



Collateral Disposition Checklist For Issuance of a UCCPlus Owner's Policy

9-610 Disposition of Collateral After Default – Public Dispositions/Sales

The following checklist lists the items necessary for UCCPlus and its counsel to evaluate a “typical” public disposition/sale made under Part 6 of Article 9 of the Uniform Commercial Code for the purpose of issuing a UCCPlus Owners Policy. It is intended to provide a general idea of what is required and not to be definitive. UCCPlus reserves the right to require any further documentation it deems necessary.

Although the requirements may vary from transaction to transaction, the following documents generally must be provided to UCCPlus **with reasonable and sufficient time to permit a meaningful and substantive review** before the client requires the results of the UCCPlus decision of whether to issue a UCCPlus Owner's Policy.

Please provide:

- I. **Transaction Description:** A general description and overview of the security interest and underlying real estate related to the contemplated Article 9 remedy, including, but not limited to:
 - a. a description of the real property and its primary use (hotel, multi-family, industrial, etc.);
 - b. all existing financing (mortgage and mezzanine debt);
 - c. a description of the current condition of the property, including if any construction is ongoing;
 - d. a description of current occupancy and rent rolls, if applicable; and
 - e. a description of any pending or threatened litigation.
- II. **Prior UCC Insurance Policy:** A copy of the final UCC Insurance Policy (if such a policy was issued at the time of the original financing, whether issued by UCCPlus or another title company).
- III. **Loan Documents where Equity Pledge was taken:**
 - a. Term sheet, letter, structure chart, or other brief description of the original financing transaction involving a pledge of equity and all events occurring after the original closing;
 - b. Loan agreement, pledge and security agreement, promissory note, all guarantees, letters of credit, all other credit supports, any other documents relevant to the subject security interest and all amendments thereto.
 - c. Evidence of proper and continuing perfection:
 - i. Executed copies of all certificates with their related powers signed in blank representing any pledged equity interest;
 - ii. Evidence of written confirmation by the original Insured or counsel representing the original Insured, of possession of the pledged certificates with their related powers signed in blank; and
 - iii. Copies of all filed financing statement(s) relating to the original mezzanine financing transaction.
 - d. Copies of any correspondence evidencing any forbearance extended by the secured party to the debtor(s).
 - e. Copies of correspondence evidencing proof of i) default under the loan documents, ii) that all notice and cure requirements were met, iii) that the loan was properly accelerated.

- IV. **Organizational Documentation:** For each entity in which a membership interest is to be sold:
- a. A complete and current record (dated within 2 months of the closing date) of the applicable formation documentation (e.g., articles of incorporation, articles of organization, certificate of limited partnership (or equivalent)), certified by the jurisdiction of formation;
 - b. A current (dated within 2 months of the closing date) certificate of good standing/existence for any entity formed more than two months prior to closing, certified by the jurisdiction of formation; and
 - c. Copies of the applicable, executed operating documents (e.g., bylaws, limited liability company agreement, or partnership agreement).
- V. **Searches (UCCPlus will order):**
- a. UCC searches from the jurisdiction of formation of the current owner and any prior owner of the interests in any entity in which a membership interest is to be sold;
 - b. UCC searches from the jurisdiction of formation for any entity in which a membership interest is to be sold;
 - c. UCC searches from the jurisdiction where the underlying real estate is located, if deemed necessary by the Company;
 - d. PACER bankruptcy searches; and
 - e. Litigation searches, if deemed necessary by the Company.
- VI. **Public Disposition Documents:**
- a. Authenticated notification of disposition (notice of sale):
 - i. Copy of each authenticated notification of disposition delivered to:
 1. All debtors;
 2. All secondary obligors (guarantors);
 3. Any other party which, 10 days before the “notification date” held a security interest or lien in the Insured Interest perfected by the filing of a financing statement under the UCC;
 4. All notices received by the secured party requesting notice of sale, or if none, confirmation from secured party that no notices requesting notice of sale were received; and
 5. Please let us know if any notices of sale were returned as undeliverable.
 - ii. Proof of Compliance with the search safe harbor search timing requirement of 9-611(e) in determining the identity of any person described in VI.a.i.iii above.
 - iii. Method and date of delivery of Notice of Sale, including copies of all receipts from the delivery company or post office.
- Note: If any proposed public sale was postponed to a later date, copies of the items noted in Section VI.a. must be supplied for each postponed and rescheduled public sale.**
- b. Please describe how the disposition/sale was advertised/publicized.
 - c. Please answer the following questions about the disposition/sale:
 - i. Was a data room set up? If so, how many inquiries were made?
 - ii. If the requirements of the public sale required a bidder to become a qualified bidder, how many inquiries turned into a qualified bidder?
 - iii. How much time did any party who inquired have to become a qualified bidder?
 - iv. Was a transcript made of the public sale? If so, please provide.
 - v. How many bids were made?
 - vi. Who were the bidders?
 - vii. Were any bids rejected?
 - d. Successful Bidder at the Disposition/Sale:
 - i. Please describe the successful bidder at the sale/disposition.
 - ii. If the secured party was the successful bidder, please provide all information, financial and otherwise about the secured party’s bid.
 - iii. If the successful bidder was not the secured party, please provide all information about any affiliate relationship, if any, between the successful bidder and the secured party.

- iv. If the secured party is the successful bidder and is immediately selling its interest to a third-party purchaser, please provide all information about the third party and executed copies of all of the sale documents by and between the secured party successful bidder and the purchaser, including, but not limited to:
 1. Purchase and sale agreement and bill of sale;
 2. Resolutions and authority documents of the secured party successful bidder and the third-party purchaser to enter into the subject transaction;
 3. Evidence that consideration was paid; and
 4. Evidence that all certificates, with the power completed in favor of the purchaser, have been delivered to the third-party purchase.

VII. **Process and Costs** - The parties must agree prior to the beginning of work:

- a. To Pay:
 - i. Any third-party search costs incurred by UCCPlus on behalf of the parties (any searches to be run and estimated costs would be discussed with the parties beforehand);
 - ii. Any outside counsel costs incurred by counsel hired by UCCPlus as part of its evaluation (any engagement and its estimated costs would be discussed with parties beforehand);
 - iii. Premium due for the UCCPlus Owners Policy to be issued by UCCPlus (UCCPlus can provide pricing once it understands the value of the interests to be covered; and
 - iv. Any work charges incurred as part of the UCCPlus evaluation or Policy issuance.
- b. That the results of the UCCPlus evaluation and confirmation of coverage under the UCCPlus Policy will not be released to the parties until the UCCPlus invoice and any outside counsel invoice have been paid in full.