKNOWLEDGEMENT TO: (Name and Address)	Γ							
				ING				
A NAME & PHONE OF CONTACT AT FILER [optional] B. SEND ACKNOWLEDGEMENT TO: (Name and Address) THE ABOVE SPACE IS FOR FILING UPDITIONAL LEGAL NAME – insert only gag debtor name (1a or 1b) – do not abbreviate or combine names TO REAL DATE OF CONTACT FULL LEGAL NAME – insert only gag debtor name (1a or 1b) – do not abbreviate or combine names To ROMANIZATION NAME THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY TO ROMANIZATION NAME REAL DATE OF CONTACT FULL LEGAL NAME – insert only gag debtor name (1a or 1b) – do not abbreviate or combine names Ta ORGANIZATION NAME REAL DATE OF ORGANIZATION I 1. JURISDICTION OF ORGANIZATION TO ROGANIZATION NAME OR DETOR END ADD'L INFO RE [ne. TYPE OF ORGANIZATION [1. JURISDICTION OF ORGANIZATION] ADD'LINFO RE [ne. TYPE OF ORGANIZATION [2. JURISDICTION OF ORGANIZATION] CONTACT ON DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME – insert only gag debtor name (2a or 2b) – do not abbreviate or combine names DEBTOR SEARCH FULL LEGAL NAME								
	,							
OR								
1b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE NAME	SUFFIX				
1c. MAILING ADDRESS	CITY		STATE POSTAL CODE	COUNTRY				
ORGANIZATION	1f. JURISDICTIO	ON OF ORGANIZATION	1g. ORGANIZATIONAL ID #,	if any				
	r name (2a or 2b) -	do not abbreviate or combine na	mes					
2a. ORGANIZATION NAME								
OR 2b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE NAME	SUFFIX				
2c. MAILING ADDRESS	CITY		STATE POSTAL CODE	COUNTRY				
ORGANIZATION	2f. JURISDICTIO	ON OF ORGANIZATION	2g. ORGANIZATION ID #, if	·				
-				NONE				
	- insert only <u>one</u> sec	cured party name (3a or 3b)						
OR 3b. INDIVIDUAL'S LAST NAME	FIRST NAME		MIDDLE NAME	SUFFIX				
3c. MAILING ADDRESS	CITY		STATE POSTAL CODE	COUNTRY				

4. This FINANCING STATEMENT covers the following collateral:

5	. ALTE	RNATIVE DESIGNATION [if applicable]		LESSEE/LESSOR		CONSIGNEE/COM	NSIGNOR	BAILEE/BAILOR		SELLER/BUYER	2	AG. LIEN		NON-U	CC FIL	.ING
6		This FINANCING STATEMENT to be ESTATE RECORDS. Attach Adden			corde	ed) in the REAL 7. [if applicable]	Check to RE [ADDITIONA	EST SEARCH REPOR EE]	T(S) on Debtor(s) [optional]	A	II Debtors	D	ebtor 1	De	ebtor 2
	ODT		•													

8. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY – NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02) INSTRUCTIONS FOR UCC FINANCING STATEMENT (UCC1)

Please type or laser-print this form. Be sure it is completely legible. Read all instructions, especially instruction 1; correct Debtor name is crucial. Follow instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice.

Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy' otherwise detach. If you want to make a search request, complete item 7 (after reading Instruction 7 below) and send Search Report Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, use 8-1/2X11 inch sheets and put at the top of each sheet the name of the first Debtor, formatted exactly as it appears in item 1 or this form; you are encouraged to use Addendum (Form UCC1Ad).

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

- Debtor name: Enter <u>only one Debtor name in item 1</u>, an organization's name (1a) <u>or</u> an individual's name (1b). Enter Debtor's <u>exact full legal</u> <u>name</u>. Don't abbreviate.
- 1a. <u>Organization Debtor:</u> "Organization means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g. corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
- 1b. Individual Debtor: "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box.

For both <u>organization and individual Debtors</u>: Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).

- 1c. An address is always required for the Debtor named in 1a or 1b.
- Debtor's taxpayer identification number (tax ID #) social security number or employer identification number – may be required in some states.
- 1e, f.g. "Additional information re organization Debtor" is always required. Type of organization and jurisdiction of organization as well as Debtor's exact legal name can be determined from Debtor's current filed charter document. Organizational ID #, if any, is assigned by the agency where the charter document was filed; this is different from tax ID #; this should be entered preceded by the 2-character U.S. Postal identification state of organization of the United States (e.g. CA12345, for a California corporation whose organizational ID # is 12345); if agency does not assign organizational ID #, check box in item 1g indicating "none."
- Note: If Debtor is a trust or a trustee acting with respect to property held in trust, enter Debtor's name in item 1 and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a decedent's estate, enter name of deceased individual in item 1b and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a transmitting utility or this Financing Statement is filed in connection with a Manufactured-Home Transaction or a Public-Finance Transaction as defined in applicable Commercial Code, attach Addendum (Form UCC1Ad) and check appropriate box in item 18

- If an additional debtor is included, complete item 2, determined and formatted per instructions1. To include further additional Debtors, or one or more additional Secured Parties, attach either Addendum (Form UCC1Ad) or other additional page(s), using correct name format. Follow instruction 1 for determining and formatting additional names.
- 3. Enter information for Secured Party or Total Assignee, determined and formatted per Instruction 1. If there is more than one Secured Party, see Instruction 2. If there has been a total assignment of the Secured Party's interest prior to filing this form, you may either (1) enter Assignor S/P's name and address in item 3 and file an Amendment (Form UCC3) [see item 5 of that form]; or (2) enter Total Assignee's name and address in item 3 and, if you wish, also attaching Addendum (Form UCC1Ad) giving Assignor S/P's name and address in item 12.
- 4. Use item 4 to indicate the collateral covered by this Financing Statement. If space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or other attached additional page(s).
- 5. If filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5. If this is an agricultural ien (as defined in applicable Commercial Code) filing or is otherwise not a UCC security interest filing (e.g., a tax lien, judgment lien, etc.) check the appropriate box in item 5, complete items 1-7 as applicable and attach any other items required under the law.
- If this Financing Statement is filed as a fixture filing or if the collateral consists of timber to be cut or as-extracted collateral, complete items 1-5, check the box in item 6, and complete the required information (items 13, 14 and/or 15) on Addendum (Form UCC1Ad).
- 7. This item is optional. Check appropriate box in item 7 to request Search Report(s) on all or some of the Debtors named in this Financing Statement. The Report will list all Financing Statements on file against the designated Debtor on the date of the Report, including this Financing Statement. There is an additional fee for each Report. If you have checked a box in item 7, file Search Report Copy together with Filing Office Copy (and Acknowledgment Copy). Note: Not all states do searches and not all states will honor a search request made via this form; some states require a separate request form.
- 8. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 8 any identifying information (e.g., Secured Party's loan number, law form file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.