

SECURITIES AND EXCHANGE COMMISSION

FORM S-8

Initial registration statement for securities to be offered to employees pursuant to employee benefit plans

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FILER

METROMEDIA FIBER NETWORK INC

CIK: **1043533** | IRS No.: **113168327** | State of Incorporation: **DE** | Fiscal Year End: **1231**
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SIC: **4813** Telephone communications (no radiotelephone)

Mailing Address
C/O METROMEDIA FIBER
NETWORK SER INC
1 NORTH LEXINGTON AVE
WHITE PLAINS NY 10601

Business Address
C/O METROMEDIA FIBER
NETWORK SER INC
1 NORTH LEXINGTON AVE
WHITE PLAINS NY 10601
9144216700

SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
 UNDER
 THE SECURITIES ACT OF 1933

METROMEDIA FIBER NETWORK, INC.
 (Exact name of registrant as specified in its charter)

DELAWARE
 (State or other
 jurisdiction of
 incorporation or
 organization)

11-3168327
 (I.R.S. Employer
 Identification
 Number)

C/O METROMEDIA FIBER NETWORK SERVICES, INC.
 ONE NORTH LEXINGTON AVENUE
 WHITE PLAINS, NY 10601
 (914) 421-6700
 (Address of registrant's
 principal executive offices)

ABOVENET COMMUNICATIONS INC. 1998 STOCK INCENTIVE PLAN
 ABOVENET COMMUNICATIONS INC. 1997 STOCK PLAN
 ABOVENET COMMUNICATIONS INC. 1996 STOCK OPTION PLAN

ARNOLD L. WADLER
 Executive Vice President,
 General Counsel and Secretary
 ONE MEADOWLANDS PLAZA
 EAST RUTHERFORD, NJ 07073
 (201) 531-8050

(Name, address, and telephone number of agent for service)

<TABLE>
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CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
<S> Class A Common Stock, par value \$.01 per share	<C> 7,311,962 (2)	<C> 100% (3)	<C> \$229,156,889 (3)	<C> \$63,706 (4)

</TABLE>

(1) Plus such additional number of shares as may be required in the event of a stock dividend, stock split, recapitalization or other similar event in accordance with Rule 416(a) of the Securities Act of 1933, as amended (the "Securities Act").

(2) Represents the maximum number of shares of Class A Common Stock issuable upon exercise of options granted or to be granted under the AboveNet Communications Inc. 1998 Stock Incentive Plan, the AboveNet Communications Inc. 1997 Stock Plan and the AboveNet Communications Inc. 1996

Stock Option Plan that have been assumed by the Registrant pursuant to the Agreement and Plan of Merger, dated as of June 22, 1999, by and among the Registrant, AboveNet Communications Inc. and Magellan Acquisition, Inc., a wholly-owned subsidiary of the Registrant.

(3) Estimated solely for the purpose of computing the registration fee in accordance with Rules 457(c) and 457(h) of the Securities Act by

multiplying (1) 7,311,962, the maximum number of shares of common stock of the Registrant to be issued pursuant to the exercise of options granted under the AboveNet Option Plans, by (2) \$31.34, the average of the bid and asked prices of the shares of common stock of the Registrant reported on the Nasdaq National Market on September 2, 1999.

- (4) The registration fee has been calculated pursuant to Rules 457(c) and 457(h) of the Securities Act by multiplying (1) \$229,156,889, the proposed maximum aggregate offering price by (2) .000278.

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PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information

This Form S-8 relates to 7,311,962 shares of Class A Common Stock, par value \$.01 per share, of Metromedia Fiber Network, Inc. (the "Class A Common Stock"), which may be issued upon the exercise of options granted under the AboveNet Communications Inc. 1998 Stock Incentive Plan, the AboveNet Communications Inc. 1997 Stock Plan and the AboveNet Communications Inc. 1996 Stock Option Plan (collectively, the "AboveNet Option Plans").

Pursuant to the Agreement and Plan of Merger (the "Merger Agreement"), dated as of June 22, 1999, by and among Metromedia Fiber Network, Inc., AboveNet Communications Inc. ("AboveNet") and Magellan Acquisition, Inc., a wholly-owned subsidiary of Metromedia Fiber Network, Inc. ("Merger Sub"), the following events, among others, occurred on September 8, 1999:

1. AboveNet was acquired by, and became a wholly-owned subsidiary of, Metromedia Fiber Network, Inc. through the merger of Merger Sub with and into AboveNet; and
2. outstanding options to purchase shares of AboveNet common stock granted under the AboveNet Option Plans were assumed by Metromedia Fiber Network, Inc. and became exercisable for shares of Metromedia Fiber Network's Class A Common Stock.

The documents containing information specified by Part I of this Registration Statement have been or will be sent or given to holders of options granted under the AboveNet Option Plans, as specified in Rule 428(b)(1) promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act"). Such document(s) are not required to be filed with the SEC but constitute (along with the documents incorporated by reference into this Registration Statement pursuant to Item 3 of Part II hereof) a prospectus that meets the requirements of Section 10(a) of the Securities Act.

References to the "Company" shall mean Metromedia Fiber Network, Inc., a Delaware corporation.

Item 2. Registrant Information and Employee Plan Annual Information

Upon written or oral request, any of the documents incorporated by reference in Item 3 of Part II of this Registration Statement (which documents are incorporated by reference in this Section 10(a) Prospectus) and any other documents required to be delivered to eligible employees pursuant to Rule 428(b) of the Securities Act are available without charge by contacting:

Metromedia Fiber Network, Inc.
c/o Metromedia Fiber Network Services, Inc.
One North Lexington Avenue
White Plains, NY 10601
(914) 421-6700

Attention: Gerard Benedetto, Vice President-
Chief Financial Officer

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PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC's public reference rooms in Washington, D.C., New York, NY and Chicago, IL. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public from the SEC's web site at <http://www.sec.gov>.

The SEC allows us to "incorporate by reference" information into this Registration Statement, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is considered to be part of this Registration Statement, and later information that we file with the SEC will automatically update this Registration Statement. We incorporate by reference the following documents listed below and any future filings made with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, prior to the termination of the offering:

1. The description of the Class A Common Stock included in our Registration Statement on Form 8-A, filed with the SEC on October 28, 1997, and all amendments or reports filed for the purpose of updating such description (File No. 000-23269);
2. Our Quarterly Report on Form 10-Q, filed with the SEC on August 12, 1999, for the fiscal quarter ended June 30, 1999 (File No. 000-23269);
3. Our Quarterly Report on Form 10-Q/A, filed with the SEC on May 12, 1999, for the fiscal quarter ended March 31, 1999 (file No. 000-23269);
4. Our Annual Report on Form 10-K, filed with the SEC on March 17, 1999, for the fiscal year ended December 31, 1998 (File No. 000-23269);
5. Our Current Report on Form 8-K filed with the SEC on June 30, 1999, for the event of June 22, 1999 (File No. 000-23269);
6. Our Current Report on Form 8-K filed with the SEC on September 10, 1999, for the event of September 8, 1999 (File No. 000-23269);
7. Our Registration Statement on Form S-4, filed with the SEC on August 5, 1999, and all amendments or reports filed for the purpose of updating such description (Registration No. 333-84541); and
8. All other reports filed by us with the SEC since December 31, 1998, pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

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Item 6. Indemnification of Directors and Officers

Section 145(a) of the General Corporation Law of the State of Delaware provides that a Delaware corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no cause to believe his conduct was unlawful.

Section 145(b) provides that a Delaware corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted under similar standards, except that no

indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine that despite the adjudication of liability, such person is fairly and reasonably entitled to be indemnified for such expenses which the court shall deem proper.

Section 145 further provides that (i) to the extent a director or officer of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) or in the defense of any claim, issue, or matter therein, he shall be indemnified against expenses actually and reasonably incurred by him in connection therewith, (ii) indemnification provided for by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled, and (iii) the corporation may purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such whether or not the corporation would have the power to indemnify him against such liabilities under Section 145.

Section 102(b)(7) of the General Corporation Law provides that a corporation in its original certificate of incorporation or an amendment thereto validly approved by stockholders may eliminate or limit personal liability of the members of its board of directors or governing body for breach of a director's fiduciary duty. However, no such provision may eliminate or limit the liability of a director for breaching his duty of loyalty, failing to act in good faith, engaging in intentional misconduct or knowingly violating a law, paying a dividend or approving a stock repurchase which was illegal, or obtaining an improper personal benefit. A provision of this type has no effect on the availability of equitable remedies, such as an injunction or rescission, for breach of fiduciary duty. The Company's Charter contains such a provision.

The Company's Charter further provides that the Company shall indemnify its officers and directors and, to the extent authorized by the Board of Directors, employees and agents of the Company, to the fullest extent permitted by and in the manner permissible under the laws of the State of Delaware.

The Company's Directors' and Officers' liability insurance policy is designed to reimburse the Company for payments made by it pursuant to the foregoing indemnification. This policy has aggregate coverage of \$25 million.

Pursuant to the Merger Agreement with AboveNet and Merger Sub, following its acquisition of AboveNet, the Company is required to maintain for not less than six years all rights to indemnification existing in favor of any current or former employee, agent, director or officer of AboveNet or any of its subsidiaries (the

"Indemnified Parties") as provided in their respective charter or by-laws, or an agreement between an Indemnified Party and AboveNet or any of its subsidiaries, or otherwise in effect on June 22, 1999, subject to certain limitations. Additionally, pursuant to the Merger Agreement, following its acquisition of AboveNet, the Company will indemnify and hold harmless all Indemnified Parties to the fullest extent permitted by law with respect to all acts and omissions (occurring prior to the acquisition of AboveNet, but including the transactions contemplated by the Merger Agreement) arising out of such persons' services as employees, agents, directors or officers of AboveNet or any of its subsidiaries, or as trustees or fiduciaries of any plan for the benefit of employees of, or otherwise on behalf of, AboveNet or any of its subsidiaries, subject to certain limitations. In the event that any Indemnified Party is or becomes involved in any capacity in any action, proceeding or investigation in connection with any matter occurring at the time of or prior to its acquisition of AboveNet, the Company will pay as incurred such Indemnified Party's legal and other expenses (including the cost of any investigation and preparation) incurred in connection with such action, proceeding or investigation.

This summary is subject to the General Corporation Law of the State of Delaware, the Charter and the By-laws of the Company and the agreements referred to above.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

The exhibits listed below are filed herewith or are incorporated herein by reference to other filings.

EXHIBIT NO.	DESCRIPTION OF EXHIBIT
-----	-----

- 4.1** Amended and Restated Certificate of Incorporation of Metromedia Fiber Network, as amended (incorporated by reference from Metromedia Fiber Network's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 4.2** Amended and Restated By-laws of Metromedia Fiber Network (incorporated by reference from Metromedia Fiber Network's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 4.3** Specimen Class A Common Stock Certificate of Metromedia Fiber Network (incorporated by reference from Metromedia Fiber Network's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 4.4** Agreement and Plan of Merger, dated as of June 22, 1999, by and among Metromedia Fiber Network, AboveNet and Merger Sub (incorporated by reference from Metromedia Fiber Network's Current Report on Form 8-K filed on June 30, 1999, for the event dated June 22, 1999 (File No. 000-23269)).
- 4.5** Amendment and Waiver, dated as of September 10, 1999, by and among Metromedia Fiber Network, AboveNet and Merger Sub (incorporated by reference from Metromedia Fiber Network's Current Report on Form 8-K filed on September 10, 1999 for the event dated September 8, 1999 (File No. 000-23269)).
- 4.6* AboveNet's 1998 Stock Incentive Plan.
- 4.7* AboveNet's 1997 Stock Plan.
- 4.8* AboveNet's 1996 Stock Option Plan.

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- 5.1* Opinion of Paul, Weiss, Rifkind, Wharton & Garrison, counsel to Metromedia Fiber Network, regarding the legality of the Class A Common Stock being registered.
- 23.1* Consent of Ernst & Young LLP.
- 23.2* Consent of Deloitte & Touche LLP.
- 23.3* Consent of PricewaterhouseCoopers LLP.
- 23.4* Consent of Paul, Weiss, Rifkind, Wharton & Garrison (included in Exhibit 5.1).
- 24.1* Power of Attorney (included on the signature page of this Registration Statement).

 * filed herewith
 ** Previously filed

Item 9. Undertakings

(a) The undersigned registrant hereby undertakes the following: (i) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement to include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement; (ii) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof; and (iii) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended, that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act, may be permitted to directors, officers and controlling persons of the registrant pursuant to the registrant's charter or by-laws, by contract, or otherwise, the registrant has been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will,

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unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on September 10, 1999.

METROMEDIA FIBER NETWORK, INC.

By: /s/ Howard M. Finkelstein

Howard M. Finkelstein
President, Chief Operating Officer and
Director (Principal Executive Officer)

POWER OF ATTORNEY

We, the undersigned officers and directors of Metromedia Fiber Network, Inc. hereby severally constitute Arnold L. Wadler, Howard M. Finkelstein and Stephen A. Garofalo our true and lawful attorneys, and each of them singly, with full power to sign for us and in our names in the capacities indicated below, any and all amendments, including post-effective amendments, to this Registration Statement, and generally do all such things in our name and behalf in such capacities to enable Metromedia Fiber Network, Inc. to comply with the applicable provisions of the Securities Act, and all requirements of the SEC, and we hereby ratify and confirm our signatures as they may be signed by our said attorney to any and all such amendments.

