

ARBITRATION SUBMISSION AGREEMENT

Agreement made this ___ day of July 1996 among ABC Corp.; XYZ, Inc.; and David A. Hoffman, Esq. (the "Arbitrator"). (ABC Corp. and XYZ, Inc. are referred to hereinafter collectively as the "Parties.")

Background

- A. A dispute has arisen between ABC Corp. and XYZ, Inc. which the Parties have agreed to submit to final and binding arbitration.
- B. The Parties wish to specify in this Agreement the terms and conditions of the arbitration.
- C. The Parties are represented by counsel. Joan Smith, Esq., represents ABC Corp.; Bob Jones, Esq. represents XYZ, Inc.

Agreement

1. Scope of Dispute. The Parties hereby submit to final and binding arbitration the dispute described more particularly in the following documents: (a) Statement of Claim and accompanying letter dated May 13, 1996 from Joan Smith to Bob Jones; and (b) Statement of Claim and accompanying letter dated May 13, 1996 from Bob Jones to Joan Smith. The arbitrator shall be David A. Hoffman, Esq. (the "Arbitrator"). The Arbitrator shall have the authority to decide such procedural issues as may arise in connection with the arbitration.
2. Applicable law. The Arbitrator shall decide the Dispute in the light of the substantive law that would be applied if the claims were presented to a court of competent jurisdiction.
3. Entry of judgment. Either of the Parties may submit the Arbitrator's decision to a court of competent jurisdiction for entry of judgment in accordance with the Arbitrator's decision. The Parties agree that the grounds for appeal of the Arbitrator's decision shall be limited to those permitted under the following agreements executed by the Parties: (a) Asset Purchase Agreement dated April 7, 1993 and (b) Intellectual Property Purchase Agreement dated April 7, 1993.
4. Date of hearing. The arbitration hearing shall be held on the following dates in Nashua, New Hampshire: September 30 (half day), October 1, 2 (half day), 3, 4, 7 (half day), 8, 9 (half day), 10, and 11, 1996. The hearing on each of those days shall last no more than eight hours. Upon a showing of good cause, or by agreement of the Parties, the hearing may be extended for an additional three days. The time used by each of the Parties in the hearing (including time for direct and cross examination) shall be divided equally.
5. Procedural rules. The arbitration shall be conducted in accordance with the Rules for Non-Administered Arbitration of Business Disputes (as amended 1993) issued by the CPR Institute of Dispute Resolution, a copy of which is attached hereto as Exhibit C.
6. Rules of evidence. The Arbitrator shall be the judge of the relevance and materiality of the evidence offered, and conformity to legal rules of evidence shall not be necessary.

7. Discovery. The Parties have reached agreement, in consultation with the Arbitrator, on the manner in which pre-arbitration discovery shall be conducted. However, in the event that a dispute arises between the Parties concerning the scope, timing, or manner of discovery, the Parties shall submit the issue for binding resolution by the Arbitrator.

8. Briefs. Two weeks before the arbitration hearing, the Parties shall exchange and submit to the Arbitrator:

- a) A memorandum of no more than 30 pages, not including any exhibits that may be referenced in and attached to the brief.
- b) Copies of stipulated and disputed exhibits with a table of contents listing the exhibits.

9. Proposed findings of fact and conclusions of law. Within thirty days after the conclusion of the arbitration hearing, the Parties shall exchange and submit to the Arbitrator proposed findings of fact and conclusions or law. Ten days later, each Party may exchange and submit to the Arbitrator a response (of no more than five pages) to the opposing Party's proposed findings and conclusions.

10. Arbitrator's decision. Within thirty days of the submission of the Parties' proposed findings and conclusions, the Arbitrator shall issue his decision, including his findings of fact and conclusions of law.

11. Attorney's fees and costs. The arbitrator shall [not] have the authority to award reasonable attorney's fees, costs, and pre-award interest to the prevailing party. The arbitrator shall not have the authority to award punitive damages or injunctive relief.

12. Arbitrator's fee. The Parties agree that they shall each pay 50% of the Arbitrator's fee, as follows:

a. The Arbitrator shall be paid \$350 per hour (payable to "Boston Law Collaborative, LLC") ("BLC") for his services in connection with the arbitration, including time spent in conferences with the Parties' attorneys, reviewing the Parties' submissions, and writing the arbitration decision, but not including time spent traveling to and from the arbitration. In addition, the Arbitrator shall be reimbursed by the Parties for necessary expenses incurred in connection with the arbitration, such as long distance calls, faxes, and copying, but not including travel expenses.

b. On or before August 1, 1996, the Arbitrator shall send each of the Parties' counsel a bill for any unpaid amount then due for services rendered and a request for payment of a deposit, based on the Arbitrator's hourly rate of \$250/hour multiplied by the time reasonably anticipated as needed for attendance at the arbitration, review of the Parties' submissions, and the drafting of a decision.

