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ACCESSION NUMBER: 0000891020-97-001263

CONFORMED SUBMISSION TYPE: S-1

PUBLIC DOCUMENT COUNT: 27

FILED AS OF DATE: 19970926

SROS: NONE

FILER:

COMPANY DATA:

COMPANY CONFORMED NAME:	REALNETWORKS INC
CENTRAL INDEX KEY:	0001046327
STANDARD INDUSTRIAL CLASSIFICATION:	[]
IRS NUMBER:	911628146
STATE OF INCORPORATION:	WA
FISCAL YEAR END:	1231

FILING VALUES:

FORM TYPE:	S-1
SEC ACT:	
SEC FILE NUMBER:	333-36553
FILM NUMBER:	97686641

BUSINESS ADDRESS:

STREET 1:	1111 THIRD AVE
STREET 2:	STE 2900
CITY:	SEATTLE
STATE:	WA
ZIP:	98101
BUSINESS PHONE:	2066742700

MAIL ADDRESS:

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STREET 2:	STE 2900
CITY:	SEATTLE
STATE:	WA
ZIP:	98101

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<PAGE> 1

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON SEPTEMBER 26, 1997
REGISTRATION NO. 333-

=====

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

REALNETWORKS, INC.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

<TABLE> <S>	WASHINGTON	7371	<C>	91-1628146
	(STATE OR OTHER JURISDICTION OF EMPLOYER INCORPORATION OR ORGANIZATION) NO.)	(PRIMARY STANDARD INDUSTRIAL CLASSIFICATION CODE NUMBER)		(I.R.S. IDENTIFICATION
</TABLE>				

1111 THIRD AVENUE, SUITE 2900
SEATTLE, WASHINGTON 98101
(206) 674-2700
(ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING
AREA CODE, OF REGISTRANT'S PRINCIPAL EXECUTIVE OFFICES)

ROBERT GLASER, CHIEF EXECUTIVE OFFICER
1111 THIRD AVENUE, SUITE 2900
SEATTLE, WASHINGTON 98101
(206) 674-2700

(NAME, ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER,
INCLUDING AREA CODE, OF AGENT FOR SERVICE)

COPIES TO:

<TABLE> <S>	LAURA T. PUCKETT JOHN M. STEEL ALAN KOSLOW GRAHAM & JAMES LLP/RIDDELL WILLIAMS P.S. 1001 FOURTH AVENUE PLAZA, SUITE 4500 SEATTLE, WASHINGTON 98154	<C>	CHARLES J. KATZ, JR. SCOTT L. GELBAND PERKINS COIE 1201 THIRD AVENUE, 40TH FLOOR SEATTLE, WASHINGTON 98101-3099
</TABLE>			

Approximate date of commencement of proposed sale to public:
AS SOON AS PRACTICABLE AFTER THIS REGISTRATION STATEMENT BECOMES EFFECTIVE.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box: ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐ _____

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐ _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box: []

CALCULATION OF REGISTRATION FEE

<TABLE>				
<S>				
<C>				
<C>				
<C>				
=====				
TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED(1)	PROPOSED MAXIMUM OFFERING PRICE PER UNIT(2)	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE(2)	AMOUNT OF REGISTRATION FEE

Common Stock, par value \$.001 per share.....	shares	\$	\$34,500,000	\$10,455
=====				
</TABLE>				

- (1) Includes shares that may be purchased by the Underwriters to cover over-allotments, if any.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(a).

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

=====

<PAGE> 2

INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE. THIS PROSPECTUS SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY NOR SHALL THERE BE ANY SALE OF THESE SECURITIES IN ANY STATE IN WHICH SUCH OFFER, SOLICITATION OR SALE WOULD BE UNLAWFUL PRIOR TO REGISTRATION OR QUALIFICATION UNDER THE SECURITIES LAWS OF ANY SUCH STATE.

SUBJECT TO COMPLETION, DATED SEPTEMBER 26, 1997

[REALNETWORKS LOGO] SHARES
REALNETWORKS, INC.
(FORMERLY "PROGRESSIVE NETWORKS, INC.")

COMMON STOCK
(PAR VALUE \$.001 PER SHARE)

All of the shares of Common Stock offered hereby are being sold by RealNetworks, Inc. Prior to the offering, there has been no public market for the Common Stock. It is currently estimated that the initial public offering price will be between \$ and \$ per share. For factors considered in determining the initial public offering price, see "Underwriting".

THE COMMON STOCK OFFERED HEREBY INVOLVES A HIGH DEGREE OF RISK. SEE "RISK FACTORS" BEGINNING ON PAGE 6.

Application has been made for quotation of the Common Stock on the Nasdaq

National Market under the symbol "RNWK".

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES
AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS
THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES
COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS.
ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

<TABLE>
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	INITIAL PUBLIC OFFERING PRICE	UNDERWRITING DISCOUNT(1)	PROCEEDS TO COMPANY(2)
	-----	-----	-----
<S>	<C>	<C>	<C>
Per Share.....	\$	\$	\$
Total(3).....	\$	\$	\$

</TABLE>

-
- (1) The Company has agreed to indemnify the Underwriters against certain liabilities, including liabilities under the Securities Act of 1933, as amended. See "Underwriting".
- (2) Before deducting estimated expenses of \$ payable by the Company.
- (3) The Company has granted the Underwriters an option for 30 days to purchase up to an additional shares at the initial public offering price per share, less the underwriting discount, solely to cover over-allotments. If such option is exercised in full, the total initial public offering price, underwriting discount and proceeds to Company will be \$, \$ and \$, respectively. See "Underwriting".
-

The shares offered hereby are offered severally by the Underwriters, as specified herein, subject to receipt and acceptance by them and subject to their right to reject any order in whole or in part. It is expected that certificates for the shares will be ready for delivery in New York, New York on or about , 1997, against payment therefor in immediately available funds.

GOLDMAN, SACHS & CO.

MONTGOMERY SECURITIES

ROBERTSON, STEPHENS & COMPANY

The date of this Prospectus is , 1997.

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[SCREEN-SHOTS OF
WEB PAGES SUPERIMPOSED
OVER COMPANY LOGO]

CERTAIN PERSONS PARTICIPATING IN THE OFFERING MAY ENGAGE IN TRANSACTIONS THAT STABILIZE, MAINTAIN, OR OTHERWISE AFFECT THE PRICE OF THE COMMON STOCK OF THE COMPANY, INCLUDING OVER-ALLOTMENT, STABILIZING AND SHORT-COVERING TRANSACTIONS IN SUCH SECURITIES, AND THE IMPOSITION OF A PENALTY BID, IN CONNECTION WITH THE OFFERING. FOR A DESCRIPTION OF THESE ACTIVITIES, SEE "UNDERWRITING".

<PAGE> 4

CD-ROM INSERTED HERE

THE CD-ROM CONTAINS THE REALPLAYER, WHICH IS AVAILABLE FOR DOWNLOAD FREE OF CHARGE FROM THE COMPANY'S WEB SITE. THE CD-ROM IS CONTAINED IN AN ENVELOPE BOUND INTO THE PROSPECTUS, WITH A CLEAR CIRCULAR WINDOW THAT ALLOWS THE TOP OF THE CD-ROM TO BE SEEN. THE CD-ROM IS LAMINATED WITH THE COMPANY'S LOGO AND THE REALPLAYER LOGO, AS WELL AS THE FOLLOWING LANGUAGE: "FOR WINDOWS 95, WINDOWS NT AND MACINTOSH."

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PROSPECTUS SUMMARY

The following summary is qualified in its entirety by the more detailed information and Consolidated Financial Statements and Notes thereto appearing elsewhere in this Prospectus, including the information under "Risk Factors."

Unless otherwise indicated, all information in this Prospectus (i) assumes that the Underwriters' over-allotment option will not be exercised; (ii) reflects an amendment to the Company's Amended and Restated Articles of Incorporation (the "Articles") to change the Company's authorized capital stock to Common Stock, Special Common Stock and preferred stock effective on the closing of the offering; (iii) reflects the conversion of each outstanding share of the Company's Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock into one share of Common Stock effective on closing of the offering; (iv) reflects the conversion of each outstanding share of the Company's Series E Preferred Stock, at the election of the holder, into one share of Common Stock, rather than Special Common Stock, on closing of the offering; and (v) assumes the issuance of _____ shares of Common Stock reflecting exercise of outstanding warrants on closing of the offering, except as noted hereinafter. See "Description of Capital Stock."

THE COMPANY

RealNetworks is a leading provider of branded software products and services that enable the delivery of streaming media content over the Internet and intranets. Streaming technology enables the transmission and playback of continuous "streams" of multimedia content, such as audio and video, over the Internet and intranets and represents a significant advancement over earlier technologies. The Company's products and services include its RealAudio and RealVideo software system, an electronic commerce Web site designed to promote the proliferation of streaming media products and a network of advertising-supported content aggregation Web sites.

The Company believes that the emergence of rich multimedia capabilities, such as streaming audio and video, has significantly enhanced the effectiveness of the Web as a global mass communications medium. These enhanced multimedia capabilities, combined with the unique interactive properties of the Internet, are attracting a large and expanding audience, a growing number of advertisers and an increasing breadth and depth of content and online commercial applications. As the Web continues to evolve as a mass communications medium, the Company believes that an increasing amount of the types of content currently delivered through traditional media, such as radio and television, will be delivered over the Internet. The Company believes that streaming media technology is essential to this evolution because it provides a more compelling user experience, allowing the Internet to compete more effectively with traditional media for audience share.

From its inception, the Company has strategically chosen to offer its RealPlayer software to individual users free of charge to promote the widespread adoption of its client software and to speed the acceptance of Internet multimedia. The Company believes that more than 18 million copies of its RealPlayer software have been downloaded and that over 200,000 copies of its

premium client product, RealPlayer Plus, have been sold electronically in the product's first year of distribution. In addition, the Company believes that more than 55,000 hours per week of live audio and video content are broadcast over the Web using RealAudio and RealVideo technology, and that more than 150,000 Web pages use the Company's software. As a result of these activities and the Company's aggressive promotional programs, the Company believes that its "Real" brand has become one of the most widely recognized brands on the Internet. The Company's customers, including ABC Radio Net, Bloomberg Online, The Boeing Company, Dow Jones & Company, Inc., NBC Desktop, News Corporation, Starwave Corporation and 3Com Corporation, use its software products and services to deliver a broad range of streaming audio and video news, sports, entertainment and corporate information over the Internet and intranets.

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The Company's objective is to be the leading streaming media company, providing software and services that enable the delivery of a broad range of multimedia content over the Internet and intranets, thereby facilitating the evolution of the Internet into a mass communications and commerce medium. The key elements of this strategy include the extension of the Company's technology leadership, a continued focus on product ubiquity and brand leadership, the continued development of its electronic commerce and content aggregation businesses, a focus on providing cross-platform product solutions that operate in a wide variety of bandwidth environments, and the strengthening and expansion of strategic relationships.

The Company was incorporated in Washington in February 1994. Unless the context otherwise requires, the term "Company" or "RealNetworks" refers to RealNetworks, Inc. and its subsidiaries: RealNetworks, SARL, RealNetworks, Limited and Progressive Networks Kabushiki Kaisha. Prior to September 26, 1997, the Company's name was "Progressive Networks, Inc." The Company's principal executive offices are located at 1111 Third Avenue, Suite 2900, Seattle, Washington 98101, and its telephone number is (206) 674-2700. Information contained on the Company's Web sites will not be deemed to be part of this Prospectus.

RealAudio(R), RealVideo(R), RealPlayer(TM), RealPlayer Plus(TM), EasyStart(TM), RealNetworks(TM), Real(TM), the Real logo, RealStore(TM), Film.com(TM), Daily Briefing(TM) and Timecast(TM) are registered and unregistered trademarks, service marks and trade names of the Company. This Prospectus also includes trademarks, service marks and trade names other than those identified in this paragraph, all of which are the property of their respective holders.

THE OFFERING

<TABLE>	
<S>	
Common Stock offered by the Company.....	<C> shares
Common Stock to be outstanding after the offering:	
Common Stock.....	shares(1)
Special Common Stock.....	0 shares(1)
Use of proceeds.....	Working capital requirements and other general corporate purposes. See "Use of Proceeds."
Proposed Nasdaq National Market symbol.....	"RNWK"
</TABLE>	

- - - - -

- (1) Excludes 13,400,000 shares of Common Stock reserved for issuance under the Company's 1995 Stock Option Plan, Amended and Restated 1996 Stock Option Plan and 1998 Employee Stock Purchase Plan. See "Management -- Benefit

Plans." Also excludes up to 3,709,305 shares of Common Stock or Special Common Stock issuable on exercise of a warrant to purchase Series E Preferred Stock at an exercise price of \$13.48 per share (the "Series E Warrant") that terminates on the closing of the offering. The holder of the Series E Preferred Stock may elect to receive Common Stock or Special Common Stock, or a combination thereof, upon conversion of the Series E Preferred Stock. The Special Common Stock may only be converted into Common Stock upon the prior written consent of the Company's Board of Directors. Assumes 3,338,374 shares of Series E Preferred Stock convert into an equal number of shares of Common Stock. See "Risk Factors -- Control by Mr. Glaser; Antitakeover Provisions," "-- Impact of Exercise of the Series E Warrant; Election by Microsoft to Receive Common Stock Or Special Common Stock" and "Description of Capital Stock -- Common Stock."

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SUMMARY CONSOLIDATED FINANCIAL DATA
(IN THOUSANDS, EXCEPT PER SHARE DATA)

The following summary consolidated financial data should be read in conjunction with the Company's Consolidated Financial Statements and Notes thereto and "Management's Discussion and Analysis of Financial Condition and Results of Operations," included elsewhere in this Prospectus. The summary consolidated financial data for the period from February 9, 1994 (inception) to December 31, 1994, for the years ended December 31, 1995 and 1996, and as of December 31, 1996, are derived from the Consolidated Financial Statements of the Company audited by KPMG Peat Marwick LLP, independent accountants. The summary consolidated financial data as of June 30, 1997 and for the six months ended June 30, 1996 and 1997 are derived from unaudited consolidated financial statements prepared by the Company on a basis consistent with the Company's audited Consolidated Financial Statements and, in the opinion of management, include all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation of the results for such periods. Operating results for the six months ended June 30, 1997 are not necessarily indicative of the results that may be expected for any other interim period or for the year ending December 31, 1997.

<TABLE>
<CAPTION>

	PERIOD FROM FEBRUARY 9, 1994 (INCEPTION) TO DECEMBER 31, 1994	YEAR ENDED DECEMBER 31, ----- 1995 1996 -----		SIX MONTHS ENDED JUNE 30, ----- 1996 1997 -----	
				(UNAUDITED)	
<S>	<C>	<C>	<C>	<C>	<C>
STATEMENT OF OPERATIONS DATA:					
Total net revenues.....	\$ --	\$ 1,812	\$14,012	\$ 4,244	\$13,366
Total cost of revenues.....	--	62	2,185	395	3,054
Gross profit.....	--	1,750	11,827	3,849	10,312
Operating loss.....	(545)	(1,595)	(4,016)	(1,566)	
(6,808)					
Net loss.....	(545)	(1,501)	(3,789)	(1,449)	
(6,372)					
Pro forma net loss per share.....			\$ ()		\$ ()
)					
Shares used to compute pro forma net					
loss per share(1).....					

<TABLE>
<CAPTION>

JUNE 30, 1997

	DECEMBER 31, 1996	ACTUAL	AS ADJUSTED(2)
			(UNAUDITED)
<S>	<C>	<C>	<C>
BALANCE SHEET DATA:			
Cash, cash equivalents and short-term investments.....	\$ 19,595	\$11,496	\$
Working capital.....	16,893	8,879	
Total assets.....	26,468	22,148	
Redeemable, convertible preferred stock.....	23,153	23,264	
Shareholders' equity (deficit).....	(3,320)	(9,764)	

- - - - -

- (1) For an explanation of the number of shares used to compute pro forma net loss per share, see Note 1 of Notes to Consolidated Financial Statements.
- (2) As adjusted to give effect to the (i) issuance in July 1997 of 3,338,374 shares of Series E Preferred Stock at \$8.99 per share; (ii) conversion of all outstanding shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock into Common Stock on closing of the offering; (iii) sale by the Company of the shares of Common Stock offered hereby at an assumed initial public offering price of \$ per share (after deducting the underwriting discount and estimated expenses of the offering); and (iv) application of the estimated net proceeds of the offering. Excludes up to 3,709,305 shares of Common Stock or Special Common Stock (representing additional cash and shareholders' equity of up to \$50,001,431) issuable on exercise of the Series E Warrant. See "Use of Proceeds," "Capitalization" and "Description of Capital Stock."

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RISK FACTORS

In addition to the other information contained in this Prospectus, investors should consider carefully the following risk factors before making an investment decision concerning the Common Stock. This Prospectus contains forward-looking statements that involve risks and uncertainties. The Company's actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including those set forth under "Risk Factors" and elsewhere in this Prospectus.

LIMITED OPERATING HISTORY; ACCUMULATED DEFICIT AND ANTICIPATED FUTURE LOSSES

The Company was incorporated in February 1994 and did not recognize any revenue until July 1995, when the Company began delivery of the commercial version of RealAudio Version 1.0. Accordingly, the Company has a limited operating history on which an evaluation of the Company and its prospects can be based. The Company's prospects must be considered in light of the risks, expenses and difficulties frequently encountered by companies in early stages of development, particularly companies in rapidly evolving markets such as media delivery and electronic commerce over the Internet and intranets. The Company has incurred significant losses since its inception and expects to continue to incur substantial operating losses for the foreseeable future. As of June 30, 1997, the Company had an accumulated deficit of \$12.4 million. To achieve and sustain profitability, the Company must, among other things, establish widespread market acceptance of its existing products, successfully develop new products and services, respond quickly and effectively to competitive, market and technological developments, expand sales and marketing operations, broaden customer support capabilities, control expenses and continue to attract and retain qualified personnel. In addition, market prices for the Company's

products must attain a level at which the Company can generate revenues in excess of its anticipated operating and other expenses. There can be no assurance that the Company will achieve or sustain profitability. See "-- Unpredictability of Future Revenues; Potential Fluctuation in Quarterly Operating Results," "-- Competition; Relationship With Microsoft" and "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Overview."

UNPREDICTABILITY OF FUTURE REVENUES; POTENTIAL FLUCTUATION IN QUARTERLY OPERATING RESULTS

As a result of the Company's limited operating history and the emerging nature of the markets in which it competes, the Company is unable to forecast accurately its revenues. The Company expects to experience significant fluctuations in its future quarterly operating results due to a variety of factors, many of which are outside the Company's control, including (i) demand for the Company's products and services, (ii) introduction or enhancement of products and services by the Company and its competitors, (iii) market acceptance of new products and services of the Company and its competitors, (iv) price reductions by the Company or its competitors or changes in how products and services are priced (such as the Company's recent decision to distribute free of charge a version of its basic EasyStart Server, which previously sold for \$295 to \$995), (v) the mix of products and services sold by the Company and its competitors, (vi) the mix of distribution channels through which the Company's products are licensed and sold, (vii) the mix of international and North American revenues, (viii) costs of litigation and intellectual property protection, (ix) the growth in the use of the Internet, (x) the Company's ability to attract and retain qualified personnel, (xi) the amount and timing of operating costs and capital expenditures related to expansion of the Company's business, operations and infrastructure, (xii) technical difficulties with respect to the use of the Company's products, (xiii) governmental regulations and (xiv) general economic conditions and economic conditions specifically related to the Internet. It is often difficult to forecast what the effect of such factors would be, or the effect that any such factors or any combination thereof would have, on the Company's results of operations for any given fiscal quarter. There can be no assurance that the Company will be able to achieve historical revenue levels or maintain its historical growth rate. The Company has used, and expects to continue to use, price promotions to increase trial, purchase and use of its products, as well as to increase the overall recognition of its brands. The effect of such promotions on revenues in a particular period may be significant and extremely difficult to forecast. Based on the foregoing, the Company believes that its

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quarterly revenues, expenses and operating results could vary significantly in the future, and that period-to-period comparisons should not be relied upon as indications of future performance.

Historically, the Company has received a significant portion of its revenues from a limited number of sales and license agreements. The Company believes that a customer's decision to purchase its server products or license its technology is relatively discretionary and, for large-scale users, generally involves a significant commitment of capital resources. Therefore, any downturn in the economy or in the business of potential customers could have a material adverse effect on the Company's revenues and quarterly results.

The Company generally makes available its software products in "beta" form to the public prior to finalizing product features, functionality and operability. This may cause certain customers to delay purchasing decisions until final versions of the products are available, which could have a material adverse effect on the Company's revenues and quarterly results.

The Company derives a significant portion of its revenues from the sale of

technical support services and software upgrades to its installed customer base. There can be no assurance that a sufficient number of the Company's customers will continue to enter into support and upgrade contracts or will renew existing support and upgrade contracts, or that revenues therefrom will continue to be significant. The loss of a material portion of such revenues would likely have a material adverse effect on the Company's business, financial condition and results of operations.

Management has observed that revenues from advertising sales have tended to be higher in the second and fourth quarters, and retail sales have tended to be highest in the fourth quarter. The Company typically operates with little or no backlog. As a result, quarterly sales and operating results depend primarily on the volume and timing of orders received in the quarter, both of which are difficult to forecast. The Company typically recognizes a substantial portion of its revenues in the last month of each quarter.

As a result of the Company's limited operating history, the Company does not have relevant historical financial data for a significant number of periods on which to base planned operating expenses. The Company's expense levels are based in part on its expectations with regard to future revenues. The Company may be unable to adjust spending in a timely manner to compensate for any unexpected revenue shortfall. As a result, any significant shortfall in demand for the Company's products and services relative to the Company's expectations would have an immediate material adverse effect on the Company's business, financial condition and results of operations. Due to the foregoing factors, it is likely that in some future quarters the Company's operating results will fall below the expectations of securities analysts and investors, which would likely have a material adverse effect on the trading price of the Common Stock. See "Management's Discussion and Analysis of Financial Condition and Results of Operations."

COMPETITION; RELATIONSHIP WITH MICROSOFT

The market for software and services for the Internet and intranets is relatively new, constantly evolving and intensely competitive. The Company expects that competition will intensify in the future. Many of the Company's current and potential competitors have longer operating histories, greater name recognition and significantly greater financial, technical and marketing resources than the Company.

The Company engages primarily in the sale and licensing of audio and video streaming products and services, electronic commerce and Internet advertising. The Company's principal competitors in the development and distribution of audio and video streaming solutions include Microsoft Corporation ("Microsoft"), Vxtreme, Inc. ("Vxtreme"), VDOnet Corporation ("VDOnet"), Xing Technology Corporation ("Xing"), Precept Software, Inc. ("Precept"), Cubic VideoComm, Inc. ("Cubic"), Motorola, Inc. ("Motorola"), VivoActive Software, Inc. ("Vivo"), Vosaic LLC ("Vosaic") and Oracle Corporation ("Oracle"). The Company's RealAudio and RealVideo system also competes to a lesser degree with non-streaming audio and video delivery technologies such as AVI and Quicktime, and indirectly with

delivery systems for multimedia content other than audio and video, such as Flash by Macromedia Inc. ("Macromedia") and Enliven by Narrative Communications Corp. ("Narrative"). Competitive factors in this market include the quality and reliability of software; features for creating, editing and adapting content; ease of use and interactive user features; scalability and cost per user; and compatibility with the user's existing network components and software systems. To expand its user base and further enhance the user experience, the Company must continue to innovate and improve the performance of its RealAudio and RealVideo system. The Company is committed to the continued market penetration of its brand, products and services. The Company may, as a strategic response to changes in the competitive environment, implement pricing, licensing, service or

marketing changes designed to extend its current brand and technology franchise. For example, the Company recently made a version of its EasyStart Server, which had previously sold for \$295 to \$995, available for download free of charge. Continued price concessions or the emergence of other pricing or distribution strategies by competitors may have a material adverse effect on the Company's business, financial condition and results of operations.

The Company derives significant revenues from sales of RealPlayer Plus, an enhanced version of its free player product. The Company's ability to continue to generate revenues from sales of RealPlayer Plus is in large part dependent on its ability to differentiate the features and functionality of RealPlayer Plus from its own and competitors' free and for sale player products. In addition, the demand for RealPlayer Plus is in part contingent on the demand for and the volume of free player products in the market. The Company's failure to continue to differentiate RealPlayer Plus, or to stimulate demand for its free player or RealPlayer Plus, may have a material adverse effect on the Company's business, financial condition or results of operations.

The Company anticipates that consolidation will continue in the streaming media industry and related industries such as computer software, media and communications. Competitors may be acquired by, receive investments from or enter into other commercial relationships with, larger, well-established and well-financed companies. For instance, Microsoft recently acquired Vxtreme, a direct competitor of the Company in the market for streaming media software. Microsoft also owns a minority interest in VDOnet, a direct competitor of the Company in the market for streaming video software. In addition, in June 1997 the Company and Microsoft entered into a strategic agreement pursuant to which Microsoft purchased a minority interest in the Company. See "-- Department of Justice Subpoena," "Business -- Microsoft Relationship" and "Certain Transactions."

In connection with the Microsoft agreement, the Company granted Microsoft a nonexclusive license to certain substantial elements of the source code of the Company's RealAudio/RealVideo Version 4.0 technology, including its basic RealPlayer and substantial elements of its EasyStart Server products, and related Company trademarks. Under the agreement, Microsoft may sublicense its rights to the RealAudio/RealVideo Version 4.0 technology to third parties under certain circumstances. The agreement also provides for substantial refunds to Microsoft under prescribed circumstances that are solely within the Company's control. The amount of these refunds diminishes over time. The Company may not assign its obligations under the agreement without Microsoft's consent. Microsoft is obligated to distribute the Company's RealPlayer Version 4.0 for a defined term as long as the Company's player supports certain Microsoft architectures. The Company also agreed to work with Microsoft and several other companies to author and promote the Active Streaming Format ("ASF") as a standard file format for streaming media. The agreement also requires the Company to provide Microsoft with engineering consultation services, certain error corrections, and certain technical support over a defined term. As a result of Microsoft's agreement with the Company, its acquisition of Vxtreme and its investment in VDOnet, Microsoft will be able to augment substantially the functionality of NetShow, its own streaming media product, which could have a material adverse effect on the competitiveness of the Company's products. See "-- Impact of Evolving Standards," "-- Uncertain Protection of Intellectual Property; Risks Associated With Licensed Third-Party Technology" and "Business -- Microsoft Relationship."

Microsoft currently competes with the Company in the market for streaming media server and player software. The Company believes that Microsoft will compete more directly with the Company in the

future. The Company also believes that Microsoft's commitment to and presence in the streaming media industry will dramatically increase competitive pressure in

the overall market for streaming media software, leading to, among other things, increased pricing pressure and longer sales cycles. Such pressures may result in further price reductions in the Company's products and may also materially reduce the Company's market share. The Company believes that Microsoft will incorporate streaming media technology in its Web browser software and certain of its server software offerings, possibly at no additional cost to the user. In addition, notwithstanding the Company's cooperation with Microsoft regarding ASF, Microsoft may promote technologies and standards not compatible with the Company's technology. Microsoft has a longer operating history, a larger installed base of customers and dramatically greater financial, distribution, marketing and technical resources than the Company. As a result, there can be no assurance that the Company will be able to compete effectively with Microsoft now or in the future, or that the Company's business, financial condition and results of operations will not be materially adversely affected. In addition, if considerable industry consolidation occurs, there can be no assurance that the Company will be able to continue to compete effectively. See "Business -- Sales, Marketing and Distribution" and "-- Microsoft Relationship."

The Company currently derives significant revenues from the electronic distribution of certain of its products. The Company recently opened its RealStore Web site, an online store for the sale of the Company's products, third-party streaming media tools and utilities, and intranet-based training products. The Company competes with a variety of Web sites, such as Buydirect.Com and Software.Net, which also offer software products for download. To compete successfully in the electronic commerce market, the Company must attract sufficient commercial traffic to its RealStore Web site by offering high-quality merchandise in a compelling, easy-to-purchase format. There can be no assurance that the Company will be able to compete successfully in this market, and any failure to do so could have a material adverse effect on the Company's business, financial condition and results of operations. See "Business -- Products and Services" and "-- Competition."

In the Internet advertising segment, the Company competes for Internet advertising revenues with a wide variety of Web sites and Internet service providers. While Internet advertising revenues across the industry continue to grow, the number of Web sites competing for such revenue is also growing rapidly. The Company's advertising sales force and infrastructure are still in early stages of development relative to the Company's competitors. There can be no assurance that advertisers will place advertising with the Company or that revenues derived from such advertising will be material. In addition, if the Company loses advertising customers, fails to attract new customers, is forced to reduce advertising rates or otherwise modify its rate structure to retain or attract customers, or loses Web site traffic, the Company's business, financial condition and results of operations may be materially adversely affected. See "Business -- Products and Services" and "-- Competition."

DEPARTMENT OF JUSTICE SUBPOENA

Shortly after the Company entered into its strategic agreement with Microsoft, Microsoft acquired VXtreme and announced that it would incorporate the VXtreme technology, which competes with the Company's technology licensed to Microsoft, into its NetShow product. In addition, Microsoft owns a minority interest in VDOnet, a direct competitor of the Company, and has selected VDOnet as a Microsoft Solution Provider for NetShow-based products. Microsoft's acquisitions, investments and agreements in the streaming media industry prompted a U.S. Department of Justice investigation into horizontal merger activities within the industry. In August 1997, the Department of Justice served several companies, including the Company and Microsoft, with subpoenas to produce certain documents. The investigation, including interviews of Company officers by Department of Justice personnel and document production requests, is ongoing. The Company is cooperating fully with the Department of Justice's investigation. See "-- Competition; Relationship With Microsoft" and "Business -- Microsoft Relationship."

As a result of the investigation, it is possible that the Department of

Justice will require certain actions by the Company, Microsoft or other companies in the streaming media industry that could have a material adverse effect on the Company's business, financial condition and results of operations. The

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Department of Justice could decide to take action that could materially and adversely affect the Company's current relationship with Microsoft or other companies, that affect Microsoft's obligations with respect to the distribution of the Company's products, result in certain penalties, require the Company to refund all or a portion of the license fee paid by Microsoft to the Company, require Microsoft to limit or divest certain of its acquisitions or investments in the streaming media industry, including its investment in the Company, and, if Microsoft were forced to rescind its agreement with the Company, place the Company at a significant competitive disadvantage within the industry. There can be no assurance that any such outcome would not have an immediate material adverse effect on the Company's business, financial condition and results of operations. See "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Liquidity and Capital Resources."

DEVELOPING MARKET; DEPENDENCE ON THE INTERNET AND INTRANETS AS MEDIUMS OF COMMERCE AND COMMUNICATIONS

The market for the Company's streaming media products and services, especially the market for the Company's intranet products and services, has begun only recently to develop and is evolving rapidly, with continuing new developments in technology, product distribution methods, and marketing and licensing relationships. The development of a market for the Company's streaming media products also depends on increased use of the Internet and intranets for information, publication, distribution and commerce. Continued growth in the use of the Internet may depend on potential increases in available bandwidth or transmission speeds or on other technological improvements. In particular, the Company believes that continued growth in the market acceptance of streaming media, especially streaming video, depends on such developments. Changes in network infrastructure, transmission and content delivery methods and underlying software platforms, and the emergence of new Internet access devices such as TV set-top boxes could dramatically change the structure and competitive dynamic of the market for streaming media solutions. In particular, technological developments or strategic partnerships that accelerate the adoption of "high bandwidth" access technologies such as cable modems may have a material adverse impact on the Company's business. Critical issues concerning use of the Internet and intranets (including security, reliability, cost, ease of use and quality of service) remain unresolved and may affect the growth of and the degree to which business is conducted over the Internet and intranets. If the market for the Company's products and services fails to grow, develops more slowly than expected or becomes saturated with competing products or services, the Company's business, financial condition and results of operations will be materially adversely affected. See "-- Availability and Quality of Content" and "-- Online Commerce Security Risks."

