

# Security Interest Disclaimer

Source: NAEDA, January 2007

Trading equipment covered by a blanket lien is simpler and more secure now that the North American Equipment Dealers Association (NAEDA) has produced a security interest disclaimer.

The universal “Disclaimer of Security Interest” form developed by NAEDA’s UCC Task Force may be used to release a specified piece of equipment from a binding blanket lien so it can be legally traded or sold. Blanket liens are common in agricultural lending and routinely used by lenders to protect security interests in property put up as collateral for operating loans.

Problems occur when a piece of equipment covered under a blanket lien is sold or traded without the lender releasing it from the lien. Since the lender has a security interest in equipment under a blanket lien, dealers can potentially find themselves in the disastrous position of owing a lender a piece of equipment or the cash equivalent should the lender seek a customer’s assets.

“Things get complicated in a hurry when a UCC search is not performed,” says Paul Kindinger, NAEDA president and CEO. “The task force did a great job identifying issues, providing necessary guidance to our legal team, and developing the form.”

This form addresses the blanket security interest faced by equipment dealers when they take in on trade any piece of used equipment. Often, equipment dealer customers have operating loans with banks, which usually take a blanket security interest in all equipment that the customer has or will acquire while the loan is outstanding. This blanket lien should appear in UCC search results performed by the dealer at the time of the trade.

When a bank signs this form, it releases the security interest of the bank in the specifically described equipment that is being traded in for new equipment. If the bank does not release its security interest by signing this form, and later the customer goes bankrupt, the bank will usually go after the equipment dealer to recoup the value of the trade-in equipment. This has and can result in a dealer losing many thousands of dollars.

The customer should give this form to the bank for a signature. The bank should sign the form for several reasons:

- First, from a security interest perspective, the bank will retain its blanket lien on the new equipment that is being purchased by their customer and thus the bank’s equity is preserved.
- Second, it is a commercially reasonable request for customers to make and the bank should be willing to accommodate its customers to retain their ongoing business.
- Third, the form is short and simple to understand and releases the security interest of the bank in only one specific piece of equipment and does not release its security interest in any of the assets owned by a customer.

There is no need to record this disclaimer with any governmental body. Rather, the bank, the customer and the dealer should keep a copy for their records.

Copies of the “Disclaimer of Security Interest” form may be downloaded from the UCC Search section of the Dealer Advocacy Center at NAEDA’s website, [www.naeda.com](http://www.naeda.com).