

Accounts Receivable, Specific Assignment

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned assigns and transfers to _____ ("Assignee") the accounts receivable listed to in Exhibit A (collectively the "Assigned Accounts") as a general and continuing collateral security for payment of all existing and future indebtedness and liability of the undersigned to the Assignee and any ultimate unpaid balance thereof, and as a first and prior claim upon the Assigned Accounts. The undersigned further agrees as follows:

1. The Assignee may collect, sell or otherwise deal with the Assigned Accounts or any part thereof in such manner, upon such terms and conditions and at such time or times as may seem to it advisable and without notice to the undersigned (except as otherwise required by applicable law), and may charge on its own behalf and pay to others reasonable sums for expenses incurred and for services rendered (expressly including legal advice and services) in or in connection with collecting, realizing, selling or obtaining payment of the Assigned Accounts and may add the amount of such sums to the indebtedness of the undersigned.
2. The Assignee shall not be liable or accountable for any failure to collect, realize, sell or obtain payment of the Assigned Accounts or any part thereof and shall not be bound to institute proceedings for the purpose of collecting, realizing or obtaining payment of the same or for the purpose of preserving any rights of the Assignee, the undersigned or any other person, firm or corporation in respect of the same.
3. The Assignee may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the undersigned, debtors of the undersigned, sureties and others and with the Assigned Accounts and other securities as the Assignee may see fit without prejudice to the liability of the undersigned or the Assignee's right to hold and realize this security.
4. All moneys collected or received by the undersigned in respect of the Assigned Accounts shall be received as trustee for the Assignee and shall be forthwith paid to the Assignee.
5. All moneys collected or received by the Assignee in respect of the Assigned Accounts (whether by virtue of paragraph 4 or otherwise) may be applied on account of such parts of the indebtedness and liability of the undersigned as to the Assignee seems best or in the discretion of the Assignee may be released to the undersigned, all without prejudice to the Assignee's claims upon the undersigned.
6. The undersigned shall on request furnish to the Assignee in writing all information requested relating to the Assigned Accounts and the Assignee shall be entitled to inspect the securities, bills, notes, books, papers and other documents or take temporary custody thereof and for such purposes the Assignee shall have access to all premises occupied by the undersigned.
7. The undersigned shall on the Assignee's request do, make and execute all such financing statements, further assignments, documents, acts, matters and things as may be required by the Assignee of or with respect to the Assigned Accounts or any part thereof or as may be required to give effect to these presents, including, but not limited to obtaining waivers and subordinations of interests in the Assigned Accounts from any persons having a prior

claim or interest thereto. The undersigned hereby constitutes and appoints the Assignee the true and lawful attorney of the undersigned irrevocable with full power or substitution to do, make and execute all such statements, assignments, documents, acts, matters or things with the right to use the name of the undersigned whenever and wherever it may be deemed necessary or expedient.

8. The provisions hereof shall go to the benefit of the successors and assigns of the Assignee and shall be binding upon the respective heirs, executors, administrators, successors and assigns of the undersigned.

9. Notices.

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or a recognized over night delivery service such as FedEx.

If to the Assignee: _____.

If to the Assignor: _____.

10. No Waiver.

The waiver or failure of either party to exercise in any respect any right provided in this agreement shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

11. Entirety of Agreement.

The terms and conditions set forth herein constitute the entire agreement between the parties and supersede any communications or previous agreements with respect to the subject matter of this Agreement. There are no written or oral understandings directly or indirectly related to this Agreement that are not set forth herein. No change can be made to this Agreement other than in writing and signed by both parties.

12. Governing Law.

This Agreement shall be construed and enforced according to the laws of the State of _____ and any dispute under this Agreement must be brought in this venue and no other.

13. Headings in this Agreement

The headings in this Agreement are for convenience only, confirm no rights or obligations in either party, and do not alter any terms of this Agreement.

14. Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

In Witness whereof, the parties have executed this Agreement as of the date first written above.

Assignee

Assignor

Date

Accounts Receivable, Specific Assignment Review List

This review list is provided to help you prepare this Accounts Receivable Specific Assignment Agreement. As a practical matter, this document will probably only be used in private transactions since most financial institutions require the use of their own documents. This is done primarily so all agreements for like financial instruments are the same so that the bankers, collectors, and lawyers know down to the comma what their rights and responsibilities are. Having said that, this document can be used effectively to obtain private financing, in a more secure manner, than a straight equity deal. This is especially true since the stock market appears to be going sideways for a while.

1. Make sure both parties sign the agreement in at least duplicate and that you keep an extra copy in both your corporate minute book (this kind of transaction requires Board approval) and in the banking/lending file. As with other key corporate documents, you should consider keeping a third copy in your corporate records at home or at the office.
2. The toughness of this Agreement, and the attendant cost, should make you think twice about accepting this kind of funding versus other forms of lending and equity. If your accounts are solid and pay within specified limits, this type of agreement can work out well (it has for me in the past). However, if chargebacks and disputes play any significant role in your A/R, as they often do in the high tech world, beware of the consequences for traditional A/R lending—which this is. The paperwork requires backing out and accounting for each and every one of these transactions and tend to undermine the confidence of the lender. Chargebacks are poison to them; understood and agreed upon discounts are another matter entirely. Lender like all of the water out of the beef and a clean A/R ledger they can rely on, absolutely, because this is their collateral. Anything other than this is always problematic—as well as time consuming for all parties.
3. Finally, this kind of lending, no matter what the specific agreement, is a time consuming and expensive one to administrate. It usually involves significant management oversight. We are delighted at Simply Media to not need this kind of financing. In sum, this form of lending can give you needed working capital if you really need it. But, it comes with a pretty high price, beyond the actual costs of the interest. Since most agreements are more easily entered than exited, and this one is no exception, carefully and practically review the consequences of relying on this type of financing before engaging in it.