

UNIFORM COMMERCIAL CODE — FINANCING STATEMENT
APPROVED FOR USE IN NORTH CAROLINA AND THE FOLLOWING STATES:

Alabama	Massachusetts	Minnesota	North Dakota	Tennessee
Alaska	Maryland	Mississippi	Ohio	Vermont
Arkansas	Michigan	Missouri	Oklahoma	West Virginia
Arizona	Minnesota	Montana	South Carolina	Wyoming
California	Mississippi	Nebraska	South Dakota	District of Columbia
Colorado	Missouri	Nevada		

UCC-1

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional
Sheets Presented:

(1) Debtor(s) (Last Name First) and Address(es):

Tracy Whitman and Virginia
Whitman T/A B and W's
Place, Winston-Salem NC 27107

(2) Secured Party(ies) (Name(s) And Address(es):

U-Fill'er-Up, Inc.
P. O. Box 9718
Greensboro NC 27408

(3) (a) ☒ Collateral is or includes fixtures.
 (b) ☐ Timber, Minerals or Accounts Subject
 to G.S. 25-9-103(5) are covered
 (c) ☐ Crops Are Growing Or To Be Grown
 On Real Property Described In Section (5).
 If either block 3(a) or block 3 (b) applies describe real
 estate, including record owner(s) in section (5).

(4) Assignee(s) of Secured Party, Address(es):

FIXTURES

For
Filing
Officer

(5) This Financing Statement Covers the Following types (or items) of property.

1. All gasoline inventory and the proceeds from sales thereof. (Gasoline sold on consignment.)
2. Gasoline tanks, gasoline pumps, remote consoles, gasoline signs, gasoline lights, and related gasoline equipment.

& proceeds
☒ Products of the Collateral Are Also Covered.

(6) Signatures: Debtor(s) Tracy Whitman and
Virginia Whitman T/A B & W's Place

(By) *Virginia Whitman*
 Standard Form Approved by N.C. Sec. of State
 and other states shown above.

(1) Filing Officer Copy — Numerical

Secured Party(ies) [or Assignees]
 U-Fill'er-Up, Inc.

(By) *[Signature]*
 Signature of Secured Party Permitted in Lieu of Debtor's Signature:
 Collateral is subject to Security Interest In Another Jurisdiction
 and ☒
☐ Collateral Is Brought Into This State
☐ Debtor's Location Changed To This State
 (2) For Other Situations See: G.S. 25-9-402 (2)

UCC-1

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

THIS AGREEMENT, made and entered into this 5th day of December, 1986, by and between U-FILL'ER-UP, INC., a North Carolina corporation, hereinafter referred to as "DISTRIBUTOR", and

Tracy & Virginia Whitman and

Roy & Lilly Bolin

Name

Individually and T/A

B and W's Place

Name of Store

o r

Corporation

State of Incorporation

Trade Name

hereinafter referred to as "OPERATOR".

WITNESSETH:

WHEREAS, DISTRIBUTOR is the owner of complete self-service gasoline equipment consisting of tanks, pumps, signs, remote control equipment, and other related items hereinafter referred to as the "UNIT"; and

WHEREAS, OPERATOR owns or holds lawful possession of the property described in Exhibit "A" which is attached hereto and made a part of this Agreement as though set out herein in full, and

WHEREAS, OPERATOR desires that DISTRIBUTOR install the UNIT on the property described on Exhibit "A" and furnish its petroleum products to OPERATOR on a consignment basis wherein DISTRIBUTOR is a consignor and OPERATOR is a consignee and DISTRIBUTOR agrees to do so upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein and the sum of Ten (\$10.00) Dollars by each party paid to the party of the other part, the parties hereto agree as follows:

1. INSTALLATION OF EQUIPMENT: DISTRIBUTOR will install the UNIT on said property in a workmanlike manner at its sole expense, provided that such location and manner of installation are approved by all governmental authorities having jurisdiction over the matter including but not limited to building inspectors, fire marshals, state highway authorities, and city councils, within one hundred eighty days after such approval.

2. MAINTENANCE AND OPERATION: DISTRIBUTOR shall maintain the UNIT at all times in good working order and OPERATOR shall not be liable for any expense of repair or replacement thereof; provided, OPERATOR promptly shall report to DISTRIBUTOR any breakdown of the UNIT and DISTRIBUTOR shall use due diligence to repair same. OPERATOR shall furnish personnel to attend the UNIT and said personnel shall be the employees of the OPERATOR and not the DISTRIBUTOR. DISTRIBUTOR shall supply petroleum products sold through the UNIT in a normal and convenient delivery schedule and accordance with applicable laws.

3. UTILITIES: OPERATOR shall furnish without charge to DISTRIBUTOR all utilities necessary to operate the UNIT.

4. OWNERSHIP AND CONTROL: DISTRIBUTOR shall at all times own the UNIT, petroleum inventory, and proceeds from the sales of petroleum inventory and shall have the right to enter upon the OPERATOR's property at all times for the purpose of installing, repairing, replacing, maintaining, delivering petroleum products, removing the UNIT, or receiving funds held in trust, in accordance with the provisions hereof. All inventory of petroleum products shall be consigned to the OPERATOR and proceeds from the sale of such consigned products in the hand of OPERATOR are held in trust and shall be and remain the property of DISTRIBUTOR.

5. GASOLINE PRICES: The price per gallon shall be determined by DISTRIBUTOR; however, OPERATOR may change signs and meters in accordance with the wishes of DISTRIBUTOR, with the express consent from DISTRIBUTOR. OPERATOR, as consignee, shall be obliged to make DISTRIBUTOR's product available to the public at times when the product is available to OPERATOR and the UNIT is operating satisfactorily. This shall be construed to mean that said obligation will only be effective during the course of regular business hours in which OPERATOR's location is opened to the

general public. Should OPERATOR fail to make DISTRIBUTOR's products available, as set forth above, for thirty or more consecutive days, DISTRIBUTOR shall have the right, at its option, to immediately terminate the Agreement and any and all Addendums thereto. Should DISTRIBUTOR exercise its option to terminate the Agreement and any and all Addendums thereto, any and all sums or amounts owed by OPERATOR to DISTRIBUTOR shall immediately become due and payable. DISTRIBUTOR shall also have the right to apply any commissions due OPERATOR to any such sums or amounts then due DISTRIBUTOR, all as more particularly set forth herein. The above set out rights and remedies shall be in addition to all other rights and remedies available to DISTRIBUTOR. The failure to exercise any such right or remedy, or any other right or remedy available to DISTRIBUTOR by Agreement or any Addendum thereto, or by law or in equity. Failure to meet the above duty of OPERATOR, to make DISTRIBUTOR's product available to the public, as noted above, shall result in a liability of \$15.00 per day, payable to DISTRIBUTOR, said liability payable weekly; provided, however, that there shall be no liability in the amount of \$15.00 per day if OPERATOR's business is closed due to fire, flood, earthquake, or other such act of God caused through no negligence on the part of OPERATOR. Provided, further, that if any such act of God shall occur, and OPERATOR shall not reopen for business within ninety days after such occurrence, DISTRIBUTOR shall have the right, at its option, to terminate this Agreement and any and all Addendums thereto.

6. PROCEEDS OF CONSIGNMENT SALES: OPERATOR shall hold all proceeds from the sale of all consigned products sold by OPERATOR, and remit same to DISTRIBUTOR, or its Assignee, at such intervals and in such manner as DISTRIBUTOR may request herein, or as in accordance with any Addendums to this Agreement, or as DISTRIBUTOR may request, from time to time, by sending a Certified Letter to OPERATOR pertaining to same, but in no event more than twenty-four hours after the close of each successive seven-day period. The risk of theft and destruction of such monies shall be borne by OPERATOR. OPERATOR shall accept checks for petroleum products solely at OPERATOR's risk, and shall remit only cash to DISTRIBUTOR. The amount of gasoline dispensed from the UNIT shall be determined by meters on the pumps, gauges on storage tanks, or other reasonable methods for determining the quantity of gasoline removed from the storage tanks; shrinkage and losses due to spillage and evaporation, shall be borne by DISTRIBUTOR. The total gross gallonage to be charged to OPERATOR is the portion only that shall be metered out and sold at retail. It is completely clear to OPERATOR that funds collected from the sale of petroleum products are the property of DISTRIBUTOR and are not to be used or spent for any purpose by OPERATOR, but are held in trust by OPERATOR until remitted to DISTRIBUTOR. If such funds cannot be remitted as required herein due to some emergency, which emergencies shall be construed as sickness, death, flood, fire, earthquake, national emergency, or other similar event, OPERATOR is to notify, or cause to be notified DISTRIBUTOR by phone as soon as possible, at the expense of DISTRIBUTOR. For good cause shown, (such as planned vacation where OPERATOR leaves his store open, but does not have satisfactory means for remitting DISTRIBUTOR's funds until he returns) DISTRIBUTOR may agree in writing to late remittance of funds. Should OPERATOR fail to remit DISTRIBUTOR's funds when due, except under conditions set forth above, DISTRIBUTOR will notify OPERATOR by phone or telegram of failure to remit DISTRIBUTOR's funds, and OPERATOR will have twenty-four hours to deliver to DISTRIBUTOR all DISTRIBUTOR's monies held by the OPERATOR. After twenty-four hours, if said funds have not been received by DISTRIBUTOR, DISTRIBUTOR may cause the UNIT to be deactivated and OPERATOR shall sell no more of DISTRIBUTOR's products until all funds of DISTRIBUTOR's are remitted to DISTRIBUTOR. While said UNIT is deactivated for reason of OPERATOR's failure to remit DISTRIBUTOR's money, OPERATOR will be liable to DISTRIBUTOR in the amount of Fifteen (\$15.00) Dollars per day, payable weekly. In the event DISTRIBUTOR elects to remove its equipment, or to terminate this Agreement for failure of OPERATOR to remit funds held in trust, OPERATOR's obligation in the amount of Fifteen (\$15.00) Dollars per day will cease as of the date of removal, or as of the date DISTRIBUTOR sends written notification of termination of this Contract to OPERATOR, and OPERATOR will be liable to DISTRIBUTOR for its loss in installation and removal of said UNIT; in such event, no petroleum products may be sold at said property by OPERATOR, for the balance of OPERATOR's lease. In addition, DISTRIBUTOR, at its option, may resort to any and all remedies against OPERATOR as by law provided.

7. OPERATOR'S COMMISSIONS: See Addendum.

8. RELATIONSHIP OF PARTIES: It is not the purpose or intention of this Agreement to create and the Agreement shall not be construed to result in the creation of a partnership, joint venture or other relationship whereby any party hereto shall be held liable for the acts or omissions of any other party, and each party shall be responsible only for its obligations arising hereunder.

9. TERMS AND TERMINATION: The initial term of this Agreement shall be for a period of five (5) years from the date hereof and as a part of the consideration hereof, it is agreed that DISTRIBUTOR shall have and is hereby granted the right to renew this Agreement for an additional five-year term, on the same terms and upon the same conditions of the first term; this Agreement will be automatically renewed for said additional five-year period unless DISTRIBUTOR gives written notice to the OPERATOR within ninety days of its expiration of the primary term of this Agreement of its election not to renew this Agreement. Notwithstanding the foregoing, the term of this Agreement shall not extend beyond the primary or any renewal term of any lease under which OPERATOR holds lawful possession of the property, and OPERATOR agrees to furnish DISTRIBUTOR with a complete copy of all lease agreements covering the property. In the event OPERATOR fails to perform its obligations under this Agreement, then in that event DISTRIBUTOR shall have the right but no duty during the term of this Agreement, to remove all or any part of the UNIT.

10. COVENANTS TO RUN WITH LAND: This Agreement and all covenants herein contained shall be deemed to touch and concern the property to run with the land and be binding upon all persons who shall succeed to the estate of OPERATOR or any owner of the estate of OPERATOR and any owner of the property whose consent to this Agreement shall be annexed hereto.

11. PROHIBITIVE ORDINANCES: If any valid law, or ordinance, regulation or court decision shall have the effect of preventing or prohibiting the performance by DISTRIBUTOR under the covenants of this Agreement, this Agreement may be terminated at the election of DISTRIBUTOR.

12. UNIFORM COMMERCIAL CODE -- SHORT FORM AGREEMENT: The OPERATOR has simultaneously executed and agrees to the recordation of uniform commercial code forms and a short form agreement putting all persons on notice of this consignment sales agreement.

13. PORTION DEEMED UNENFORCEABLE: Should any portion of this Agreement be deemed by any court of competent jurisdiction unconstitutional or unenforceable, the balance of the Agreement shall remain in full force and effect.

14. LICENSES, TAXES, ETC.: Inasmuch as the UNIT and its operation are the sole property of DISTRIBUTOR, DISTRIBUTOR is liable for and agrees to pay privilege taxes and personal property taxes and all other taxes which might be assessed against the operation of the UNIT.

15. APPLICABLE LAW: It is stipulated and agreed that the laws of North Carolina shall govern the interpretation of this Agreement.