c. On or before August 15, 1996, the Parties shall pay the Arbitrator the amount billed and the deposit. The Arbitrator shall hold the deposit in a client funds account, drawing down those funds at such time as he renders a bill for services rendered to the Parties. Within ten days of the issuance of his decision, the Arbitrator shall refund to the Parties any unused portion of the deposit. Even if the Arbitrator awards to either of the Parties all or part of the costs of the arbitration, (i) he shall nevertheless refund to the Parties' equally any unused portion of the Arbitrator's fee, and (ii) the Parties shall be

billed for and shall be responsible for paying equal portions of any unpaid fee owed to the Arbitrator by the Parties pursuant to this Agreement.

d. In the event that either Party or both Parties cancel a scheduled arbitration session on less than four week's notice to the Arbitrator, the Arbitrator shall be entitled to payment of \$1,500 for cancellation of a full day's session or \$750 for cancellation of a half-day session (the "cancellation fee"). If one Party is responsible for the cancellation, payment of the cancellation fee shall be made by that Party.

13. Waiver of claims against Arbitrator. The Parties hereby waive any claim against the Arbitrator and BLC, arising from the arbitration provided for in this Agreement, except a claim arising from a breach of this Agreement.

14. Confidentiality.

a. The Parties and the Arbitrator agree that the entire arbitration process shall be confidential, provided however that either Party may file the decision of the Arbitrator in a court of competent jurisdiction for the purpose of confirming, modifying, or vacating the award, or any other lawful purpose.

b. The arbitration hearing shall be [recorded/transcribed] by a court reporter. The Parties shall share equally the cost of the court reporter's services and shall make a copy of the [recording/transcript] available to the Arbitrator. [Alternative: The arbitration hearing shall not be recorded or transcribed.]

c. Attendance at the arbitration hearing shall be limited to: (1) the Arbitrator; (2) counsel for the Parties; (3) representatives of the parties; (4) and any witnesses appearing at the request of the Parties.

d. Unless all Parties and the Arbitrator otherwise agree in writing, neither of the Parties shall (i) call the Arbitrator as a witness in any pending or future investigation, action or proceeding relating to the subject matter of the arbitration; or (ii) subpoena the Arbitrator or any documents in the Arbitrator's possession relating to the subject matter of the arbitration, and all Parties will oppose any effort to have the Arbitrator and documents subpoenaed.

15. Disclosure of prior relationships. The Arbitrator has made a reasonable effort to learn and has disclosed to the Parties in writing: (a) all business or professional relationships the Arbitrator and/or the Arbitrator's firm has had with the Parties, including all instances in which the Arbitrator or the Arbitrator's firm served as an attorney for any Party or adverse to any Party; (b) any financial interest the Arbitrator has in any Party; (c) any significant social, business or professional relationship the Arbitrator has had with an officer of a Party or with an individual representing a Party in the arbitration; and (d) any other circumstances that may create doubt regarding the Arbitrator's impartiality in the arbitration.

16. Future relationships.

a. Neither the Arbitrator nor the Arbitrator's firm shall undertake any work for or against a Party regarding the subject matter of the arbitration.

b. The Arbitrator shall not personally work on any matter for or against a Party, regardless of subject matter, until six months after termination of his or her services as Arbitrator in this matter.

c. After the conclusion of the Arbitration, the Arbitrator's firm may work on matters for or against a Party if such matters are unrelated to the subject matter of the arbitration. The Arbitrator shall establish appropriate safeguards to insure that other members and employees of the Arbitrator's firm working on such matters do not have access to any confidential information obtained by the Arbitrator during the course of the arbitration.

17. Entire Agreement. This Agreement constitutes the entire agreement of the Parties as to the subject matter hereof and supersedes all previous oral or written agreements between the Parties as to the subject matter hereof.

18. Modifications. No change, alteration or modification of this Agreement may be made except in a writing signed by the Parties hereto.

19. Severability. If any term or provision of this Agreement shall be held or deemed to be invalid, inoperative or unenforceable to any extent by a court of competent jurisdiction, such circumstance shall in no way affect any other term or provision of this Agreement, the application of such term or provision in any other circumstances, or the validity or enforceability of this Agreement.

20. Captions. The captions herein have been inserted solely for convenience of reference and shall in no way define, limit or describe the scope or substance of any provision of this Agreement.

21. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been given three days after having been mailed by first-class, registered or certified mail, or twelve hours after having been delivered or sent by facsimile, to the Parties' attorneys.

22. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument.

ABC Corp.

By: _____

Its: _____

Date:

XYZ, Inc.

By: _____

Its: _____

Date:

David A. Hoffman, Esq.
Boston Law Collaborative, LLC
(Arbitrator)

Date: