



Uniform Commercial Code

How well do you understand the UCC – The Uniform Commercial Code?

Most business owners recognize the acronym – a UCC-1 filing is familiar to anyone who has borrowed or loaned money to a business. For those of you not familiar, under Article 9 of the Uniform Commercial Code security interests, otherwise known as liens, can be obtained by the creditor in the debtor's personal property to help secure the debt. But that's Article 9 – what do other parts of the UCC govern?

Article 2 is probably even more important than Article 9. Article 2 governs “the sale of goods” – which in simple terms, is any contract that involves goods (i.e. everything that isn't a service or real estate). In other words, it governs nearly every transaction between businesses.

Let us give you an example – let's say your business calls up another one, looking for a particular good – perhaps a particular lubricant. Your business then sends a purchase order to the other business, outlining how many units you want, and what price you are willing to pay for them. A week later, your order arrives, with an invoice from the other business. However on the back of the invoice is a full page of terms, written in legalese and in 4 point font. Among these terms are provisions that prevent you from suing that business in Minnesota, requiring you go to New York or some other state if there are any issues with the lubricant; language that waters down the warranty of the lubricants; clauses that limit the amount of money you could sue the other business for; provisions that allow the other business to get their attorneys fees paid for if they sue you, and so on.

Surely these extra terms aren't part of the deal – the contract was the lubricant for a particular price – the other side can't tack on all this extra stuff at the end, can they?

They can. Under Minnesota law, and under most state's UCC provisions, additional terms like these usually become part of the contract, and are valid terms just like the price and the good. Additionally, when the price is missing on a purchase order, or the item to be purchased is missing on the purchase order, generally the UCC provisions of Minnesota law will still find there is a binding contract between the parties. The UCC wants contracts to exist, so even if there are missing terms, additional terms that weren't agreed upon, among other issues, generally the law is bent towards making these communications into a contract.

So what should you do? Talk to a lawyer, of course. Your legal counsel can advise your business to prevent many of these pitfalls, and to ensure that you know what you are getting into with your eyes wide open. At Libby Law Office, we would be happy to sit down with you and help advise and protect your business, and navigate the many contractual relationships that you have.