IN WITNESS WHEREOF, each of the undersigned has executed this Power of Attorney as of the date indicated.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Signatures -----	Title or Capacities -----	Date ----
/s/ Stephen A. Garofalo ----- Stephen A. Garofalo	Chairman of the Board and Chief Executive Officer	September 10, 1999
/s/ Howard M. Finkelstein ----- Howard M. Finkelstein	President, Chief Operating Officer and Director (Principal Executive Officer)	September 10, 1999

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/s/ Gerard Benedetto ----- Gerard Benedetto	Vice President - Chief Financial Officer (Principal Financial and Accounting Officer)	September 10, 1999
/s/ Vincent A. Galluccio ----- Vincent A. Galluccio	Senior Vice President and Director	September 10, 1999
/s/ Silvia Kessel ----- Silvia Kessel	Executive Vice President and Director	September 10, 1999
/s/ Arnold L. Wadler ----- Arnold L. Wadler	Executive Vice President, General Counsel, Secretary and Director	September 10, 1999
/s/ John W. Kluge ----- John W. Kluge	Director	September 10, 1999
/s/ David Rockefeller ----- David Rockefeller	Director	September 10, 1999
----- Stuart Subotnick	Director	September 10, 1999
/s/ Leonard White ----- Leonard White	Director	September 10, 1999
----- Sherman Juan	Director	September 10, 1999
----- David Rand	Director	September 10, 1999

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INDEX TO EXHIBITS

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- 4.2** Amended and Restated By-laws of Metromedia Fiber Network (incorporated by reference from Metromedia Fiber Network's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 4.3** Specimen Class A Common Stock Certificate of Metromedia Fiber Network (incorporated by reference from Metromedia Fiber Network's Registration Statement on Form S-1 (Registration No. 333-33653)).
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- 4.8* AboveNet's 1996 Stock Option Plan.
- 5.1* Opinion of Paul, Weiss, Rifkind, Wharton & Garrison, counsel to Metromedia Fiber Network, regarding the legality of the Class A Common Stock being registered.
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- 24.1* Power of Attorney (included on the signature page of this Registration Statement).

* filed herewith
** Previously filed

ABOVENET COMMUNICATIONS INC.

1998 STOCK INCENTIVE PLAN

(AS ADOPTED EFFECTIVE DECEMBER 9, 1998)

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ABOVENET COMMUNICATIONS INC.

1998 STOCK INCENTIVE PLAN

ARTICLE 1. INTRODUCTION.

The Plan was adopted by the Board effective December 9, 1998. The purpose of the Plan is to promote the long-term success of the Company and the creation of stockholder value by (a) encouraging Employees, Outside Directors and Consultants to focus on critical long-range objectives, (b) encouraging the attraction and retention of Employees, Outside Directors and Consultants with exceptional qualifications and (c) linking Employees, Outside Directors and Consultants directly to stockholder interests through increased stock ownership. The Plan seeks to achieve this purpose by providing for Awards in the form of Restricted Shares or Options (which may constitute incentive stock options or nonstatutory stock options).

The Plan shall be governed by, and construed in accordance with, the laws of the State of Delaware (except their choice-of-law provisions).

ARTICLE 2. ADMINISTRATION.

2.1 COMMITTEE COMPOSITION. The Plan shall be administered by the Committee. The Committee shall consist exclusively of two or more directors of the Company, who shall be appointed by the Board. In addition, the composition of the Committee shall satisfy:

(a) Such requirements as the Securities and Exchange Commission may establish for administrators acting under plans intended to qualify for exemption under Rule 16b-3 (or its successor) under the Exchange Act; and

(b) Such requirements as the Internal Revenue Service may establish for outside directors acting under plans intended to qualify for exemption under section 162(m) (4) (C) of the Code.

2.2 COMMITTEE RESPONSIBILITIES. The Committee shall (a) select the Employees, Outside Directors and Consultants who are to receive Awards under the Plan, (b) determine the type, number, vesting requirements and other features and conditions of such Awards, (c) interpret the Plan and (d) make all other decisions relating to the operation of the Plan. The Committee may adopt such

rules or guidelines as it deems appropriate to implement the Plan. The Committee's determinations under the Plan shall be final and binding on all persons.

2.3 COMMITTEE FOR NON-OFFICER GRANTS. The Board may also appoint a secondary committee of the Board, which shall be composed of one or more directors of the Company who need not satisfy the requirements of Section 2.1. Such secondary committee may administer the Plan with respect to Employees and Consultants who are not considered officers or directors of the Company under section 16 of the Exchange Act, may grant Awards under the Plan to such Employees and Consultants and may determine all features and conditions of such Awards.

Within the limitations of this Section 2.3, any reference in the Plan to the Committee shall include such secondary committee.

ARTICLE 3. SHARES AVAILABLE FOR GRANTS.

3.1 BASIC LIMITATION. Common Shares issued pursuant to the Plan may be authorized but unissued shares or treasury shares. The aggregate number of Options and Restricted Shares awarded under the Plan shall not exceed (a) 2,500,000 plus (b) the additional Common Shares described in Sections 3.2 and 3.3. The limitations of this Section 3.1 and Section 3.2 shall be subject to adjustment pursuant to Article 9.

3.2 ANNUAL INCREASE IN SHARES. As of the first day of each fiscal year, commencing with July 1, 1999, the aggregate number of Options and Restricted Shares that may be awarded under the Plan shall automatically increase by a number equal to the lesser of (a) 4% of the total number of Common Shares then outstanding or (b) 500,000.

3.3 ADDITIONAL SHARES. If Options are forfeited or terminate for any other reason before being exercised, then the corresponding Common Shares shall again become available for the grant of Options or Restricted Shares under the Plan. If Restricted Shares or Common Shares issued upon the exercise of Options are forfeited, then such Common Shares shall again become available for the grant of NSOs and Restricted Shares under the Plan. The aggregate number of Common Shares that may be issued under the Plan upon the exercise of ISOs shall not be increased when Restricted Shares or other Common Shares are forfeited.

ARTICLE 4. ELIGIBILITY.

4.1 NONSTATUTORY STOCK OPTIONS AND RESTRICTED SHARES. Only Employees, Outside Directors and Consultants shall be eligible for the grant of NSOs and Restricted Shares.

4.2 INCENTIVE STOCK OPTIONS. Only Employees who are common-law employees of the Company, a Parent or a Subsidiary shall be eligible for the grant of ISOs. In addition, an Employee who owns more than 10% of the total combined voting power of all classes of outstanding stock of the Company or any of its Parents or Subsidiaries shall not be eligible for the grant of an ISO unless the requirements set forth in section 422(c)(6) of the Code are satisfied.

ARTICLE 5. OPTIONS.

5.1 STOCK OPTION AGREEMENT. Each grant of an Option under the Plan shall be evidenced by a Stock Option Agreement between the Optionee and the Company. Such Option shall be subject to all applicable terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various Stock Option Agreements entered into under the Plan need not be identical. Options may be granted in consideration of a reduction in the Optionee's other compensation. A Stock Option Agreement may provide that a new Option will be granted automatically to the Optionee when he or she exercises a prior Option and pays the Exercise Price in the form described in Section 6.2.

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5.2 NUMBER OF SHARES. Each Stock Option Agreement shall specify the number of Common Shares subject to the Option and shall provide for the adjustment of such number in accordance with Article 9. Options granted to any Optionee in a single fiscal year of the Company shall not cover more than 500,000 Common

Shares, except that Options granted to a new Employee in the fiscal year of the Company in which his or her service as an Employee first commences shall not cover more than 1,000,000 Common Shares. The limitations set forth in the preceding sentence shall be subject to adjustment in accordance with Article 9.

5.3 EXERCISE PRICE. Each Stock Option Agreement shall specify the Exercise Price; provided that the Exercise Price under an ISO shall in no event be less than 100% of the Fair Market Value of a Common Share on the date of grant and the Exercise Price under an NSO shall in no event be less than 85% of the Fair Market Value of a Common Share on the date of grant. In the case of an NSO, a Stock Option Agreement may specify an Exercise Price that varies in accordance with a predetermined formula while the NSO is outstanding.

5.4 EXERCISABILITY AND TERM. Each Stock Option Agreement shall specify the date or event when all or any installment of the Option is to become exercisable. The Stock Option Agreement shall also specify the term of the Option; provided that the term of an ISO shall in no event exceed 10 years from the date of grant. A Stock Option Agreement may provide for accelerated exercisability in the event of the Optionee's death, disability or retirement or other events and may provide for expiration prior to the end of its term in the event of the termination of the Optionee's service.

5.5 EFFECT OF CHANGE IN CONTROL. Each Option shall become exercisable as to all or part of the Common Shares subject to such Option in the event that a Change in Control occurs with respect to the Company, subject to the following limitations:

(a) In the case of an ISO, the acceleration of exercisability shall not occur without the Optionee's written consent.

(b) If the Company and the other party to the transaction constituting a Change in Control agree that such transaction is to be treated as a "pooling of interests" for financial reporting purposes, and if such transaction in fact is so treated, then the acceleration of exercisability shall not occur to the extent that the Company's independent accountants and such other party's independent accountants separately determine in good faith that such acceleration would preclude the use of "pooling of interests" accounting.

5.6 MODIFICATION OR ASSUMPTION OF OPTIONS. Within the limitations of the Plan, the Committee may modify, extend or assume outstanding options or may accept the cancellation of outstanding options (whether granted by the Company or by another issuer) in return for the grant of new options for the same or a different number of shares and at the same or a different exercise price. The foregoing notwithstanding, no modification of an Option shall, without the consent of the Optionee, alter or impair his or her rights or obligations under such Option.

5.7 BUYOUT PROVISIONS. The Committee may at any time (a) offer to buy out for a payment in cash or cash equivalents an Option previously granted or (b) authorize an Optionee to

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elect to cash out an Option previously granted, in either case at such time and based upon such terms and conditions as the Committee shall establish.

ARTICLE 6. PAYMENT FOR OPTION SHARES.

6.1 GENERAL RULE. The entire Exercise Price of Common Shares issued upon exercise of Options shall be payable in cash or cash equivalents at the time when such Common Shares are purchased, except as follows:

(a) In the case of an ISO granted under the Plan, payment shall be made only pursuant to the express provisions of the applicable Stock Option Agreement. The Stock Option Agreement may specify that payment may be made in any form(s) described in this Article 6.

(b) In the case of an NSO, the Committee may at any time accept payment in any form(s) described in this Article 6.

6.2 SURRENDER OF STOCK. To the extent that this Section 6.2 is applicable, all or any part of the Exercise Price may be paid by surrendering, or attesting to the ownership of, Common Shares that are already owned by the Optionee. Such

Common Shares shall be valued at their Fair Market Value on the date when the new Common Shares are purchased under the Plan. The Optionee shall not surrender, or attest to the ownership of, Common Shares in payment of the Exercise Price if such action would cause the Company to recognize compensation expense (or additional compensation expense) with respect to the Option for financial reporting purposes.

6.3 EXERCISE/SALE. To the extent that this Section 6.3 is applicable, all or any part of the Exercise Price and any withholding taxes may be paid by delivering (on a form prescribed by the Company) an irrevocable direction to a securities broker approved by the Company to sell all or part of the Common Shares being purchased under the Plan and to deliver all or part of the sales proceeds to the Company.

6.4 EXERCISE/PLEDGE. To the extent that this Section 6.4 is applicable, all or any part of the Exercise Price and any withholding taxes may be paid by delivering (on a form prescribed by the Company) an irrevocable direction to pledge all or part of the Common Shares being purchased under the Plan to a securities broker or lender approved by the Company, as security for a loan, and to deliver all or part of the loan proceeds to the Company.

6.5 PROMISSORY NOTE. To the extent that this Section 6.5 is applicable, all or any part of the Exercise Price and any withholding taxes may be paid by delivering (on a form prescribed by the Company) a full-recourse promissory note. However, the par value of the Common Shares being purchased under the Plan, if newly issued, shall be paid in cash or cash equivalents.

6.6 OTHER FORMS OF PAYMENT. To the extent that this Section 6.6 is applicable, all or any part of the Exercise Price and any withholding taxes may be paid in any other form that is consistent with applicable laws, regulations and rules.

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ARTICLE 7. AUTOMATIC OPTION GRANTS TO OUTSIDE DIRECTORS.

7.1 INITIAL GRANTS. Each Outside Director who first becomes a member of the Board after the date of the Company's initial public offering shall receive a one-time grant of an NSO covering 15,000 Common Shares (subject to adjustment under Article 9). Such NSO shall be granted on the date when such Outside Director first joins the Board and shall become exercisable in 36 equal installments at monthly intervals over the 36-month period commencing on the date of grant.

7.2 ANNUAL GRANTS. Upon the conclusion of each regular annual meeting of the Company's stockholders held in the year 1999 or thereafter, each Outside Director who will continue serving as a member of the Board thereafter shall receive an NSO covering 5,000 Common Shares (subject to adjustment under Article 9), except that such NSO shall not be granted in the fiscal year in which the same Outside Director received the NSO described in Section 7.1. NSOs granted under this Section 7.2 shall become exercisable in full on the first anniversary of the date of grant.

7.3 ACCELERATED EXERCISABILITY. All NSOs granted to an Outside Director under this Article 7 shall become exercisable in full in the event of:

(a) The termination of such Outside Director's service because of death, total and permanent disability or retirement at or after age 70; or

(b) A Change in Control with respect to the Company, except as provided in the next following sentence. If the Company and the other party to the transaction constituting a Change in Control agree that such transaction is to be treated as a "pooling of interests" for financial reporting purposes, and if such transaction in fact is so treated, then the acceleration of exercisability shall not occur to the extent that the Company's independent accountants and such other party's independent accountants separately determine in good faith that such acceleration would preclude the use of "pooling of interests" accounting.

