

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM490299

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Forney Industries, Inc.		09/14/2018	Corporation: COLORADO
RECEIVING PARTY DATA			
Name:	Guaranty Bank and Trust Company		
Street Address:	303 E. Mountain Ave.		
City:	Fort Collins		
State/Country:	COLORADO		
Postal Code:	80524		
Entity Type:	Corporation: COLORADO		
PROPERTY NUMBERS Total: 11			
Property Type	Number	Word Mark	
Registration Number:	5510006	EASY DOES DID IT.	
Registration Number:	5217046	H FORNEY HIDE	
Registration Number:	5098424	GREENBACK	
Registration Number:	5048149	FORNEY HIDE	
Registration Number:	5013304	EASY WELD	
Registration Number:	4704927	IRON MASTER	
Registration Number:	4554914	INDUSTRIAL PRO	
Registration Number:	3902708	FORNEY	
Serial Number:	86269096		
Serial Number:	87448349	WE ARE WELDING	
Serial Number:	87460473	FORNEY COMMANDPRO	
CORRESPONDENCE DATA			
Fax Number:	9702329927		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	9702256700		
Email:	kcollins@cp2law.com		
Correspondent Name:	Kay L. Collins		
Address Line 1:	103 W. Mountain Ave., Suite 200		
Address Line 4:	Fort Collins, COLORADO 80524		

OP \$290.00 5510006

TRADEMARK

NAME OF SUBMITTER:	Kay L. Collins
SIGNATURE:	/Kay L. Collins/
DATE SIGNED:	09/17/2018
Total Attachments: 10 source=00286198#page1.tif source=00286198#page2.tif source=00286198#page3.tif source=00286198#page4.tif source=00286198#page5.tif source=00286198#page6.tif source=00286198#page7.tif source=UCC Financing Statement (Filed) (00286282)#page1.tif source=UCC Financing Statement (Filed) (00286282)#page2.tif source=UCC Financing Statement (Filed) (00286282)#page3.tif	

COMMERCIAL SECURITY AGREEMENT

THIS COMMERCIAL SECURITY AGREEMENT (the "Agreement") is made this 14th day of September, 2018 by and between Forney Industries, Inc., a Colorado Corporation whose address is 2057 Vermont Drive, Fort Collins, Colorado 80525 ("Debtor") and Guaranty Bank and Trust Company, a Colorado state chartered banking institution whose address for purposes of this Agreement is 303 E. Mountain Avenue, Fort Collins, CO 80524 ("Secured Party").

A. Debtor has requested several loans from Secured Party which shall be referred to collectively herein as the "Loans." The Loans are generally described as follows:

I. A Term Loan in the principal amount of \$7,080,000.00 with interest accruing thereon at 4.74% for sixty (60) months from the date thereof, and thereafter at two percent (2%) over the five-year U.S. Treasury rate. The Term Loan is evidenced by that certain Term Loan Promissory Note of even date herewith made by Debtor and payable to Secured Party.

II. A Revolving Line of Credit in the amount of \$5,000,000.00 with interest accruing thereon at a variable rate over the Prime Rate published in the Wall Street Journal based on and determined by Borrower's Tangible Net Worth at the time of each scheduled rate adjustment. The Revolving Line of Credit is evidenced by that certain Revolving Line of Credit Promissory Note of even date herewith made by Debtor and payable to Secured Party.

III. A Draw Facility in the amount of \$500,000.00 with interest accruing thereon at a variable rate over the Prime Rate published in the Wall Street Journal based on and determined by Borrower's Tangible Net Worth at the time of each scheduled rate adjustment. The Draw Facility is evidenced by that certain Draw Facility Promissory Note of even date herewith made by Debtor and payable to Secured Party.

The term "Loans" as used herein shall also mean and refer to any and all extensions, modifications, substitutions, replacements, renewals or refinancing of the above Loans as well as any and all other obligations of Debtor to Secured Party, including such other or additional financing that the Secured Party may extend to Debtor at any time in the Secured Party's discretion.

