



Registration of a Charge

Company name: **SIMPLICITY MARKETING LIMITED**

Company number: **04339257**



X7005861

Received for Electronic Filing: **27/02/2018**

Details of Charge

Date of creation: **22/02/2018**

Charge code: **0433 9257 0003**

Persons entitled: **SILICON VALLEY BANK**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **WE CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

OSBORNE CLARKE LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4339257

Charge code: 0433 9257 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd February 2018 and created by SIMPLICITY MARKETING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th February 2018 .

Given at Companies House, Cardiff on 5th March 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

We certify that, save for material redacted pursuant to s. 859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Dated this 23 February 2018

Signed *Osborne Clarke LLP*

Osborne Clarke LLP

One London Wall

London

EC2Y 5EB

Supplemental Debenture

THE SUPPLEMENTAL DEBENTURE is made on 22 February 2018

Between:

1. **SIMPLICITY MARKETING LIMITED** a company registered in England and Wales with registration number 04339257 whose registered office is at Suite 1, 3rd Floor, 11-12 St. James's Square, London, United Kingdom, SW1Y 4LB (the "**Company**"); and
2. **Silicon Valley Bank** a California corporation acting through its branch at Alphabeta, 14-18 Finsbury Square, London EC2A 1BR (the "**Lender**").

Background

- (A) Pursuant to the Original Debenture (as defined below), the Company created Security Interests over its assets for its present and future obligations and liabilities under the Finance Documents.
- (B) The Company is entering into an amendment letter by which it is amending the Credit agreement and as a condition precedent to that amendment letter the Company is required to enter into this Supplemental Debenture.
- (C) This Supplemental Debenture is supplemental to the Original Debenture.

The parties to this Supplemental Debenture agree as follows:

1. Definitions and Construction

1.1 Definitions

Terms defined in the Original Debenture shall, unless otherwise defined in this Supplemental Debenture or unless a contrary intention appears, bear the same meaning when used in this Supplemental Debenture and the following term has the following meaning:

"Amended Credit Agreement" means the Credit Agreement as amended by an amendment letter dated on or around the date of this Supplemental Debenture and made between the Company as original borrower, Flashtalking, Inc. as original guarantor and original borrower and the Lender.

"Credit Agreement" means the credit agreement made between the Company as original borrower, Flashtalking, Inc. as original guarantor and original borrower and the Lender dated 10 October 2014 as amended and restated on 17 July 2015, as amended on 16 March 2016 and as further amended and restated on 10 May 2017 and as further amended by an amendment letter dated on or around the date of this Supplemental Debenture.

"Original Debenture" means the debenture between amongst others (1) the Company and (2) the Lender dated 10 May 2017.

"Secured Liabilities" means all Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by each Obligor to the Lender under each Finance Document, both actual and contingent and whether incurred solely or jointly and whether as principal or surety or in any other capacity.

1.2 **Construction**

- (a) Unless a contrary intention appears, Clause 1.2 (*Construction*) of the Debenture applies to this Supplemental Debenture, and shall be deemed to be incorporated into this Supplemental Debenture, mutatis mutandis, as though set out in full in this Supplemental Debenture, with any reference to "**this Debenture**" being deemed to be a reference to "**this Supplemental Debenture**", subject to any necessary changes.
- (b) Any references to the Lender or any Receiver shall include its Delegate.

1.3 **Law of Property (Miscellaneous Provisions) Act 1989**

To the extent necessary for any agreement for the disposition of the Security Assets in this Supplemental Debenture to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Loan Documents and of any side letters between the parties to this Supplemental Debenture are incorporated into this Supplemental Debenture.

1.4 **Implied Covenants for Title**

The obligations of the Company under this Supplemental Debenture shall be in addition to the covenants for title deemed to be included in this Supplemental Debenture by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

1.5 **Effect as a Deed**

This Supplemental Debenture is intended to take effect as a deed notwithstanding that the Lender may have executed it under hand only.

2. **Secured Liabilities**

The Company confirms that the Amended Credit Agreement constitutes a Finance Document for the purposes of the Secured Liabilities in the Original Debenture as supplemented by this Supplemental Debenture and the Company, as primary obligor covenants with the Lender that it will on demand pay to the Lender the Secured Liabilities when the same fall due for payment.

3. **Security Assets**

3.1 **Fixed Charges**

Supplemental to clause 3 of the Original Debenture, the Company as security for the payment of the Secured Liabilities, charges in favour of the Lender, with full title guarantee, the following assets, from time to time owned by the Company or in which the Company has an interest:

- (a) by way of first legal mortgage, each Property legal title to which is vested in it on the date of this Supplemental Debenture specified in the Schedule (*Security Assets*) to this Supplemental Debenture; and
- (b) by way of first fixed charge:
 - (i) all Property not effectively mortgaged under Clause 3.1(a);
 - (ii) all Plant and Machinery;
 - (iii) all Shares;

- (iv) all Investments other than the Shares (but in respect of shares not governed by English law, only insofar as such Chargor can validly charge the same under applicable law);
- (v) all Receivables directed to be paid into the SVB Blocked Accounts;
- (vi) all Receivables directed to be paid into the SVB Operating Accounts;
- (vii) all Receivables directed to be paid into the Third Party Accounts;
- (viii) the SVB Blocked Accounts;
- (ix) the SVB Operating Accounts;
- (x) the Third Party Accounts;
- (xi) all Intellectual Property specified in the Schedule 2 (*Security Assets*) to this Supplemental Debenture;
- (xii) all other Intellectual Property; and
- (xiii) its goodwill and uncalled capital.