7.4 EXERCISE PRICE. The Exercise Price under all NSOs granted to an Outside Director under this Article 7 shall be equal to 100% of the Fair Market Value of a Common Share on the date of grant, payable in one of the forms described in Sections 6.1, 6.2, 6.3 and 6.4.

7.5 TERM. All NSOs granted to an Outside Director under this Article 7 shall terminate on the earliest of (a) the 10th anniversary of the date of grant, (b) the date three months after the termination of such Outside Director's service for any reason other than death or total and permanent disability or (c) the date 12 months after the termination of such Outside Director's service because of death or total and permanent disability.

7.6 AFFILIATES OF OUTSIDE DIRECTORS. The Committee may provide that the NSOs that otherwise would be granted to an Outside Director under this Article 7 shall instead be granted to an affiliate of such Outside Director. Such affiliate shall then be deemed to be an Outside Director for purposes of the Plan, provided that the service-related vesting and termination

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provisions pertaining to the NSOs shall be applied with regard to the service of the Outside Director.

ARTICLE 8. RESTRICTED SHARES.

8.1 RESTRICTED STOCK AGREEMENT. Each grant of Restricted Shares under the Plan shall be evidenced by a Restricted Stock Agreement between the recipient and the Company. Such Restricted Shares shall be subject to all applicable terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various Restricted Stock Agreements entered into under the Plan need not be identical.

8.2 PAYMENT FOR AWARDS. Subject to the following sentence, Restricted Shares may be sold or awarded under the Plan for such consideration as the Committee may determine, including (without limitation) cash, cash equivalents, full-recourse promissory notes, past services and future services. To the extent that an Award consists of newly issued Restricted Shares, the Award recipient shall furnish consideration with a value not less than the par value of such Restricted Shares in the form of cash, cash equivalents or past services rendered to the Company (or a Parent or Subsidiary), as the Committee may determine.

8.3 VESTING CONDITIONS. Each Award of Restricted Shares may or may not be subject to vesting. Vesting shall occur, in full or in installments, upon satisfaction of the conditions specified in the Restricted Stock Agreement. A Restricted Stock Agreement may provide for accelerated vesting in the event of the Participant's death, disability or retirement or other events. All Restricted Shares shall become vested in the event that a Change in Control occurs with respect to the Company, except as provided in the next following sentence. If the Company and the other party to the transaction constituting a Change in Control agree that such transaction is to be treated as a "pooling of interests" for financial reporting purposes, and if such transaction in fact is so treated, then the acceleration of vesting shall not occur to the extent that the Company's independent accountants and such other party's independent accountants separately determine in good faith that such acceleration would preclude the use of "pooling of interests" accounting.

8.4 VOTING AND DIVIDEND RIGHTS. The holders of Restricted Shares awarded under the Plan shall have the same voting, dividend and other rights as the Company's other stockholders. A Restricted Stock Agreement, however, may require that the holders of Restricted Shares invest any cash dividends received in additional Restricted Shares. Such additional Restricted Shares shall be subject to the same conditions and restrictions as the Award with respect to which the dividends were paid.

ARTICLE 9. PROTECTION AGAINST DILUTION.

9.1 ADJUSTMENTS. In the event of a subdivision of the outstanding Common Shares, a declaration of a dividend payable in Common Shares, a declaration of a dividend payable in a form other than Common Shares in an amount that has a material effect on the price of Common Shares, a combination or consolidation of the outstanding Common Shares (by reclassification or otherwise) into a lesser number of Common Shares, a recapitalization, a spin-off or a similar occurrence, the Committee shall make such adjustments as it, in its sole discretion, deems

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appropriate in one or more of (a) the number of Options and Restricted Shares

available for future Awards under Article 3, (b) the limitations set forth in Section 5.2, (c) the number of NSOs to be granted to Outside Directors under Article 7; (d) the number of Common Shares covered by each outstanding Option or (e) the Exercise Price under each outstanding Option. Except as provided in this Article 9, a Participant shall have no rights by reason of any issue by the Company of stock of any class or securities convertible into stock of any class, any subdivision or consolidation of shares of stock of any class, the payment of any stock dividend or any other increase or decrease in the number of shares of stock of any class.

9.2 DISSOLUTION OR LIQUIDATION. To the extent not previously exercised, Options shall terminate immediately prior to the dissolution or liquidation of the Company.

9.3 REORGANIZATIONS. In the event that the Company is a party to a merger or other reorganization, outstanding Options and Restricted Shares shall be subject to the agreement of merger or reorganization. Such agreement shall provide for (a) the continuation of the outstanding Awards by the Company, if the Company is a surviving corporation, (b) the assumption of the outstanding Awards by the surviving corporation or its parent or subsidiary, (c) the substitution by the surviving corporation or its parent or subsidiary of its own awards for the outstanding Awards, (d) full exercisability or vesting and accelerated expiration of the outstanding Awards or (e) settlement of the full value of the outstanding Awards in cash or cash equivalents followed by cancellation of such Awards.

ARTICLE 10. DEFERRAL OF DELIVERY OF SHARES

The Committee (in its sole discretion) may permit or require an Optionee to have Common Shares that otherwise would be delivered to such Optionee as a result of the exercise of an Option converted into amounts credited to a deferred compensation account established for such Optionee by the Committee as an entry on the Company's books. Such amounts shall be determined by reference to the Fair Market Value of such Common Shares as of the date when they otherwise would have been delivered to such Optionee. A deferred compensation account established under this Article 10 may be credited with interest or other forms of investment return, as determined by the Committee. An Optionee for whom such an account is established shall have no rights other than those of a general creditor of the Company. Such an account shall represent an unfunded and unsecured obligation of the Company and shall be subject to the terms and conditions of the applicable agreement between such Optionee and the Company. If the conversion of Options is permitted or required, the Committee (in its sole discretion) may establish rules, procedures and forms pertaining to such conversion, including (without limitation) the settlement of deferred compensation accounts established under this Article 10.

ARTICLE 11. AWARDS UNDER OTHER PLANS.

The Company may grant awards under other plans or programs. Such awards may be settled in the form of Common Shares issued under this Plan. Such Common Shares shall be treated for all purposes under the Plan like Restricted Shares and shall, when issued, reduce the number of Common Shares available under Article 3.

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ARTICLE 12. LIMITATION ON RIGHTS.

12.1 RETENTION RIGHTS. Neither the Plan nor any Award granted under the Plan shall be deemed to give any individual a right to remain an Employee, Outside Director or Consultant. The Company and its Parents, Subsidiaries and Affiliates reserve the right to terminate the service of any Employee, Outside Director or Consultant at any time, with or without cause, subject to applicable laws, the Company's certificate of incorporation and by-laws and a written employment agreement (if any).

12.2 STOCKHOLDERS' RIGHTS. A Participant shall have no dividend rights, voting rights or other rights as a stockholder with respect to any Common Shares covered by his or her Award prior to the time when a stock certificate for such Common Shares is issued or, in the case of an Option, the time when he or she becomes entitled to receive such Common Shares by filing a notice of exercise and paying the Exercise Price. No adjustment shall be made for cash dividends or other rights for which the record date is prior to such time, except as expressly provided in the Plan.

12.3 REGULATORY REQUIREMENTS. Any other provision of the Plan notwithstanding, the obligation of the Company to issue Common Shares under the Plan shall be subject to all applicable laws, rules and regulations and such approval by any regulatory body as may be required. The Company reserves the right to restrict, in whole or in part, the delivery of Common Shares pursuant to any Award prior to the satisfaction of all legal requirements relating to the issuance of such Common Shares, to their registration, qualification or listing or to an exemption from registration, qualification or listing.

ARTICLE 13. WITHHOLDING TAXES.

13.1 GENERAL. To the extent required by applicable federal, state, local or foreign law, a Participant or his or her successor shall make arrangements satisfactory to the Company for the satisfaction of any withholding tax obligations that arise in connection with the Plan. The Company shall not be required to issue any Common Shares or make any cash payment under the Plan until such obligations are satisfied.

13.2 SHARE WITHHOLDING. The Committee may permit a Participant to satisfy all or part of his or her withholding or income tax obligations by having the Company withhold all or a portion of any Common Shares that otherwise would be issued to him or her or by surrendering all or a portion of any Common Shares that he or she previously acquired. Such Common Shares shall be valued at their Fair Market Value on the date when taxes otherwise would be withheld in cash.

ARTICLE 14. FUTURE OF THE PLAN.

14.1 TERM OF THE PLAN. The Plan, as set forth herein, shall become effective on December 9, 1998. The Plan shall remain in effect until it is terminated under Section 14.2, except that no ISOs shall be granted on or after the 10th anniversary of the later of (a) the date when the Board adopted the Plan or (b) the date when the Board adopted the most recent increase in the number of Common Shares available under Article 3 which was approved by the Company's stockholders.

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14.2 AMENDMENT OR TERMINATION. The Board may, at any time and for any reason, amend or terminate the Plan. An amendment of the Plan shall be subject to the approval of the Company's stockholders only to the extent required by applicable laws, regulations or rules. No Awards shall be granted under the Plan after the termination thereof. The termination of the Plan, or any amendment thereof, shall not affect any Award previously granted under the Plan.

ARTICLE 15. DEFINITIONS.

15.1 "AFFILIATE" means any entity other than a Subsidiary, if the Company and/or one or more Subsidiaries own not less than 50% of such entity.

15.2 "AWARD" means any award of an Option or a Restricted Share under the Plan.

15.3 "BOARD" means the Company's Board of Directors, as constituted from time to time.

15.4 "CHANGE IN CONTROL" shall mean:

(a) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if more than 50% of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or other reorganization is owned by persons who were not stockholders of the Company immediately prior to such merger, consolidation or other reorganization;

(b) The sale, transfer or other disposition of all or substantially all of the Company's assets; or

(c) Any transaction as a result of which any person is the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing at least 50% of the total voting power represented by the Company's then outstanding voting securities. For purposes of this Subsection (d), the term "person" shall

have the same meaning as when used in sections 13(d) and 14(d) of the Exchange Act but shall exclude (i) a trustee or other fiduciary holding securities under an employee benefit plan of the Company or of a Parent or Subsidiary and (ii) a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the common stock of the Company.

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

15.5 "CODE" means the Internal Revenue Code of 1986, as amended.

15.6 "COMMITTEE" means a committee of the Board, as described in Article 2.

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15.7 "COMMON SHARE" means one share of the common stock of the Company.

15.8 "COMPANY" means AboveNet Communications Inc., a Delaware corporation.

15.9 "CONSULTANT" means a consultant or adviser who provides bona fide services to the Company, a Parent, a Subsidiary or an Affiliate as an independent contractor. Service as a Consultant shall be considered employment for all purposes of the Plan, except as provided in Section 4.2.

15.10 "EMPLOYEE" means a common-law employee of the Company, a Parent, a Subsidiary or an Affiliate.

15.11 "EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended.

15.12 "EXERCISE PRICE" means the amount for which one Common Share may be purchased upon exercise of such Option, as specified in the applicable Stock Option Agreement.

15.13 "FAIR MARKET VALUE" means the market price of Common Shares, determined by the Committee in good faith on such basis as it deems appropriate. Whenever possible, the determination of Fair Market Value by the Committee shall be based on the prices reported in The Wall Street Journal. Such determination shall be conclusive and binding on all persons.

15.14 "ISO" means an incentive stock option described in section 422(b) of the Code.

15.15 "NSO" means a stock option not described in sections 422 or 423 of the Code.

15.16 "OPTION" means an ISO or NSO granted under the Plan and entitling the holder to purchase Common Shares.

15.17 "OPTIONEE" means an individual or estate who holds an Option.

15.18 "OUTSIDE DIRECTOR" shall mean a member of the Board who is not an Employee. Service as an Outside Director shall be considered employment for all purposes of the Plan, except as provided in Section 4.2.

15.19 "PARENT" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

15.20 "PARTICIPANT" means an individual or estate who holds an Award.

15.21 "PLAN" means this AboveNet Communications Inc. 1998 Stock Incentive Plan, as amended from time to time.

15.22 "PREDECESSOR PLAN" means the Company's existing 1997 Stock Plan.

15.23 "RESTRICTED SHARE" means a Common Share awarded under the Plan.

15.24 "RESTRICTED STOCK AGREEMENT" means the agreement between the Company and the recipient of a Restricted Share that contains the terms, conditions and restrictions pertaining to such Restricted Share.

15.25 "STOCK OPTION AGREEMENT" means the agreement between the Company and an Optionee that contains the terms, conditions and restrictions pertaining to his or her Option.

15.26 "SUBSIDIARY" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

ARTICLE 16. EXECUTION.

To record the adoption of the Plan by the Board, the Company has caused its duly authorized officer to execute this document in the name of the Company.

ABOVENET COMMUNICATIONS INC.

By: /s/

Title: -----

ABOVENET COMMUNICATIONS, INC.

1997 STOCK PLAN

ADOPTED ON SEPTEMBER 22, 1997

AMENDED ON JANUARY 27, 1998, MAY 20, 1998 AND JUNE 19, 1998

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ABOVENET COMMUNICATIONS, INC. 1997 STOCK PLAN

SECTION 1. ESTABLISHMENT AND PURPOSE.

The purpose of the Plan is to offer selected individuals an opportunity to acquire a proprietary interest in the success of the Company, or to increase such interest, by purchasing Shares of the Company's Stock. The Plan provides both for the direct award or sale of Shares and for the grant of Options to purchase Shares. Options granted under the Plan may include Nonstatutory Options as well as ISOs intended to qualify under Section 422 of the Code.