B. Secured Party is willing to make the Loans to the Debtor upon the terms set forth in the Loan Agreement between Debtor and Secured Party dated concurrently herewith together with certain debt instruments, collateral and other documents related thereto (collectively, the "Loan Documents") and upon the condition that Debtor grant and Secured Party is able to perfect the security interests granted herein.

NOW THEREFORE, in consideration of the receipt of good and valuable consideration, including but not limited to the Loans, the receipt of which is hereby acknowledged, Debtor hereby agrees as set forth below:

TRADEMARK

REEL: 006439 FRAME: 0911

1. ***Collateral.*** To secure payment and performance of all present and future Obligations (as that term is defined below) of Debtor to the Secured Party and all other amounts now or hereafter becoming due to Secured Party from Debtor, Debtor hereby grants to Secured Party a continuing security interest in all of the right, title and interest in the following property and any and all additions, accessions and substitutions thereto or therefore (hereinafter called the "Collateral"):
 - a. All accounts, contract rights, franchise agreements, instruments, documents, chattel paper (tangible and electronic), general and payment intangibles (including but not limited to trademarks, trade names, patents, copyrights and all other forms of intellectual property, and tax refunds), commodity accounts, commodity contracts, investment property, letter-of-credit rights, promissory notes, certificated and uncertificated securities, financial assets, letters of credit, securities accounts, securities entitlements, commercial tort claims, returned and repossessed goods, and all rights as a seller of goods and other personal property; all collateral securing any of the foregoing; all deposit accounts, special and general, whether on deposit with Secured Party or others;
 - b. All intangibles and intangible assets, software, consumer goods and inventory wherever located; all present and future claims against any supplier of any of the foregoing, including claims for defective goods and equipment or overpayments to or undershipments by suppliers; all proceeds arising from the lease or rental of any of the foregoing;
 - c. All warranty and other claims against any vendor or lessor of any of the foregoing;
 - d. All products and produce of the foregoing;
 - e. All accessions, attachments, accessories, parts, supplies, additions to and replacements of and substitutions for any of the foregoing;
 - f. All cash and non-cash proceeds of any of the foregoing, in whatever form (including proceeds in the form of inventory, equipment or any other form of personal property), including proceeds of proceeds; and
 - g. All records and data relating to any of the property described in this Collateral section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain and process any such records or data or electronic media.
2. ***Obligation.*** "Obligation" means the Loans and any and all indebtedness, obligations, and liabilities of Debtor to Secured Party of every kind and description, direct or indirect, secured or unsecured, joint or several, absolute or contingent, due or to become due, whether for

payment or performance, now existing or hereafter arising, whether or not presently contemplated by Debtor and Secured Party, regardless of how the same arise and however evidenced, or whether evidenced by any instrument, agreement or book account.

3. *Definitions.* Any term not defined herein shall have the meaning provided in Article 9 of the Uniform Commercial Code in the State of Colorado.
4. *Waiver.* Debtor hereby agrees and acknowledges that any and all defenses, offsets and/or setoffs to payment of the Obligations are hereby waived.
5. *Debtor's Warranties and Covenants.* Debtor expressly warrants and covenants:
 - a. That except for the security interest granted hereby, Debtor is, or to the extent that this agreement states that the Collateral is to be acquired after the date hereof, will be, the owner of the Collateral free from any adverse lien, security interest or encumbrance; and that Debtor will defend the Collateral against all claims and demands of all persons at anytime claiming the same or any interest therein.
 - b. The Collateral is used or bought for use in business.
 - c. That Debtor's principal place of business is as stated above, and the Collateral will be kept at the same address, at 3900 Canal Drive, Fort Collins, Colorado and at 1440 Blausler Drive, Tipp City, Ohio. Debtor shall not change the principal base of its operations without the written consent of Secured Party.
 - d. To promptly notify Secured Party of any change in the location of the Collateral.
 - e. To pay all taxes and assessments of every nature which may be levied or assessed against the Collateral.
 - f. Not to permit or allow any adverse lien, security interest or encumbrance whatsoever upon the Collateral and not to permit the same to be attached or replevined.
 - g. That the Collateral is in good condition, and that Debtor will, at Debtor's own expense, keep the same in good condition and from time to time, forthwith, replace and repair all such parts of the Collateral as may be broken, worn out, or damaged without allowing any lien to be created upon the Collateral on account of such replacement or repairs, and that the Secured Party may examine and inspect the Collateral at any time, wherever located.
 - h. That Debtor will not use the Collateral in violation of any applicable statutes, regulations or ordinances.
 - i. The Debtor will keep the Collateral at all times insured against risks of loss or damage by fire (including so-called extended coverage), theft and such other