16. SUBLEASE OR SALE: In the event that OPERATOR decides to sell or sublease its interest in the aforementioned property, OPERATOR shall give first right of refusal to DISTRIBUTOR to purchase said property or assume said lease at the same terms and under the same conditions that it will be offered to the other parties.

17. COMPLETE AGREEMENT AND WAIVERS: The Agreement and any addendums attached hereto contain the entire agreement of the parties and no representations, inducements or promises, oral or otherwise between the parties not embodied herein shall be of any force and effect. No failure of DISTRIBUTOR to exercise any right given to it hereunder or to insist upon strict compliance by OPERATOR of any obligation hereunder, and no custom or practice at variance with the terms hereof shall constitute a waiver or DISTRIBUTOR's right to demand exact and literal compliance with the terms hereof. Waiver of any particular default by OPERATOR shall not impair DISTRIBUTOR's right in respect of any subsequent default of the same or a different nature, nor shall delay or omission of DISTRIBUTOR's rights as to such default or any subsequent act of default.

18. ASSIGNMENT: Proceeds from the sale of petroleum products held in trust by OPERATOR may be assigned or this Agreement may be assigned by DISTRIBUTOR without the consent of OPERATOR being first obtained.

19. SUPPLY: It is clearly understood and agreed by the parties to this Agreement, and any Addendums thereto, that DISTRIBUTOR will supply OPERATOR gasoline on a best-effort basis, and in the event DISTRIBUTOR is not able to obtain adequate gasoline to supply OPERATOR, OPERATOR agrees to hold DISTRIBUTOR harmless. WHEREAS, the parties have executed this Agreement on this 14th day of October, 1986.

By Distributor-Consignor

U-FILL'ER-UP, INC.

By *E. T. Gillespie* (SEAL)
E. T. Gillespie
Vice President/General Manager

By Operator-Consignee

Virginia Whitman (SEAL)
Virginia Whitman (SEAL)
Tracy Whitman
Roy Bolin (SEAL)
Lilly Bolin (SEAL)
Roy & Lilly Bolin
Individually and T/A

B and W's Place

10. 14. 1986

Notary Public
J. V. Notary Jr.
Winston-Salem, NC.

my Commission Expires 10.20.1990

CONSIGNMENT AGREEMENT ADDENDUM

WHEREAS, the parties to the Consignment Agreement mutually agree in this Addendum to certain alterations, restrictions, and additions to the Agreement as follows:

PARAGRAPH 7 -- OPERATOR'S COMMISSIONS: For his efforts in purveying gasoline, OPERATOR shall receive a commission of one-half of the excess of the full retail price per gallon over U-FILL'ER-UP, INC.'s taxed delivered consignment factor per gallon, to be computed as follows:

U-FILL'ER-UP, INC.'s consignment wholesale price per gallon, plus all taxes, plus transportation costs.

Commissions earned by OPERATOR shall be delivered to or mailed to OPERATOR by the tenth of the month for the month immediately preceding, provided OPERATOR has fully complied with his obligations in this Agreement.

WHEREAS, the parties have executed this Consignment Agreement Addendum this the 14th day of October, 1986.

ATTEST:

Sally A. Wilmore
Sally A. Wilmore
Assistant Secretary

U-FILL'ER-UP, INC.

By E. T. Gillespie (SEAL)
E. T. Gillespie
Vice President/General Manager

By: Operator-Consignee

Virginia Whitman (SEAL)
Log Bolin (SEAL)
Lilly Bolin (SEAL)

Individually and T/A _____

Subject to the provisions of Item 6 herein, Distributor directs Operator to remit all proceeds from the sale on a daily basis into a checking account at First Citizens Bank in Winston-Salem, North Carolina, Account No. 461-1504091. All such proceeds obtained after 5:00 PM on Fridays and on Saturdays, Sundays or holidays, shall be deposited into a night depository in said bank. Where there is no such night depository, then said proceeds shall be deposited by Operator in a safe, safety deposit box, or other fireproof receptacle, and deposited in said bank before the close of the next business day.

(Corporation)

By:

President

ATTEST:

Sally C. Wilmore
Ass't. Secretary

(Corporate Seal)

Virginia Whitman (SEAL)

Virginia Whitman (SEAL)

Roy Bolin

Riley Bolin

10.14.86 Notary Public
J. W. Norton Jr.
Winston Salem, NC

My Commission Expires 10.20.1990