Capitalized terms are defined in Section 12.

SECTION 2. ADMINISTRATION.

(a) COMMITTEES OF THE BOARD OF DIRECTORS. The Plan may be administered by one or more Committees. Each Committee shall consist of two or more members of the Board of Directors who have been appointed by the Board of Directors. Each Committee shall have such authority and be responsible for such functions as the Board of Directors has assigned to it. If no Committee has been appointed, the entire Board of Directors shall administer the Plan. Any reference to the Board of Directors in the Plan shall be construed as a reference to the Committee (if any) to whom the Board of Directors has assigned a particular function.

(b) AUTHORITY OF THE BOARD OF DIRECTORS. Subject to the provisions of the Plan, the Board of Directors shall have full authority and discretion to take any actions it deems necessary or advisable for the administration of the Plan. All decisions, interpretations and other actions of the Board of Directors shall be final and binding on all Purchasers, all Optionees and all persons deriving their rights from a Purchaser or Optionee.

SECTION 3. ELIGIBILITY.

(a) GENERAL RULE. Only Employees, Outside Directors and Consultants shall be eligible for the grant of Options or the direct award or sale of Shares. Only Employees shall be eligible for the grant of ISOs.

(b) TEN-PERCENT SHAREHOLDERS. An individual who owns more than 10% of the total combined voting power of all classes of outstanding stock of the Company, its Parent or any of its Subsidiaries shall not be eligible for designation as an Optionee or Purchaser unless (i) the Exercise Price is at least 110% of the Fair Market Value of a Share on the date of grant, (ii) the Purchase Price (if any) is at least 100% of the Fair Market Value of a Share and (iii) in the case of an ISO, such ISO by its terms is not exercisable after the expiration of five years from the date of grant. For purposes of this Subsection (b), in determining stock ownership, the attribution rules of Section 424(d) of the Code shall be applied.

SECTION 4. STOCK SUBJECT TO PLAN.

(a) BASIC LIMITATION. The aggregate number of Shares that may be issued under the Plan (upon exercise of Options or other rights to acquire Shares) shall not exceed 4,497,696 Shares, subject to adjustment pursuant to Section 8(1). The number of Shares that are subject to Options or other rights outstanding at any time under the Plan shall not exceed the number of Shares that then remain available for issuance under the Plan. The Company, during the term of the Plan, shall at all times reserve and keep available sufficient Shares to satisfy the requirements of the Plan.

(b) ADDITIONAL SHARES. In the event that any outstanding Option or other right for any reason expires or is canceled or otherwise terminated, the Shares allocable to the unexercised portion of such Option or other right shall again be available for the purposes of the Plan. In the event that Shares issued under the Plan are reacquired by the Company pursuant to any forfeiture provision, right of repurchase or right of first refusal, such Shares shall again be available for the purposes of the Plan, except that the aggregate number of Shares which may be issued upon the exercise of ISOs shall in no event exceed 4,497,696 Shares (subject to adjustment pursuant to Section 8).

SECTION 5. TERMS AND CONDITIONS OF AWARDS OR SALES.

(a) STOCK PURCHASE AGREEMENT. Each award or sale of Shares under the Plan (other than upon exercise of an Option) shall be evidenced by a Stock Purchase Agreement between the Purchaser and the Company. Such award or sale shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions which are not inconsistent with the Plan and which the Board of Directors deems appropriate for inclusion in a Stock Purchase Agreement. The provisions of the various Stock Purchase Agreements entered into under the Plan need not be identical.

(b) DURATION OF OFFERS AND NONTRANSFERABILITY OF RIGHTS. Any right to acquire Shares under the Plan (other than an Option) shall automatically expire if not exercised by the Purchaser within 30 days after the grant of such right was communicated to the Purchaser by the Company. Such right shall not be transferable and shall be exercisable only by the Purchaser to whom such right was granted.

(c) PURCHASE PRICE. The Purchase Price of Shares to be offered under the Plan shall not be less than 85% of the Fair Market Value of such Shares, and a higher percentage may be required by Section 3(b). Subject to the preceding sentence, the Purchase Price shall be determined by the Board of Directors at its sole discretion. The Purchase Price shall be payable in a form described in Section 7.

(d) WITHHOLDING TAXES. As a condition to the purchase of Shares, the Purchaser shall make such arrangements as the Board of Directors may require for the satisfaction of any

 (1) Reflects increase of (i) 700,000 Shares from 1,297,696 Shares to 1,997,696 Shares approved by Board of Directors on January 27, 1998; (ii) 1,000,000 Shares approved by the Board of Directors on May 20, 1998; and (iii) 1,500,000 Shares approved by the Board of Directors on June 19, 1998.

federal, state, local or foreign withholding tax obligations that may arise in connection with such purchase.

(e) RESTRICTIONS ON TRANSFER OF SHARES AND MINIMUM VESTING. Any Shares awarded or sold under the Plan shall be subject to such special forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Board of Directors may determine. Such restrictions shall be set forth in the applicable Stock Purchase Agreement and shall apply in addition to any restrictions that may apply to holders of Shares generally. In the case of a Purchaser who is not an officer of the Company, an Outside Director or a Consultant, any right to repurchase the Purchaser's Shares at the original Purchase Price (if any) upon termination of the Purchaser's Service shall lapse at least as rapidly as 20% per year over the five-year period commencing on the date of the award or sale of the Shares. Any such right may be exercised only within 90 days after the termination of the Purchaser's Service for cash or for cancellation of indebtedness incurred in purchasing the Shares.

(f) ACCELERATED VESTING. Unless the applicable Stock Purchase Agreement provides otherwise, any right to repurchase a Purchaser's Shares at the original Purchase Price (if any) upon termination of the Purchaser's Service shall lapse and all of such Shares shall become vested if the Company is subject to a Change in Control before the Purchaser's Service terminates.

SECTION 6. TERMS AND CONDITIONS OF OPTIONS.

(a) STOCK OPTION AGREEMENT. Each grant of an Option under the Plan shall be evidenced by a Stock Option Agreement between the Optionee and the Company. Such Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions which are not inconsistent with the Plan and which the Board of Directors deems appropriate for inclusion in a Stock Option Agreement. The provisions of the various Stock Option Agreements entered into under the Plan need not be identical.

(b) NUMBER OF SHARES. Each Stock Option Agreement shall specify the number of Shares that are subject to the Option and shall provide for the adjustment of such number in accordance with Section 8. The Stock Option Agreement shall also specify whether the Option is an ISO or a Nonstatutory Option.

(c) EXERCISE PRICE. Each Stock Option Agreement shall specify the Exercise Price. The Exercise Price of an ISO shall not be less than 100% of the Fair Market Value of a Share on the date of grant, and a higher percentage may be required by Section 3(b). The Exercise Price of a Nonstatutory Option shall not be less than 85% of the Fair Market Value of a Share on the date of grant, and a higher percentage may be required by Section 3(b). Subject to the preceding two sentences, the Exercise Price under any Option shall be determined by the Board of Directors at its sole discretion. The Exercise Price shall be payable in a form described in Section 7.

(d) WITHHOLDING TAXES. As a condition to the exercise of an Option, the Optionee shall make such arrangements as the Board of Directors may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such exercise. The Optionee shall also make such arrangements as the Board of Directors may require

for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with the disposition of Shares acquired by exercising an Option.

(e) EXERCISABILITY. Each Stock Option Agreement shall specify the date when all or any installment of the Option is to become exercisable. In the case of an Optionee who is not an officer of the Company, an Outside Director or a Consultant, an Option shall become exercisable at least as rapidly as 20% per year over the five-year period commencing on the date of the grant. Subject to the preceding sentence, the exercisability provisions of any Stock Option Agreement shall be determined by the Board of Directors at its sole discretion.

(f) ACCELERATED EXERCISABILITY. Unless the applicable Stock Option Agreement provides otherwise, all of an Optionee's Options shall become exercisable in full if the Company is subject to a Change in Control before the Optionee's Service terminates.

(g) BASIC TERM. The Stock Option Agreement shall specify the term of the Option. The term shall not exceed 10 years from the date of grant, and a shorter term may be required by Section 3(b). Subject to the preceding sentence, the Board of Directors at its sole discretion shall determine when an Option is to expire.

(h) NONTRANSFERABILITY. No Option shall be transferable by the Optionee other than by beneficiary designation, will or the laws of descent and distribution. An Option may be exercised during the lifetime of the Optionee only by the Optionee or by the Optionee's guardian or legal representative. No Option or interest therein may be transferred, assigned, pledged or hypothecated by the Optionee during the Optionee's lifetime, whether by operation of law or otherwise, or be made subject to execution, attachment or similar process.

(i) TERMINATION OF SERVICE (EXCEPT BY DEATH). If an Optionee's Service terminates for any reason other than the Optionee's death, then the Optionee's Options shall expire on the earliest of the following occasions:

(i) The expiration date determined pursuant to Subsection

(g) above;

(ii) The date three months after the termination of the Optionee's Service for any reason other than Disability, or such later date as the Board of Directors may determine; or

(iii) The date six months after the termination of the Optionee's Service by reason of Disability, or such later date as the Board of Directors may determine.

The Optionee may exercise all or part of the Optionee's Options at any time before the expiration of such Options under the preceding sentence, but only to the extent that such Options had become exercisable before the Optionee's Service terminated (or became exercisable as a result of the termination) and the underlying Shares had vested before the Optionee's Service terminated (or vested as a result of the termination). The balance of such Options shall lapse when the Optionee's Service terminates. In the event that the Optionee dies after the termination of the Optionee's Service but before the expiration of the Optionee's Options, all or part of such Options may be exercised (prior to expiration) by the executors or administrators of the Optionee's estate or by any person who has acquired such Options directly from the Optionee by

beneficiary designation, bequest or inheritance, but only to the extent that such Options had become exercisable before the Optionee's Service terminated (or became exercisable as a result of the termination) and the underlying Shares had vested before the Optionee's Service terminated (or vested as a result of the termination).

(j) LEAVES OF ABSENCE. For purposes of Subsection (i) above, Service shall be deemed to continue while the Optionee is on a bona fide leave of absence, if such leave was approved by the Company in writing and if continued crediting of Service for this purpose is expressly required by the terms of such leave or by applicable law (as determined by the Company).

(k) DEATH OF OPTIONEE. If an Optionee dies while the Optionee is in Service, then the Optionee's Options shall expire on the earlier of the following dates:

(i) The expiration date determined pursuant to Subsection (g) above; or

(ii) The date 12 months after the Optionee's death.

All or part of the Optionee's Options may be exercised at any time before the expiration of such Options under the preceding sentence by the executors or administrators of the Optionee's estate or by any person who has acquired such Options directly from the Optionee by beneficiary designation, bequest or inheritance, but only to the extent that such Options had become exercisable before the Optionee's death or became exercisable as a result of the death. The balance of such Options shall lapse when the Optionee dies.

(l) NO RIGHTS AS A SHAREHOLDER. An Optionee, or a transferee of an Optionee, shall have no rights as a shareholder with respect to any Shares covered by the Optionee's Option until such person becomes entitled to receive such Shares by filing a notice of exercise and paying the Exercise Price pursuant to the terms of such Option.

(m) MODIFICATION, EXTENSION AND ASSUMPTION OF OPTIONS. Within the limitations of the Plan, the Board of Directors may modify, extend or assume outstanding Options or may accept the cancellation of outstanding Options (whether granted by the Company or another issuer) in return for the grant of new Options for the same or a different number of Shares and at the same or a different Exercise Price. The foregoing notwithstanding, no modification of an Option shall, without the consent of the Optionee, impair the Optionee's rights or increase the Optionee's obligations under such Option.

(n) RESTRICTIONS ON TRANSFER OF SHARES AND MINIMUM VESTING. Any Shares issued upon exercise of an Option shall be subject to such special forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Board of Directors may determine. Such restrictions shall be set forth in the applicable Stock Option Agreement and shall apply in addition to any restrictions that may apply to holders of Shares generally. In the case of an Optionee who is not an officer of the Company, an Outside Director or a Consultant, any right to repurchase the Optionee's Shares at the original Exercise Price upon termination of the Optionee's Service shall lapse at least as rapidly as 20% per year over the five-year period commencing on the date of the option grant. Any such repurchase right may be exercised only

cancellation of indebtedness incurred in purchasing the Shares.

(o) ACCELERATED VESTING. Unless the applicable Stock Option Agreement provides otherwise, any right to repurchase an Optionee's Shares at the original Exercise Price upon termination of the Optionee's Service shall lapse and all of such Shares shall become vested if the Company is subject to a Change in Control before the Optionee's Service terminates.

SECTION 7. PAYMENT FOR SHARES.

(a) GENERAL RULE. The entire Purchase Price or Exercise Price of Shares issued under the Plan shall be payable in cash or cash equivalents at the time when such Shares are purchased, except as otherwise provided in this Section 7.

(b) SURRENDER OF STOCK. To the extent that a Stock Option Agreement so provides, all or any part of the Exercise Price may be paid by surrendering, or attesting to the ownership of, Shares that are already owned by the Optionee. Such Shares shall be surrendered to the Company in good form for transfer and shall be valued at their Fair Market Value on the date when the Option is exercised. The Optionee shall not surrender, or attest to the ownership of, Shares in payment of the Exercise Price if such action would cause the Company to recognize compensation expense (or additional compensation expense) with respect to the Option for financial reporting purposes.

(c) SERVICES RENDERED. At the discretion of the Board of Directors, Shares may be awarded under the Plan in consideration of services rendered to the Company, a Parent or a Subsidiary prior to the award.