casualties as the Secured Party may reasonably require, including collision in the case of any motor vehicle, all in such amounts, under such forms of policies, upon such terms, for such periods, and written by such companies or underwriters as the Secured Party may approve, losses in all cases to be payable to the Secured Party and the Debtor as their interest may appear. All policies of insurance shall provide for at least ten days prior written notice of cancellation to the Secured Party; and the Debtor shall furnish the Secured Party with certificates of such insurance or other evidence satisfactory to the Secured Party as to compliance with the provisions of this paragraph. The Secured Party may act as attorney for the Debtor in making, adjusting and settling claims under or canceling such insurance and endorsing the Debtor's name on any drafts drawn by insurers of the Collateral. Lender shall be named loss payee as to personal property and titled vehicles and shall be made additional insured on all liability insurance policies.

- j. Upon request, Debtor agrees to direct payment on all of its accounts to Secured Party and to place the address for the Secured Party on all billings and remittance statements. Debtor further agrees not to modify or change said billing and remittance information without the written consent of Secured Party. Otherwise, until default, Debtor may have possession of the Collateral and use it in any lawful manner, and upon default Secured Party shall have the immediate right to the possession of the Collateral.
- k. Debtor acknowledges that the terms of this Agreement will be materially relied upon by Secured Party in extending credit and other financial accommodations to Debtor.

6. *Default.* Debtor shall be in default under this Agreement upon the happening of any of the following events or conditions:

- a. default in the payment or performance of any Obligation, covenant or liability contained or referred to herein or in any note, account or document evidencing the same;
- b. the making or furnishing of any warranty, representation or statement to Secured Party by or on behalf of Debtor which proves to have been false in any material respect when made or furnished;
- c. loss, theft, damage, destruction, sale or encumbrance to or of any of the Collateral, or the making of any levy seizure or attachment thereof or thereon;
- d. death, dissolution, termination or existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws of, by or against Debtor or any guarantor or surety for Debtor;
- e. default under the terms of any other Agreement between Debtor and Secured Party.

7. *Remedies.* Upon such default and at any time thereafter, or if it deems itself insecure, Secured Party may:

- a. declare all Obligations secured hereby immediately due and payable and shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code;
- b. require Debtor to assemble the Collateral and deliver or make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties;
- c. take possession of and sell any and all Collateral;
- d. notify account debtors of Debtor to pay all outstanding accounts directly to Secured Party. Debtor hereby assigns all said accounts to Secured Party but retains the right to collect the same unless and until Secured Party declares a default as provided herein;
- e. remove from the Debtor's place of business all books, records, ledger sheets, correspondence, invoices and documents, relating to or evidencing any of the Collateral or, without cost or expense to Secured Party, make such use of the Debtor's place(s) of business as may be reasonably necessary to administer, control and collect the Collateral;
- f. institute and prosecute legal and equitable proceedings to enforce collection of, or realize upon, any of the Collateral;
- g. settle, renew, extend compromise, compound, exchange or adjust claims with respect to any of the Collateral or any legal proceedings brought with respect thereto;
- h. endorse the name of the Debtor upon any items or payment relating to the Collateral or upon any proof of claim in bankruptcy against an account debtor;
- i. receive and open all mail addressed to the Debtor and, if default exists hereunder, notify the postal authorities to change the address for the delivery of mail to the Debtor to such address as the Secured Party may designate;
- j. The Debtor hereby irrevocably appoints the Secured Party as the Debtor's attorney-in-fact, with power of substitution, as necessary or convenient to exercise its remedies or to effect the intent of the parties herein, in the name of the Debtor or in the name of the Secured Party or otherwise, for the use and benefit of the Secured Party, but at the cost and expense of the Debtor, without notice to the Debtor.

Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorney's fees and legal expenses. No waiver by Secured Party of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this Agreement shall not waive or impair any other security said Secured Party may have or hereafter acquire for the payment or performance of the Obligations, nor shall the taking of any such additional security waive or impair this Agreement; but said Secured Party may resort to any security it may have in the order it may deem proper, and notwithstanding any collateral security, Secured Party shall retain its rights of set-off against Debtor.

8. *Inurement.* All rights of Secured Party hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of Debtor shall bind Debtor's heirs, executors or administrators or his or its successors or assigns. If there be more than one Debtor, their liabilities hereunder shall be joint and several.
9. *Further Assurances.* Debtor, at its own expense, shall do, make, execute and deliver all such additional and further acts, things, deeds, assurances and instruments as Secured Party may require to more completely vest in and assure to Secured Party its rights hereunder or in any of the Collateral, including executing, delivering and, where appropriate, filing financing statements and continuation statements, obtaining governmental and other third party consents and approvals, obtaining waivers from mortgagees and landlords and taking all actions required by the Uniform Commercial Code, as applicable in each relevant jurisdiction, with respect to any investment property.
10. *Marshaling.* Secured Party shall not be required to marshal any present or future Collateral security for, or other assurances of payment of, the Obligations or any of them or to resort to such Collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such Collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, Debtor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of Secured Party's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, Debtor hereby irrevocably waives the benefits of all such laws.
11. *Waiver of Jury Trial and Right to Certain Damages.* Debtor waives its right to a jury trial with respect to any action or claim arising out of any dispute in connection with this Agreement, any rights or obligations hereunder or in the performance of any such rights or obligations. Except as prohibited by law, Debtor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages, Debtor certifies that neither Secured Party nor anyone acting on its behalf has represented, expressly or otherwise, that Secured Party would not seek to enforce the foregoing waivers and acknowledges that, in entering into the transactions of which this

Agreement forms a part, Secured Party is relying upon, among other things, the waivers and certifications contained in this section.

12. *Miscellaneous.* This Agreement shall not be amended or altered in any manner except by a document in writing executed by both parties. Any provision of this Agreement or of any related instrument or document executed pursuant hereto which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidation the remaining provisions hereof or thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Debtor hereby waives any provision of law which renders any provision hereof or thereof prohibited or unenforceable in any respect. The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.
13. *Counterparts.* This Agreement may be executed in any number of counterparts, including facsimiles, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.
14. *Governing Law.* This Agreement and the rights and obligations of the parties hereunder shall, in all respects, be governed by, and construed in accordance with, the laws of the State of Colorado, including all matters of validity and performance, regardless of location of the Collateral.
15. *Attorneys Fees.* In the event of any litigation arising out of this Agreement, the court shall award to the prevailing party all reasonable costs and expenses of such party in connection with the litigation, including, without limitation, all reasonable attorneys' fees.

Dated: September 14, 2018.

DEBTOR:

Forney Industries, Inc.,
a Colorado Corporation

By: 

Steven G. Anderson, President and CEO

AND

By: 

Andrew J. Steger, CFO

SECURED PARTY:

Guaranty Bank and Trust Company,
a Colorado state chartered banking institution

By: 

Bob Clancy, Vice President

UCC Financing Statement

Colorado Secretary of State

Date and Time: 09/14/2018 02:29:07 PM

Master ID: 20182082759

Validation Number: 20182082759

Amount: \$8.00

Debtor: (Organization)

Name: FORNEY INDUSTRIES, INC.

Address1: 2057 Vermont Drive

Address2:

City: Ft Collins

State: CO

ZIP/Postal Code: 80525

Province:

Country: United States

Secured Party: (Organization)

Name: Guaranty Bank and Trust Company

Address1: 303 E. Mountain Avenue

Address2:

City: Fort Collins

State: CO

ZIP/Postal Code: 80524

Province:

Country: United States

Collateral

Description:

See Attachment.

Real estate information:

This financing statement is filed as a fixture filing.

Description of the real estate covered by this financing statement:

Lot 1, TIMBERLINE PLAZA PUD, City of Fort Collins, County of Larimer, State of Colorado, also known by street address as 2057 Vermont Drive, Fort Collins, Colorado 80525; and Lot 21-B of the Lot Consolidation Resolution of Lots 21A and 23, Smithfield Subdivision, and including the vacation of the utility easement, recorded December 28, 2005 at Reception No. 20050110408, County of Larimer, State of Colorado, also known by street address as 3900 Canal Drive, Fort Collins, Colorado 80524.

Name of a record owner of above-described real estate (if debtor does not have a record interest):

Organization Name:

Individual Name:

Address1:

Address2:

City:

State: CO

ZIP/Postal Code:

Province:

Country: United States

Attachment #: 1

Collateral Description

File name: 00286280.PDF

Uploaded: 09/14/2018 02:27:04 PM

All accounts, contract rights, franchise agreements, instruments, documents, chattel paper (tangible and electronic), general and payment intangibles (including but not limited to trademarks, trade names, patents, copyrights and all other forms of intellectual property, including but not limited to the trademarks specifically described below, and tax refunds), commodity accounts, commodity contracts, investment property, letter-of-credit rights, promissory notes, certificated and uncertificated securities, financial assets, letters of credit, securities accounts, securities entitlements, commercial tort claims, returned and repossessed goods, and all rights as a seller of goods and other personal property; all collateral securing any of the foregoing; all deposit accounts, special and general, whether on deposit with Secured Party or others;

All intangibles and intangible assets, software, consumer goods and inventory wherever located; all present and future claims against any supplier of any of the foregoing, including claims for defective goods and equipment or overpayments to or undershipments by suppliers; all proceeds arising from the lease or rental of any of the foregoing;

Including, but not limited to, the following trademarks,

EASY DOES DID IT., Serial No. 87628794, Registration No. 5510006

FORNEY COMMANDPRO, Serial No. 87460473

WE ARE WELDING, Serial No. 87448349

H FORNEY HIDE, Serial No. 87180498, Registration No. 5217046

GREENBACK, Serial No. 86777136, Registration No. 5098424

FORNEY HIDE, Serial No. 86772155, Registration No. 5048149

EASY WELD, Serial No. 86147604, Registration No. 5013304

IRON MASTER, Serial No. 86139884, Registration No. 4704927

INDUSTRIAL PRO, Serial No. 86050871, Registration No. 4554914

FORNEY, Serial No. 77867035, Registration No. 3902708

Color Design, Serial No. 86269096;

All warranty and other claims against any vendor or lessor of any of the foregoing;

All products and produce of the foregoing;

All accessions, attachments, accessories, parts, supplies, additions to and replacements of and substitutions for any of the foregoing;

All cash and non-cash proceeds of any of the foregoing, in whatever form (including proceeds in the form of inventory, equipment or any other form of personal property), including proceeds of proceeds; and

All records and data relating to any of the property described in this Collateral section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain and process any such records or data or electronic media.