3.2 **Security Assignment**

Supplemental to clause 3 of the Original Debenture, as further security for the payment of the Secured Liabilities, the Company assigns, by way of security, with full title guarantee to the Lender all its rights, title and interest in:

- (a) the Insurances and the Insurance Proceeds;
- (b) each Assigned Contract; and
- (c) all Related Rights in respect of each of the above,

subject in each case to reassignment by the Lender to the Company of all such rights, title and interest upon payment or discharge in full of the Secured Liabilities and **provided in each case that**, until the Security constituted by this Supplemental Debenture becomes enforceable, the Company shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to such insurances, Insurance Proceeds, Assigned Contracts or Related Rights, subject to the terms of the Amended Credit Agreement.

3.3 **Floating Charge**

As further security for the payment discharge and performance of the Secured Liabilities, the Company charges with full title guarantee in favour of the Lender by way of first floating charge its undertaking and all its present and future assets other than those assets which are effectively charged by way of first fixed charge or legal mortgage under Clause 3.1 (Fixed Charges) or which are effectively assigned by way of security under Clause 3.2 (Security Assignment).

- 3.4 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Deed.
- 3.5 Sub-clauses 3.4 and 3.5 of the original Debenture apply to the floating charge created by sub-clause 3.3 (*Floating Charge*).

4. **Incorporation**

The provisions of Clause 2 (*Covenant to pay*) to Clause 19 (*Miscellaneous*) (inclusive) of the Original Debenture apply to this Supplemental Debenture as though they were set out in full in this Supplemental Debenture except that references to "**this Debenture**" in the Original Debenture are to be construed as references to "**this Supplemental Debenture**".

5. **Continuation**

5.1 Except insofar as supplemented hereby, the Original Debenture will remain in full force and effect.

5.2 The Company agrees that the execution of this Supplemental Debenture shall in no way prejudice or affect the security granted by it (or the covenants given by it) under the Original Debenture.

5.3 References in the Original Debenture to "**this Debenture**" and expressions of similar import shall be deemed to be references to the Original Debenture as supplemented by this Supplemental Debenture and to this Supplemental Debenture.

5.4 This Supplemental Debenture is designated as a Finance Document.

6. **Governing law**

This Supplemental Debenture and any non-contractual obligations arising out of or in connection with it are governed by English law.

7. **Jurisdiction**

7.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Supplemental Debenture (including a dispute relating to the existence, validity or termination of this Supplemental Debenture or any non-contractual obligation arising out of or in connection with this Supplemental Debenture) (a "**Dispute**").

7.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

7.3 This Clause 7 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

In witness whereof this Supplemental Debenture has been duly executed on the above date first above written.

Schedule

Security Assets

Part 1

Intellectual Property

Trade marks				
Chargor	Trade mark number	Jurisdiction	Classes	Trade mark text
Patents				
Chargor	Patent number	Jurisdiction	Description	

Part 2

Property

None at the date of this Deed

Signatories to this Deed

Company

Executed as a deed by
Simplicity Marketing
Limited
acting by
in the presence of:

Signature of director

Signature of witness

Name of witness

Address of witness

Occupation of witness

ERICA SURPIN
142 West 36th St, NY, NY 10018
Office Manager

Notice Details

Address: Suite 1, 3rd Floor, 11-12 St James's Square, London, SW1Y 4LB
Email: finance@simplicity.co.uk
Attention: Patricia Marshall

MARIE FURNISS

Lender

Executed as a deed by
an authorised signatory
for and on behalf of
Silicon Valley Bank

Signature of director

Signature of witness

Name of witness

Address of witness

Occupation of witness

ERICA SURPIN
142 West 36th St, NY, NY 10018
Office Manager

Notice Details

Address: Alphabeta, 14-18 Finsbury Square, London EC2A 1ER
Facsimile: +44 (0) 207 600 9556
Email: jwatts2@svb.com
Attention: Mr. Jim Watts

Signatories to this Deed

Company

Executed as a deed by)
Simplicity Marketing)
Limited)
acting by)
in the presence of:)

Signature of director

Signature of witness

Name of witness

Address of witness

Occupation of witness

Notice Details

Address: Suite 1, 3rd Floor, 11-12 St. James's Square, London, SW1Y 4LB

Email: financeuk@lashtalking.com

Attention: Ritchie Marshall

Lender

Executed as a deed by)
an authorised signatory)
for and on behalf of)
Silicon Valley Bank)

Signature of director

Signature of witness

Name of witness *Sion Mullane*

Address of witness *14-18 Finsbury Square EC2A 1BR*

Occupation of witness *Banker*

Notice Details

Address: Alphabeta, 14-18 Finsbury Square, London EC2A 1BR

Facsimile: +44 (0) 207 600 9556

Email: jwatts2@syb.com

Attention: Mr. Jim Watts