(d) PROMISSORY NOTE. To the extent that a Stock Option Agreement or Stock Purchase Agreement so provides, all or a portion of the Exercise Price or Purchase Price (as the case may be) of Shares issued under the Plan may be paid with a full-recourse promissory note. The Shares shall be pledged as security for payment of the principal amount of the promissory note and interest thereon. The interest rate payable under the terms of the promissory note shall not be less than the minimum rate (if any) required to avoid the imputation of additional interest under the Code. Subject to the foregoing, the Board of Directors (at its sole discretion) shall specify the term, interest rate, amortization requirements (if any) and other provisions of such note.

(e) EXERCISE/SALE. To the extent that a Stock Option Agreement so provides, and if Stock is publicly traded, payment may be made all or in part by the delivery (on a form prescribed by the Company) of an irrevocable direction to a securities broker approved by the Company to sell Shares and to deliver all or part of the sales proceeds to the Company in payment of all or part of the Exercise Price and any withholding taxes.

(f) EXERCISE/PLEDGE. To the extent that a Stock Option Agreement so provides, and if Stock is publicly traded, payment may be made all or in part by the delivery (on a form prescribed by the Company) of an irrevocable direction to pledge Shares to a securities broker or lender approved by the Company, as security for a loan, and to deliver all or part of the loan

proceeds to the Company in payment of all or part of the Exercise Price and any withholding taxes.

SECTION 8. ADJUSTMENT OF SHARES.

(a) GENERAL. In the event of a subdivision of the outstanding Stock, a declaration of a dividend payable in Shares, a declaration of an extraordinary dividend payable in a form other than Shares in an amount that has a material effect on the Fair Market Value of the Stock, a combination or consolidation of the outstanding Stock into a lesser number of Shares, a recapitalization, a spin-off, a reclassification or a similar occurrence, the Board of Directors shall make appropriate adjustments in one or more of (i) the number of Shares available for future grants under Section 4, (ii) the number of Shares covered by each outstanding Option or (iii) the Exercise Price under each outstanding Option.

(b) MERGERS AND CONSOLIDATIONS. In the event that the Company is a party to a merger or consolidation, outstanding Options shall be subject to the agreement of merger or consolidation. Such agreement, without the Optionees' consent, may provide for:

(i) The continuation of such outstanding Options by the Company (if the Company is the surviving corporation);

(ii) The assumption of the Plan and such outstanding Options by the surviving corporation or its parent;

(iii) The substitution by the surviving corporation or its parent of options with substantially the same terms for such outstanding Options; or

(iv) The cancellation of such outstanding Options without payment of any consideration.

(c) RESERVATION OF RIGHTS. Except as provided in this Section 8, an Optionee or Purchaser shall have no rights by reason of (i) any subdivision or consolidation of shares of stock of any class, (ii) the payment of any dividend or (iii) any other increase or decrease in the number of shares of stock of any class. Any issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number or Exercise Price of Shares subject to an Option. The grant of an Option pursuant to the Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets.

SECTION 9. SECURITIES LAW REQUIREMENTS.

(a) GENERAL. Shares shall not be issued under the Plan unless the issuance and delivery of such Shares comply with (or are exempt from) all applicable requirements of law, including (without limitation) the Securities Act of 1933, as amended, the rules and regulations promulgated thereunder, state securities laws and regulations, and the regulations of any stock exchange or other securities market on which the Company's securities may then be traded.

(b) FINANCIAL REPORTS. The Company each year shall furnish to Optionees, Purchasers and shareholders who have received Stock under the Plan its balance sheet and income statement, unless such Optionees, Purchasers or shareholders are key Employees whose duties with the Company assure them access to equivalent information. Such balance sheet and income statement need not be

audited.

SECTION 10. NO RETENTION RIGHTS.

Nothing in the Plan or in any right or Option granted under the Plan shall confer upon the Purchaser or Optionee any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Company (or any Parent or Subsidiary employing or retaining the Purchaser or Optionee) or of the Purchaser or Optionee, which rights are hereby expressly reserved by each, to terminate his or her Service at any time and for any reason, with or without cause.

SECTION 11. DURATION AND AMENDMENTS.

(a) TERM OF THE PLAN. The Plan, as set forth herein, became effective when adopted by the Board of Directors on September 22, 1997. The Plan was approved by the Company's shareholders on December 1, 1997. On January 27, 1998, the Board of Directors adopted an increase in the number of Shares issuable over the term of the Plan, from 1,297,696 Shares to 1,997,696 Shares, which was approved by the Company's shareholders on February 14, 1998. On May 20, 1998, the Board of Directors adopted an increase in the number of Shares issuable over the term of the Plan from 1,997,696 Shares to 2,997,696 Shares. On June 19, 1998, the Board of Directors adopted an increase in the number of Shares issuable over the term of the Plan from 2,997,696 Shares to 4,497,696 Shares. The Company's shareholders approved both the May 20 and the June 19 increases on June 25, 1998. The Plan shall terminate automatically 10 years after its adoption by the Board of Directors and may be terminated on any earlier date pursuant to Subsection (b) below.

(b) RIGHT TO AMEND OR TERMINATE THE PLAN. The Board of Directors may amend, suspend or terminate the Plan at any time and for any reason; provided, however, that any amendment of the Plan which increases the number of Shares available for issuance under the Plan (except as provided in Section 8), or which materially changes the class of persons who are eligible for the grant of ISOs, shall be subject to the approval of the Company's shareholders. Shareholder approval shall not be required for any other amendment of the Plan.

(c) EFFECT OF AMENDMENT OR TERMINATION. No Shares shall be issued or sold under the Plan after the termination thereof, except upon exercise of an Option granted prior to such termination. The termination of the Plan, or any amendment thereof, shall not affect any Share previously issued or any Option previously granted under the Plan.

SECTION 12. DEFINITIONS.

(a) "BOARD OF DIRECTORS" shall mean the Board of Directors of the Company, as constituted from time to time.

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(b) "CHANGE IN CONTROL" shall mean:

(i) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if more than 50% of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or other reorganization is owned by persons who were not shareholders of the Company immediately prior to such merger, consolidation or other reorganization;

or

(ii) The sale, transfer or other disposition of all or substantially all of the Company's assets.

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(c) "CODE" shall mean the Internal Revenue Code of 1986, as amended.

(d) "COMMITTEE" shall mean a committee of the Board of Directors, as described in Section 2(a).

(e) "COMPANY" shall mean AboveNet Communications, Inc., a California corporation.

(f) "CONSULTANT" shall mean a person who performs bona fide services for the Company, a Parent or a Subsidiary as a consultant or advisor, excluding Employees and Outside Directors.

(g) "DISABILITY" shall mean that the Optionee is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment.

(h) "EMPLOYEE" shall mean any individual who is a common-law employee of the Company, a Parent or a Subsidiary.

(i) "EXERCISE PRICE" shall mean the amount for which one Share may be purchased upon exercise of an Option, as specified by the Board of Directors in the applicable Stock Option Agreement.

(j) "FAIR MARKET VALUE" shall mean the fair market value of a Share, as determined by the Board of Directors in good faith. Such determination shall be conclusive and binding on all persons.

(k) "ISO" shall mean an employee incentive stock option described in Section 422(b) of the Code.

(l) "NONSTATUTORY OPTION" shall mean a stock option not described in Sections 422(b) or 423(b) of the Code.

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(m) "OPTION" shall mean an ISO or Nonstatutory Option granted under the Plan and entitling the holder to purchase Shares.

(n) "OPTIONEE" shall mean an individual who holds an Option.

(o) "OUTSIDE DIRECTOR" shall mean a member of the Board of Directors who is not an Employee.

(p) "PARENT" shall mean any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as

of such date.

(q) "PLAN" shall mean this AboveNet Communications, Inc. 1997 Stock Plan.

(r) "PURCHASE PRICE" shall mean the consideration for which one Share may be acquired under the Plan (other than upon exercise of an Option), as specified by the Board of Directors.

(s) "PURCHASER" shall mean an individual to whom the Board of Directors has offered the right to acquire Shares under the Plan (other than upon exercise of an Option).

(t) "SERVICE" shall mean service as an Employee, Outside Director or Consultant.

(u) "SHARE" shall mean one share of Stock, as adjusted in accordance with Section 8 (if applicable).

(v) "STOCK" shall mean the Common Stock of the Company.

(w) "STOCK OPTION AGREEMENT" shall mean the agreement between the Company and an Optionee which contains the terms, conditions and restrictions pertaining to the Optionee's Option.

(x) "STOCK PURCHASE AGREEMENT" shall mean the agreement between the Company and a Purchaser who acquires Shares under the Plan which contains the terms, conditions and restrictions pertaining to the acquisition of such Shares.

(y) "SUBSIDIARY" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

SECTION 13. EXECUTION.

To record the amendment and restatement of the Plan by the Board of Directors, the Company has caused its authorized officer to execute the same.

ABOVENET COMMUNICATIONS, INC.

By: /s/

Title:

ABOVENET COMMUNICATIONS, INC.

1996 STOCK OPTION PLAN

1. PURPOSE

The AboveNet Communications, Inc. 1996 Stock Option Plan (the "Plan") is intended to provide to officers, directors, key employees and consultants of the corporation an opportunity to acquire a proprietary interest in the corporation, to encourage such key individuals to remain in the employ of or to contract with the corporation, and to attract and retain new employees, consultants, and directors with outstanding qualifications. Pursuant to the Plan, the corporation may grant to officers, directors, consultants, and key employees of the corporation options to purchase shares of common stock of the corporation upon such terms and conditions as provided herein.

2. DEFINITIONS

(a) "Affiliate" shall mean any corporation (other than the Corporation) in an unbroken chain of corporations that includes the Corporation if each of such corporations, other than the last corporation in the chain, owns at least 50% of the total voting power of one of the other corporations.

(b) "Board" shall mean the Board of Directors of the corporation.

(c) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(d) "Committee" shall mean the committee appointed by the Board to administer the Plan, or if no such committee is appointed, the Board.

(e) "Common Stock" shall mean the voting common stock of the Corporation.

(f) "Consultant" shall mean any person who, or any employee of any firm which, is engaged by the Company or any Affiliate to render consulting, services and is compensated for such consulting services, and any non-employee director of the Company whether compensated for such services or not.

(g) "Cooperation" shall mean AboveNet Communications, Inc., a California corporation.

(h) "Director" means a member of the Corporation's Board of Directors.

(i) "Effective Date" shall mean March 8, 1996.

(j) "Employee" shall mean any individual who is employed, within the meaning of Section 3401 of the Code and the regulations thereunder, by the Corporation or by any Affiliate. For purposes of the Plan and only for purposes of the Plan, and in regard to Nonstatutory Stock Options but not for Incentive Stock Options, a Consultant or director of the Corporation or any Affiliate shall be deemed to be an Employee, and service as a Consultant or director with the Corporation or any Affiliate shall be deemed to be employment, but no Incentive Stock Option shall be granted to a Consultant or director who is not an employee of the Corporation or any Affiliate within the meaning of Section 3401 of the Code and the regulations thereunder. In the case of a non-employee director or Consultant, the provisions governing when a termination of employment has occurred for purposes of the Plan shall be set forth in the written stock option agreement between the Optionee and the corporation, or, if not so set forth, the Committee shall have the discretion to determine when a termination of "employment" has occurred for purposes of the Plan.

(k) "Escrow Agent" shall mean the person selected by the Corporation, if any, to hold the stock certificates representing Shares issued in the name of an Optionee pursuant to such Optionee's exercise of an Option.

(l) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(m) "Exercise Price" shall mean the price per Share at which an Option may be exercised, as determined by the Committee and as specified in the Optionee's stock option agreement.

(n) "Fair Market Value" shall mean the value of each Share as determined by the Board.

(o) "Incentive Stock Option" shall mean an Option of the type described in Section 422(b) of the Code.

(p) "Joint Escrow Instructions" shall mean joint escrow instructions entered into between Optionee and the Corporation in such form as may be approved by the Committee from time to time.

(q) "Nonstatutory Stock Option" shall mean an Option of the type not described in Section 422(b) or 423(b) of the Code.

(r) "Option" shall mean an option to purchase Common Stock granted pursuant to the Plan.

(s) "Optionee" shall mean any person who holds an Option pursuant to the Plan.

(t) "Plan" shall mean this stock option plan as it may be amended from time to time.

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(u) "Purchase Price" shall mean at any particular time the Exercise Price times the number of Shares for which an Option is being exercised.

(v) "Share" shall mean one share of authorized Common Stock.

3. ADMINISTRATION

(a) The Committee.

(i) The Board may administer the Plan or appoint a Committee to administer the Plan. The Committee shall consist of not less than two members who may also be members of the Board. Members of the Board or the Committee who are either eligible for Options or have been granted Options may vote on any matters affecting the administration of the Plan or the grant of any Options pursuant to the Plan, except that no such member shall act upon the granting of an Option to himself or herself, but any such member may be counted in determining the existence of a quorum at any meeting of the Committee and shall be excluded in determining unanimity of an act in writing, for any action which is taken with respect to the granting of an Option to such member.

(ii) If the Corporation registers any class of any equity security pursuant to Section 12 of the Exchange Act from the effective date of such registration until six months after the termination of such registration, the Plan shall be administered by a Committee of directors which shall consist of not less than two members, who during the one year prior to service as an administrator of the Plan, shall not have been granted or awarded equity securities pursuant to the Plan or any other plan of the Corporation or any of its Affiliates except as permitted under Rule 16b-3 under the Exchange Act which provides that participation in a formula plan meeting the conditions of Rule 16(b)(3)(c)(2)(ii) or in an ongoing securities acquisition plan meeting the conditions in Rule 16(b)(3)(d)(2)(i) shall not disqualify a member of the Committee from serving as an administrator of the Plan. In addition, an election to receive an annual retainer fee in either cash or an equivalent amount of securities, or partly in cash and partly in securities, shall not disqualify a member of the Committee from serving as an administrator of the Plan.

The Board may from time to time designate individuals as ineligible to participate in the Plan for a specified period in order to become eligible to be a member of the Committee.

(b) Powers of the Committee

Subject to the provisions of the Plan, the Committee shall have the authority, in its discretion and on behalf of the Corporation:

(i) to grant Options;

(ii) to determine the Exercise Price per Share Options to be granted;

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(iii) to determine the Employees to whom, and the time or times at which, Options shall be granted and the number of Shares for which an Option will be exercisable;

(iv) to interpret the Plan;

(v) to prescribe, amend, and rescind rules and regulations relating to the Plan;

(vi) to determine the terms and provisions of each Option granted and, with the consent of the holder thereof, modify or amend each Option;

(vii) to authorize any person to execute on behalf of the Corporation any instrument required to effectuate the grant of an Option previously granted by the Committee;

(viii) with the consent of the Optionee, to reprice, cancel and regrant, or otherwise adjust the Exercise Price of an Option previously granted by the Committee; and

(ix) to make all other determinations deemed necessary or advisable for the administration of the Plan.

(c) Board's Determination of Fair Market Value.

The Board shall have the authority to determine, upon review of relevant information, the Fair Market Value of the Common Stock, subject to the provisions of the Plan and irrespective of whether the Board has appointed a Committee to administer the Plan. The Board may delegate this authority to the Committee.

(d) Committee's Interpretation of the Plan.

The interpretation and construction by the Committee of any provision of the Plan or of any Option granted hereunder shall be final and binding on all

parties claiming an interest in an Option granted under the Plan. No member of the Committee shall be liable for any action or determination made in good faith with respect to the Plan or any Option.

(e) All Committee Actions to be in Writing.

Any and all actions of the Committee taken in exercise of the powers granted to it in this Section 3 shall be in writing.

4. PARTICIPATION

(a) Eligibility.

The optionees shall be such persons as the Committee may select from among the Employees, provided that Consultants are not eligible to receive Incentive Stock Options.

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(b) Ten Percent Shareholders.

Any Employee who owns Stock possessing more than 10% of the total combined voting power of all classes of outstanding stock of the Corporation or any Affiliate shall not be eligible to receive an Option unless:

(i) the Exercise Price of the Shares subject to such Option when granted is at least 110% of the Fair Market Value of such Shares, and

(ii) such Option by its terms is not exercisable after the expiration of five years from the date of grant.

(c) Stock Ownership.

For purposes of Paragraph 4(b), in determining stock ownership, an Employee shall be considered as owning the stock owned, directly or indirectly, by or for his or her brothers and sisters, spouse, ancestors, and lineal descendants. Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries, respectively. Stock with respect to which such Employee or any other person holds an option shall be disregarded.

(d) Outstanding Stock.

For purposes of Section 4(b), the term "outstanding stock" shall include all stock actually issued and outstanding immediately after the grant of the Option to the Optionee but shall not include any share for which an Option

is exercisable by any person.

5. STOCK

(a) Shares Subject to This Plan.

The aggregate number of Shares which may be issued upon exercise of Options under the Plan shall not exceed Ten Million (10,000,000), subject to adjustment pursuant to Section 9 hereof.

(b) Options Not to Exceed Shares Available.

The number of Shares for which an Option is exercisable at any time shall not exceed the number of Shares remaining available for issuance under the Plan. If any Option expires or is terminated, the number of Shares for which such Option was exercisable may be made exercisable pursuant to other Options under the Plan. If the Corporation reacquires any Shares pursuant to Sections 11 or 12, hereof, such Shares may again be made exercisable pursuant to an Option. The limitations established by this Section 5(b) shall be subject to adjustment in the manner provided in Section 9 hereof upon the occurrence of an event specified therein.

6. TERMS AND CONDITIONS OF OPTIONS.

(a) Stock Option Agreements.

Options shall be evidenced by written stock option agreements between the Optionee and the Corporation in such form as the Committee shall from time to time determine. No Option or purported Option shall be a valid and binding obligation of the Corporation unless so evidenced in writing.

(b) Number of Shares.

Each stock option agreement shall state the number of Shares for which the Option is exercisable and shall provide for the adjustment thereof in accordance with Section 9 hereof.

(c) Vesting.

An Optionee may not exercise his or her Option for any Shares until the Option, in regard to such Shares, has vested. Each stock option agreement shall include a vesting schedule which shall show when the Option becomes exercisable provided, each Option shall vest at a rate of at least twenty-five percent (25%) per year over a period of four (4) years. The vesting schedule shall not impose upon the Corporation or any Affiliate any obligation to retain the Optionee in

its employ or under contract for any period or otherwise change the employment-at-will status of an Optionee who is an employee of the Corporation or any Affiliate. The Committee may elect a shorter vesting period for non-qualified stock option.

(d) Lapse of Options.

Each stock option agreement shall state the time or times when the option covered thereby lapses and becomes unexercisable in part or in full. An Option shall lapse on the earliest of the following events (unless otherwise determined by the Committee and reflected in an option agreement):

(i) The tenth anniversary of the date of granting the Option;

(ii) The first anniversary of the Optionee's death;

(iii) The first anniversary of the date the Optionee ceases to be an Employee due to total and permanent disability, within the meaning of Section 22(e) (3) of the Code;

(iv) On the date provided in Section 6(h) (i), unless with respect to a Nonstatutory Stock Option, the Committee otherwise extends such period before the applicable expiration date;

(v) On the date provided in Section 9 for a transaction described in such Section;

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(vi) The date the Optionee files or has filed against him or her a petition in bankruptcy; or

(vii) The expiration date specified in an Optionee's stock option agreement.

(e) Exercise Price.

Each stock option agreement shall state the Exercise Price for the Shares for which the Option is exercisable. Subject to Section 4(b), the Exercise Price of an Incentive Stock Option and a Nonstatutory Stock Option shall, when granted, be not less than 100% and 85% of the Fair Market Value of the Shares for which the Option is exercisable, respectively, and not less than the par value of the Shares.

(f) Medium and Time Of Payment.

The Purchase Price shall be payable In full in cash upon the exercise of an Option but the Committee may allow the Optionee to pay the Purchase Price:

(i) by surrendering Shares in good form for transfer, owned by the Optionee and having a Fair Market Value on the date of exercise equal to the Purchase Price;

(ii) by delivery of a full recourse promissory note ("Note") made by the Optionee in the amount of the Purchase Price, bearing interest, compounded semiannually, at a rate not less than the rate determined under Section 7872 of the Code to insure that no "foregone interests," as defined in such section, will accrue, together with the delivery of a duly executed standard form security agreement securing the Note by a pledge of the Shares purchased; or

(iii) in any combination of such consideration or such other consideration and method of payment for the issuance of Shares to the extent permitted under applicable law as long as the sum of the cash so paid, the Fair Market Value of the Shares so surrendered, and the amount of any Note equals the Purchase Price.

The Committee or a stock option agreement may prescribe requirements with respect to the exercise of Options, including the submission by the Optionee of such forms and documents as the Committee may require and, the delivery by the Optionee of cash sufficient to satisfy applicable withholding requirements. The Committee may vary the exercise requirements and procedures from time to time to facilitate, for example, the broker-assisted exercise of Options.

(g) Nontransferability of Options.

During the lifetime of the Optionee, the Option shall be exercisable only by the Optionee or the Optionee's conservator or legal representative and shall not be assignable or transferable except pursuant to a qualified domestic relations order as defined by the Code. In the event of the Optionee's death, the Option shall not be transferable by the Optionee other than by will or the laws of descent and distribution.

(h) Termination of Employment Other than by Death or Disability.

(i) If an Optionee ceases to be an Employee for any reason other than his or her death or disability, the Optionee shall have the right, subject to the provisions of titles Section 6, to exercise any option held by the Optionee at any time within ninety (90) days after his or her termination of employment, but not beyond the otherwise applicable term of the Option and only to the extent that on such date of termination of employment the Optionee's

right to exercise such Option had vested.

(ii) For purposes of this Section 6(h), the employment relationship shall be treated as continuing intact while the Optionee is an active employee of the Corporation or any Affiliate, or is on military leave, sick leave, or other bona fide leave of absence to be determined in the sole discretion of the Committee. The preceding sentence notwithstanding, in the case of an Incentive Stock option, employment shall be deemed to terminate on the date the Optionee ceases active employment with the Corporation or any Affiliate, unless the Optionee's reemployment rights are guaranteed by statute or contract.

(i) Death of Optionee.

If an Optionee dies while an Employee, or after ceasing to be an Employee but during the period while he or she could have exercised an Option under Section 6(h), any Option granted to the Optionee may be exercised, to the extent it had vested at the time of death and subject to the Plan, at any time within 12 months after the Optionee's death, by the executors or administrators of his or her estate or by any person or persons who acquire the option by will or the laws of descent and distribution, but not beyond the otherwise applicable term of the Option.

(j) Disability of Optionee.

If an Optionee ceases to be an Employee due to becoming disabled, any Option granted to the Optionee may be exercised to the extent it had vested at the time of cessation and, subject to the Plan, at any time within 12 months after the Optionee's termination of employment, but not beyond the otherwise applicable term of the option.

(k) Rights as a Shareholder.

An Optionee, or a transferee of an Optionee, shall have no rights as a shareholder of the Corporation with respect to any Shares for which his or her Option is exercisable until the date of the issuance of a stock certificate for such Shares. No adjustment shall be made for dividends, ordinary or extraordinary or whether in currency, securities, or other property, distributions, or other rights for which the record date is prior to the date such stock certificate is issued, except as provided in Section 9 hereof.

(l) Modification, Extension and Renewal of Options.

Within the limitations of the plan, the Committee may modify, extend or renew outstanding Options or accept the cancellation of outstanding Options for the granting of new Options in substitution therefor. Notwithstanding the preceding sentence, no modification of an

Option shall, without the consent of the Optionee, alter or impair any rights or obligations under any Option previously granted.

(m) Other Provisions.

The stock option agreements authorized under the Plan may contain such other provisions which are not inconsistent with the terms of the Plan, including, without limitation, restrictions upon the exercise of the Option, as the Committee shall deem advisable.

7. \$100,000 PER YEAR LIMITATION ON VESTING OF ISOs.

To the extent that the Fair Market Value of Shares (determined for each Share as of the date of grant of the Option covering such Share) subject to Options granted under this Plan (or any other plan of the Corporation or any Affiliate) which are designated as Incentive Stock Options and which become exercisable by an Optionee for the first time during a single calendar year exceeds \$100,000, the Option(s) (or portion thereof) covering such Shares shall be recharacterized (to the extent of such excess over \$100,000) as a Nonstatutory Stock Option. In determining which Option(s) shall be treated as Nonstatutory Stock Options under the preceding sentence, the Options shall be taken into account in the order granted, with the result that a later granted Option shall be recharacterized as a Nonstatutory Stock Option prior to such recharacterization of a previously granted Option.

8. TERM OF PLAN.

Options may be granted pursuant to the Plan until ten years following the Effective Date, and all Options which are outstanding on such date shall remain in effect until they are exercised or expire by their terms. The Plan shall expire for all purposes on the date 20 years following the Effective Date.

9. RECAPITALIZATION, TAKEOVERS, AND LIQUIDATIONS.

(a) Reorganizations.

The number of Shares covered by the Plan, as provided in Section 5 hereof, and the number of Shares for which each Option is exercisable shall be proportionately adjusted for any increase or decrease in the number of issued Shares resulting from the payment of a Common Stock dividend, a stock split, a reverse stock split or any other event which results in an increase or decrease in the number of issued Shares effected without receipt of consideration by the Corporation, and the Exercise Price shall be proportionately increased in the event the number of Shares subject to such option are decreased and shall be proportionately decreased in the event the number of Shares subject to such Option are increased. For the purposes of this paragraph, conversion of any convertible securities of the Corporation shall not be deemed to have been

"effected without receipt of consideration." Adjustments shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Corporation of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

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(b) Liquidation.

In the event of the dissolution or liquidation of the Corporation, each Option shall terminate immediately prior to the consummation of such action. The Committee shall notify the Optionee not less than thirty (30) days prior to the proposed consummation of a pending dissolution or liquidation, and the Option shall be exercisable as to all Shares which are vested prior to expiration until immediately prior to the consummation of such action.

(c) Merger.

In the event of (i) a proposed merger of the Corporation with or into another corporation, as a result of which the Corporation is not the surviving corporation and (ii) the Option is not assumed or an equivalent option substituted by the successor corporation or a parent or subsidiary of the successor corporation, then in such case each Option shall terminate immediately prior to the consummation of such transaction. The Committee shall notify the Optionee not less than fifteen (15) days prior to the proposed consummation of such transaction, and the Option shall be exercisable as to all Shares which are vested prior to expiration and until immediately prior to the consummation of such transaction.

(d) Determination by Committee.

All adjustments described in this Section 9 shall be made by the Committee, whose determination shall be conclusive and binding on all persons.

(e) Limitation on Rights of Optionee.

Except as expressly provided in this Section 9, no Optionee shall have any rights by reason of any payment of any stock dividend, stock split or reverse stock split or any other increase or decrease in the number of shares of stock of any class, or by reason of any reorganization, consolidation, dissolution, liquidation, merger, exchange, split-up or reverse split-up, or spin-off of assets or stock of another corporation. Any issuance by the Corporation of Shares, Options or securities convertible into Shares or Options shall not affect, and no adjustment by reason thereof shall be made with respect

to, the number or Exercise Price of the Shares for which an Option is exercisable. Notwithstanding the foregoing, if the Corporation shall enter into a transaction affecting the Corporation's capital stock or distributions to the holders of its capital stock for which a revision in the terms of each Option is not required pursuant to this Section 9, the Committee shall have the right, but not the obligation, to revise the terms of each option in a manner the Committee, in its sole discretion, deems fair and reasonable given the transaction involved. If necessary or appropriate in connection with such transaction, the Committee may declare that any Option shall terminate as of a date fixed by the Committee and give each Optionee the right to exercise his Option in whole or in part, including exercise as to Shares to which the Option would not otherwise be exercisable.

(f) No Restriction on Rights of Corporation.

The grant of an Option shall not affect or restrict in any way the right or power of the Corporation to make adjustments, reclassifications, reorganizations, or changes of its capital

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or business structure, or to merge or consolidate, or to dissolve, liquidate, sell, or transfer all or any part of its business or assets.

10. SECURITIES LAW REQUIREMENTS.

(a) Legality of Issuance.

No Share shall be issued upon the exercise of any Option unless and until the Corporation was determined that:

(i) The Corporation and the Optionee have taken all actions required to exempt the issuance of the Shares from the registration requirements under the Securities Act of 1933, as amended (the "Act"), or the Corporation and the Optionee shall determine that the registration requirements of the Act do not apply to such exercise;

(ii) Any applicable listing requirement of any stock exchange on which the Common Stock is listed has been satisfied; and

(iii) Any other applicable provision of state or Federal law has been satisfied.

(b) Restrictions on Transfer: Representations of Optionee: Legends.

Regardless of whether the offering and sale of Shares has been registered under the Act or has been registered or qualified under the securities laws of any state, the Corporation may impose restrictions upon the sale, pledge, or other -transfer of such Shares, including the placement of appropriate legends on stock certificates, if, in the judgment of the Corporation and its counsel, such restrictions are necessary or desirable in order to achieve compliance with the provisions of the Act, the securities laws of any state, or any other law. If the sale of Shares is not registered under the Act and the Corporation shall determine that the registration requirements of the Act apply to such sale, but an exemption is available which requires an investment representation or other representation, the Optionee shall be required, as a condition to purchasing Shares by exercise of his or her Option, to represent that such Shares are being acquired for investment, and not with a view to the sale or distribution thereof, except in compliance with the Act, and to make such other representations as are deemed necessary or appropriate by the Corporation and its counsel. Stock certificates evidencing Shares acquired pursuant to an unregistered transaction to which the Act applies shall bear a restrictive legend substantially in the following form and such other restrictive legends as are required or deemed advisable under the Plan or the provisions of any applicable law:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE. THESE SHARES HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO OR FOR SALE IN CONNECTION WITH ANY DISTRIBUTION THEREOF, AND MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION UNDER THE ACT AND/OR QUALIFICATION UNDER ANY APPLICABLE STATE SECURITIES LAWS, OR

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WITHOUT AN OPINION OF COUNSEL ACCEPTABLE TO THE CORPORATION AND ITS COUNSEL THAT SUCH REGISTRATION OR QUALIFICATION IS NOT REQUIRED."

The Corporation shall also place legends on stock certificates representing its right of repurchase under Section 11 hereof and the right of first refusal under Section 12 hereof. Any determination by the Corporation and its counsel in connection with any of the matters set forth in this Section 10 shall be conclusive and binding on all.

(c) Registration or Qualification of Securities.

The Corporation may, but shall not be obligated to, register or qualify the sale of Shares under the Act or any other applicable law. In connection with

any such registration or qualification, the Corporation shall provide each Optionee with such information required pursuant to all applicable laws and regulations.

(d) Exchange of Certificates.

If, in the opinion of the Corporation and its counsel, any legend placed on a stock certificate representing Shares sold hereunder is no longer required, the Optionee or the holder of such certificate shall be entitled to exchange such certificate for a certificate representing the same number of Shares but lacking such legend.

11. RIGHT OF FIRST REFUSAL.

(a) Right of First Refusal.

At the Committee's discretion, Shares issued pursuant to the exercise of an Option may be subject to a requirement that if an Optionee proposes to sell, pledge, or otherwise transfer any Shares acquired pursuant to exercise of an Option, or any interest in such Shares, to any person or entity, the Corporation shall have a right of first refusal (the "Right of First Refusal") with respect to such Shares. Any Optionee desiring to transfer Shares subject to the Right of First Refusal shall give a written notice (the "Transfer Notice") to the Corporation describing fully the proposed transfer, including the number of Shares proposed to be transferred, the proposed transfer price, and the name and address of the proposed transferee. The Transfer Notice shall be signed both by the Optionee and by the proposed transferee and must constitute a binding commitment of both parties to the transfer of the Shares. The Corporation shall have the right to purchase the Shares subject to the Transfer Notice on the terms of the proposal referred to in the Transfer Notice, subject to any change in such terms permitted under Section 12(a) hereof, by delivery of a notice of exercise of the Right of First Refusal within 30 days after the date the Transfer Notice is received by the Corporation. The Corporation's rights under this Section 12(a) shall be freely assignable, in whole or in part.

(b) Transfer of Shares.

If the Corporation fails to exercise the Right of First Refusal within 30 days after the date on which it receives the Transfer Notice, the Optionee may, not later than six months following receipt of the Transfer Notice by the Corporation, consummate a transfer of the Shares subject to the Transfer Notice on the terms and conditions described in the Transfer Notice. Any

proposed transfer on terms and conditions different from those described in the

Transfer Notice, as well as any subsequent proposed transfer by the Optionee, shall again be subject to the Right of First Refusal and shall again require compliance with the procedure described in Section 12(a). If the Corporation exercises its Right of First Refusal, the Optionee shall immediately endorse and deliver to the Corporation every stock certificate representing the Shares being purchased, and the Corporation shall then promptly pay the purchase price in accordance with the terms set forth in the Transfer Notice.

(c) Repurchase Payment.

The amount payable to an Optionee pursuant to the Corporation's exercise of the right of First Refusal shall be paid to the Optionee in accordance with the terms and conditions of the Transfer Notice or may, at the election of the Corporation, be paid in full in cash.

(d) Binding Effect.

The Corporation's Right of First Refusal shall inure to the benefit of its successors and assigns and shall be binding upon any transferee of the Shares, other than a transferee acquiring Shares in a transaction with respect to which the Corporation failed to exercise its Right of First Refusal (a "Free Transferee") or a transferee of a Free Transferee.

(e) Termination of Right of First Refusal.

Notwithstanding any other provision of this Section 12, if the Common Stock is listed on any United States securities exchange or traded on any formal over-the-counter market in general use in the United States at the time the Optionee desires to transfer his or her Shares, the Corporation shall no longer have the Right of First Refusal, and the Optionee shall have no obligation to comply with this Section 12.

12. EXERCISE OF UNVESTED OPTIONS.

The Committee may grant any Optionee the right to exercise any Option prior to the complete vesting of such Option. Without limiting the generality of the foregoing, the Committee may provide that if an Option is exercised prior to having completely vested, the Shares issued upon such exercise shall remain subject to vesting at the same rate as under the Option so exercised and shall be subject to a right, but not an obligation, of repurchase by the Corporation with respect to all unvested Shares if the Optionee ceases to be an Employee for any reason. For the purposes of facilitating the enforcement of any such right of repurchase, at the request of the Committee, the Optionee shall enter into the Joint Escrow Instructions with the Corporation and deliver every certificate for his or her unvested Shares with a stock power executed in blank by the Optionee and by the optionee's spouse, if required for transfer.

13. AMENDMENT OF THE PLAN.

The Board or the Committee may, from time to time, terminate, suspend or discontinue the Plan, in whole or in part, or revise or amend it in any

respect whatsoever including, but not limited to, the adoption of any amendment(s) deemed necessary or advisable to qualify the Options under rules and regulations promulgated by the Securities and Exchange

Commission with respect to Employees who are subject to the provisions of Section 15 of the Securities Exchange Act of 1934, as amended, or to correct any defect or supply any omission or reconcile any inconsistency in the Plan or in any option granted thereunder, without approval of the shareholders of the Corporation, but without the approval of the Corporation's shareholders, no such revision or amendment shall:

(i) Increase the number of Shares subject to the Plan, other than any increase pursuant to Section 9;

(ii) Materially modify the requirements as to eligibility for participation in the Plan;

(iii) Materially increase the benefits accruing to Optionees under the Plan;

(iv) Extend the term of the Plan; or

(v) Amend this Section 14 to defeat its purpose.

No amendment, termination or modification of the Plan shall affect any Option theretofore granted in any material adverse way without the consent of the Optionee.

14. APPLICATION OF FUNDS.

The proceeds received by the Corporation from the sale of Common Stock pursuant to the exercise of an Option shall be used for general corporate purposes.

15. APPROVAL OF SHAREHOLDERS.

The Plan shall be subject to approval by the affirmative vote of the holders of a majority of all classes of the outstanding shares present and entitled to vote at the first meeting of shareholders of the Corporation following the adoption of the Plan or by written consent, and in no event later than one (1) year following the Effective Date. Prior to such approval, Options may be granted but shall not be exercisable. And amendment described in Section 13 (i) to (iv) shall also be subject to approval by the Corporation's shareholders.

16. WITHHOLDING OF TAXES.

In the event the Corporation or a Affiliate determines that it is required to withhold federal, state, or local taxes in connection with the exercise of an Option or the disposition of Shares issued pursuant to the exercise of an Option, the Optionee or any person succeeding to the rights of the Optionee, as a condition to such exercise or disposition, may be required to make arrangements satisfactory to the Corporation or the Affiliate to enable it to satisfy such withholding requirements.

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17. RIGHTS AS AN EMPLOYEE.

Neither the Plan nor any Option granted pursuant thereto shall be construed to give any person the right to remain in the employ of the Corporation or any Affiliate, or to affect the right of the Corporation or any Affiliate to terminate such individual's employment at any time with or without cause. The grant of an Option shall not entitle the Optionee to, or disqualify the Optionee from, participation in the grant of any other Option under the Plan or participation in any other benefit plan maintained by the Corporation or any Affiliate.

18. DISAVOWAL OF REPRESENTATIONS, UNDERTAKINGS OR CREATION OF IMPLIED RIGHTS.

In adopting and maintaining this Plan and granting options hereunder, neither the Corporation nor any Affiliate makes any representations or undertakings with respect to the initial qualification or treatment of Options under federal or state tax or securities laws. The Corporation and each Affiliate expressly disavows the creation of any rights in Employees, Optionees, or beneficiaries of any obligations on the part of the Corporation, any Affiliate or the Committee, except as expressly provided herein.

19. INSPECTION OF RECORDS.

Copies of the Plan, records reflecting each Optionee's Option, and any other documents and records which an Optionee is entitled by law to inspect shall be open to inspection by the Optionee and his or her duly authorized representative at the office of the Committee at any reasonable business hour.

20. INFORMATION TO OPTIONEES.

Each Optionee shall be provided with such information regarding the Corporation as the Committee from time to time deems necessary or appropriate; provided however, that each Optionee shall at all times be provided with such information as is required to be provided from time to time pursuant to applicable regulatory requirements, including, but not limited, any applicable

requirements of the Securities and Exchange Commission, the California Department of Corporations and other state securities agencies.

EXHIBIT A

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED, OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR AN OPINION OF COUNSEL, SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED.

NONSTATUTORY STOCK OPTION AGREEMENT

This Stock Option Agreement is made and entered into this _____ day of _____, 1996, pursuant to the AboveNet Communications, Inc. 1996 Stock Option Plan (the "Plan"). The Committee administering the Plan has selected _____ ("the Optionee") to receive the following grant of a nonstatutory stock option ("Stock Option") to purchase shares of the common stock of AboveNet Communications, Inc. (the "Corporation"), on the terms and conditions set forth below to which Optionee accepts and agrees:

1. Stock Options Granted:

No. of Shares Subject to Option _____

Date of Grant _____

Vesting Commencement Date _____

Exercise Price Per Share _____

Expiration Date _____

2. The Stock Option is granted pursuant to the Plan to purchase the number of shares of authorized but unissued common stock of the Corporation specified in Section 1 hereof (the "Shares"). The Stock Option shall expire, and all rights to exercise it shall terminate on the Expiration Date, except that the Stock Option may expired earlier as provided in the Plan. The number of shares subject to the Stock Option granted hereunder shall be adjusted as provided in the Plan. This Stock Option is intended by the Corporation and the Optionee to be a Nonstatutory Stock Option and does not qualify for any special tax benefits to the Optionee and is not subject to Section 7 of the Plan.

3. The Stock Option shall be exercisable in all respects in accordance

with the terms of the Plan which are incorporated herein by this reference. Optionee acknowledges having received and read a copy of the Plan. All shares of the Corporation's common stock issued pursuant to the exercise of this Stock Option shall be subject to the Corporation's Right of First Refusal as set forth in Section 11 of the Plan.

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4. Optionee shall have the right to exercise the Stock Option in accordance with the following schedule:

(a) The Stock option may not be exercised in when or in part at any time prior to the end of the first semiannual calendar period ("semiannual calendar period" shall mean six (6) continuous calendar months) following the Vesting Commencement Date.

(b) Optionee may exercise the Stock Option as to one eighth (1/8th) of the Shares at the end of 1st full semiannual calendar period following the Vesting Commencement Date.

(c) Optionee may exercise the Stock Option as to an additional one eighth (1/8th) of the Shares at the end of each of the full semiannual calendar period commencing with the 2nd full semiannual calendar period following the Vesting Commencement Date.

(d) The right to exercise the Stock Option shall be cumulative. Optionee may buy all, or from time to time any part, of the maximum number of shares which are exercisable under the Stock Option, but in no case may Optionee exercise the Stock Option with regard to a fraction of a share, or for any share for which the Stock Option is not exercisable.

5. The Optionee agrees to comply with all laws, rules, and regulations applicable to the grant and exercise of the Stock Option and the sale or other disposition of the common stock of the Corporation received pursuant to the exercise of such Stock Option.

6. The Stock Option shall not become exercisable unless and until the shares exercisable under the Stock Option have been qualified under the California Corporate Securities Law of 1968 pursuant to a permit application filed with the California Department of Corporations or unless the exercise is otherwise exempt from the qualification requirements of such law. The Stock Option is conditioned upon the Optionee's representation, which Optionee hereby confirms as of the date hereof and which Optionee must confirm as of the date of any exercise of all or any part of the Stock Option, that:

(a) Optionee understands that both this Stock Option and any shares purchased upon its exercise are securities, the issuance of which require compliance with state and federal securities laws;

(b) Optionee understands that the securities have not been registered under the Securities Act of 1933 (the "Act") in reliance upon a specific exemption contained in the Act which depends upon Optionee's bona fide investment intention in acquiring these securities; that Optionee's intention is to hold these securities for Optionee's own benefit for an indefinite period; that Optionee has no present intention of selling or transferring any part thereof (recognizing that the Stock Option is not transferable) and that certain restrictions may exist on transfer of the shares issued upon exercise of the Stock Option;

(c) Optionee understands that the shares issued upon exercise of this Stock Option, in addition to other restrictions on transfer, must be held indefinitely unless subsequently registered under the Act, or unless an exemption from registration is available; that

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Rule 701 and Rule 144, two exemptions from registration which may be available, are only available after the satisfaction of certain conditions and require the presence of a U.S. public market for such shares; that no certainty exists that a U.S. public market for the shares will exist, and that otherwise Optionee may have to sell the shares pursuant to another exemption from registration which exemption may be difficult to satisfy; and

(d) The Corporation shall not be under any obligation to issue any shares upon the exercise of this Stock Option unless and until the Corporation has determined that:

(i) it and Optionee have taken all actions required to register such shares under the Securities Act, or to perfect an exemption from the registration requirements thereof;

(ii) any applicable listing requirement of any stock exchange on which such shares are listed has been satisfied; and

(iii) all other applicable provisions of state and federal law have been satisfied.

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IN WITNESS WHEREOF, each of the parties hereto has executed this Stock Option Agreement, in the case of the corporation by its duly authorized officer, as of the date and year written above.

OPTIONEE

AboveNet Communications, Inc.

(signature)

By: _____
(signature)

Its: _____
(Type or Print Name)

Address:

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EXHIBIT B

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED, OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR AN OPINION OF COUNSEL, SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED.

INCENTIVE STOCK OPTION AGREEMENT

This Stock Option Agreement is made and entered into this _____ day of _____, 1996, pursuant to the AboveNet Communications, Inc. 1996 Stock Option Plan (the "Plan"). The Committee administering the Plan has selected _____ ("the Optionee") to receive the following grant of an incentive stock option ("Stock Option") to purchase shares of the common stock of AboveNet Communications, Inc. (the "Corporation"), on the terms and conditions set forth below to which Optionee accepts and agrees:

1. Stock Options Granted:

No. of Shares Subject to Option _____

Date of Grant _____

Vesting Commencement Date _____

Exercise Price Per Share _____

Expiration Date _____

2. The Stock Option is granted pursuant to the Plan to purchase the number of shares of authorized but unissued common stock of the Corporation specified in Section 1 hereof (the "Shares"). The Stock Option shall expire, and all rights to exercise it shall terminate on the Expiration Date, except that the Stock Option may expire earlier as provided in the Plan. The number of shares, subject to the Stock Option granted hereunder shall be adjusted as provided in the Plan.

3. The Stock Option shall be exercisable in all respects in accordance with the terms of the Plan which are incorporated herein by this reference. Optionee acknowledges having received and read a copy of the Plan. All shares of the Corporation's common stock issued pursuant to the exercise of this Stock Option shall be subject to the Corporation's Right of First Refusal as set forth in Sections 11 of the Plan.

4. Optionee shall have the right to exercise the Stock Option in accordance with the following schedule:

(a) The Stock Option may not be exercised in whole or in part at any time prior to the end of the first semiannual calendar period (semiannual calendar period" shall mean six (6) continuous calendar months) following the Vesting Commencement Date.

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(b) Optionee may exercise the Stock Option as to one eighth (8th) of the Shares at the end of 1st full semiannual calendar period following the Vesting Commencement Date.

(c) Optionee may exercise the Stock Option as to an additional one eighth (1/8th) of the Shares at the end of each of the full semiannual calendar period commencing with the 2nd full semiannual calendar period following the Vesting Commencement Date.

(d) The right to exercise the Stock Option shall be cumulative. Optionee may buy all, or from time to time any part, of the maximum number of

shares which are exercisable under the Stock Option, but in no case may Optionee exercise the Stock Option with regard to a fraction of a share, or for any share for which the Stock Option is not exercisable.

5. The Optionee agrees to comply with all laws, rules, and regulations applicable to the grant and exercise of the Stock Option and the sale or other disposition of the common stock of the Corporation received pursuant to the exercise of such Stock Option.

6. The Stock Option shall not become exercisable unless and until the shares exercisable under the Stock Option have been qualified under the California Corporate Securities Law of 1968 pursuant to a permit application filed with the California Department of Corporations or unless the exercise is otherwise exempt from the qualification requirements of such law. The Stock Option is conditioned upon the Optionee's representation, which Optionee hereby confirms as of the date hereof and which Optionee must confirm as of the date of any exercise of all or any part of the Stock Option, that:

(a) Optionee understands that both this Stock Option and any shares purchased upon its exercise are securities, the issuance of which require compliance with state and federal securities laws;

(b) Optionee understands that the securities have not been registered under the Securities Act of 1933 (the "Act") in reliance upon a specific exemption contained in the Act which depends upon Optionee's bona fide investment intention in acquiring these securities; that Optionee's intention is to hold these securities for Optionee's own benefit for an indefinite period; that Optionee has no present intention of selling or transferring any part thereof (recognizing that the Stock Option is not transferable) and that certain restrictions may exist on transfer of the shares issued upon exercise of the Stock Option;

(c) Optionee understands that the shares issued upon exercise of this Stock Option, in addition to other restrictions on transfer, must be held indefinitely unless subsequently registered under the Act, or unless an exemption from registration is available; that Rule 701 and Rule 144, two exemptions from registration which may be available, are only available after the satisfaction of certain conditions and require the presence of a U.S. public market for such shares; that no certainty exists that a U.S. public market for the shares will exist, and that otherwise Optionee may have to sell the shares pursuant to another exemption from registration which exemption may be difficult to satisfy; and

(d) The Corporation shall not be under any obligation to issue any shares upon the exercise of this Stock Option unless and until the Corporation has determined that:

(i) it and Optionee have taken all actions required to register such shares under the Securities Act, or to perfect an exemption from the registration requirements thereof;

(ii) any applicable listing requirement of any F stock exchange on which such shares are listed has been satisfied; and

(iii) all other applicable provisions of state and federal law have been satisfied.

IN WITNESS WHEREOF, each of the parties hereto has executed this Stock Option Agreement, in the case of the Corporation by its duly authorized officer, as of the date and year written above.

OPTIONEE

AboveNet Communications, Inc.

(signature)

By: _____

(signature)

Its: _____

(Type or Print Name)

Address:

[PAUL, WEISS, RIFKIND, WHARTON & GARRISON LETTERHEAD]

September 10, 1999

Metromedia Fiber Network, Inc.
c/o Metromedia Fiber Network Services, Inc.
One North Lexington Avenue
White Plains, NY 10601

Metromedia Fiber Network, Inc.
Registration Statement on Form S-8

Dear Ladies and Gentlemen:

In connection with the Registration Statement on Form S-8 (the "REGISTRATION STATEMENT") filed by Metromedia Fiber Network, Inc., a Delaware corporation (the "COMPANY"), with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "ACT"), and the rules and regulations promulgated thereunder (the "RULES"), we have been requested by the Company to render our opinion as to the legality of the securities being registered under the Registration Statement. The Registration Statement relates to 7,311,962 shares (the

"SHARES") of Class A Common Stock, par value \$.01 per share (the "CLASS A COMMON STOCK"), of the Company, which have been reserved for issuance upon exercise of options outstanding under the AboveNet Communications Inc. 1998 Stock Incentive Plan, the AboveNet Communications Inc. 1997 Stock Plan and the AboveNet Communications Inc. 1996 Stock Option Plan (collectively, the "ABOVENET OPTION PLANS") that will be assumed by the Company pursuant to an Agreement and Plan of Merger (the "MERGER AGREEMENT"), dated as of June 22, 1999, as amended, among the Company, AboveNet Communications Inc., a Delaware corporation ("ABOVENET"), and Magellan Acquisition, Inc., a Delaware corporation and wholly owned subsidiary of the Company ("MERGER SUB"), providing for the merger of Merger Sub with and into AboveNet, with AboveNet as the surviving corporation in the Merger.

In connection with the furnishing of this opinion, we have examined originals, conformed copies or photocopies, certified or otherwise identified to our satisfaction, of the following documents (collectively, the "DOCUMENTS"):

1. the Registration Statement;
2. the Merger Agreement;
3. the AboveNet Option Plans included as Exhibits 4.6, 4.7 and 4.8 to the Registration Statement;
4. the Amended and Restated Certificate of Incorporation of the Company, as amended, included as Exhibit 4.1 to the

- Registration Statement and the Amended and Restated By-laws of the Company included as Exhibit 4.2 to the Registration Statement (collectively, the "CHARTER DOCUMENTS"); and
5. the form of certificate for the shares of Class A Common Stock of the Company included as Exhibit 4.3 to the Registration Statement.

In addition, we have examined those corporate records of the Company as we have considered appropriate and those other certificates, agreements and documents as we deemed relevant and necessary as a basis for the opinion expressed below.

In our examination of the documents referred to above, we have assumed, without independent investigation, (i) the due authorization, execution and delivery of each of the Documents by each party to them other than the Company, (ii) the enforceability of the documents reviewed by us against each party to them other than the Company, (iii) that the Shares will be substantially issued as described in the Registration Statement, (iv) the genuineness of all signatures, (v) the authenticity of all documents submitted to us as originals, (vi) the conformity to the original documents of all documents submitted to us as certified, photostatic, reproduced or conformed copies of validly existing agreements or other documents,

(vii) the authenticity of the latter documents, (viii) that the statements regarding matters of fact in the certificates, records, agreements, instruments and documents that we examined are accurate and complete, and (ix) the legal capacity of all individuals who have executed any of the documents which we

examined.

In expressing the opinion set forth below, we have relied upon the factual matters contained in the representations and warranties of the Company made in the Documents and in certificates of officers of the Company and upon certificates of public officials.

Based on the foregoing, and subject to the stated assumptions, exceptions and qualifications, we are of the opinion that the Shares have been duly authorized for issuance and that such Shares, when issued and delivered by the Company and paid for in accordance with the terms and provisions of the AboveNet Option Plans, will be validly issued, fully paid and nonassessable.

Our opinion expressed above is limited to the laws of the State of New York, the General Corporation Law of the State of Delaware and the Federal laws of the United States of America. Our opinion is also rendered only with respect to the laws and the rules, regulations and orders under those laws that are currently in effect. Please be advised that no member of this firm is admitted to practice in the State of Delaware.

Metromedia Fiber Network, Inc.

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We hereby consent to the use of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not hereby agree that we come within the category of persons whose consent is required by the Act or the Rules.

Very truly yours,

/s/ Paul, Weiss, Rifkind, Wharton & Garrison

CONSENT OF INDEPENDENT AUDITORS

We consent to the reference to our firm in the Registration Statement (Form S-8) pertaining to shares of class A common stock of Metromedia Fiber Network, Inc. and to the incorporation by reference therein of our report dated March 4, 1999, with respect to the consolidated financial statements and schedules of Metromedia Fiber Network, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 1999, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

New York, New York
September 7, 1999

INDEPENDENT AUDITORS' CONSENT

We consent to the incorporation by reference in this Registration Statement of Metromedia Fiber Network, Inc. on Form S-8 of our report with respect to AboveNet Communications, Inc. dated April 22, 1999 (May 5, 1999 as to Note 16), appearing in the Joint Proxy Statement/Prospectus, which is part of Registration Statement No. 333-84541 of Metromedia Fiber Network, Inc. on Form S-4.

/s/ DELOITTE & TOUCHE LLP
San Jose, California
September 7, 1999

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the prospectus constituting part of this Registration Statement on Form S-8 of Metromedia Fiber Network, Inc. of our reports dated June 15, 1999 relating to the financial statements of the Palo Alto Internet Exchange (a business of Compaq Computer Corporation), which appear in the Registration Statement on Form S-4 (Registration No. 333-84541) of Metromedia Fiber Network, Inc. filed with the Securities and Exchange Commission on August 4, 1999.

/s/ PRICEWATERHOUSECOOPERS LLP
Boston, Massachusetts
September 7, 1999