Because electronic commerce on the Internet is relatively new and evolving, it is difficult to predict whether the Internet will be a viable commercial marketplace or whether the Internet or intranets will be viable mediums of communication. Although some sales of the Company's products and services will depend on growth of intranets, sales of the Company's products will continue to depend in large part on the emergence of the Internet as a viable commercial marketplace with a strong and reliable infrastructure. The Internet has experienced substantial growth in the number of users and amount of traffic, and there can be no assurance that its technological infrastructure will be able to support the demands placed on it by continued growth. Delays in the development or adoption of new technological standards and protocols, or increased governmental regulation, could also affect the degree of use of the Internet. In addition, developments in Internet infrastructure such as broadband Internet

access may significantly affect the market for streaming media products. There can be no assurance that the infrastructure or complementary services necessary to make the Internet a viable commercial medium will be developed or, if developed, that the Internet will become a viable commercial medium for products and services such as those offered by the Company. See "Business -- Industry Background."

EVOLVING BUSINESS MODEL; DEVELOPMENT OF NEW PRODUCTS AND OTHER REVENUE SOURCES

The Company's success depends in part on its ability to develop new products in a timely manner and provide new services that achieve rapid and broad market acceptance. There can be no assurance

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that the Company successfully can identify new product and service opportunities and develop and bring to market new products and services in a timely manner or that any such product innovations will achieve the market penetration or price stability necessary for profitability.

As the online medium continues to evolve, the Company plans to leverage its technology by developing complementary products and services as additional sources of revenue. Accordingly, the Company may change its business model to take advantage of new business opportunities, including business areas in which the Company does not have extensive experience. For example, the Company recently focused on, and will continue to devote significant resources to, the development of its electronic commerce business, as well as its advertising-supported content aggregation business, as extensions of its business model. There can be no assurance that the Company will develop successfully these or other business models.

In addition, the Company must continue to innovate and develop new versions of its software to remain competitive in the market for streaming media solutions. The Company's product and software development efforts inherently are difficult to manage and keep on schedule. The Company on occasion has experienced development delays and related cost overruns and there can be no assurance that it will not encounter such problems in the future. In addition, products as complex as those offered by the Company may contain undetected errors when first introduced or when new versions are released. There can be no assurance that errors will not occur in current or new products, the result of which may be adverse publicity, loss of or delay in market acceptance, or claims by customers against the Company, any of which could have a material adverse effect on the Company's business, financial condition and results of operations.

Expansion of the Company's operations to take advantage of new opportunities and to sustain a leadership position in the market for streaming media software may require significant additional expenditures and may strain the Company's management, financial and operational resources. The lack of market acceptance of new products or services or the Company's inability to generate satisfactory revenues from such new products and services to offset their cost could have a material adverse effect on the Company's business, financial condition and results of operations. "Business -- Strategy."

DEPENDENCE ON KEY PERSONNEL; NEED FOR ADDITIONAL PERSONNEL

The Company's performance depends substantially on the continued services of its executive officers and key employees, in particular Mr. Glaser, the Company's Chairman of the Board and Chief Executive Officer. The loss of the services of Mr. Glaser or any of its other executive officers or key employees could have a material adverse effect on the Company's business, financial condition and results of operations. None of the Company's executive officers has a contract that guarantees employment. Other than a \$2,000,000 life insurance policy on the life of Mr. Glaser, the Company does not maintain "key person" life insurance policies. Given the Company's early stage of development,

the Company depends on its ability to attract, train and retain qualified personnel, specifically those with management, technical and product development skills. Competition for such personnel is intense, particularly in geographic areas recognized as high technology centers such as the Pacific Northwest. There can be no assurance that the Company will be able to attract, train or retain additional highly qualified technical and managerial personnel in the future, which could have a material adverse effect on the Company's business, financial condition and results of operations. See "Management."

CONTROL BY MR. GLASER; ANTITAKEOVER PROVISIONS

Immediately after the closing of the offering, Mr. Glaser, the Company's founder, will own 14,089,919 shares of the outstanding Common Stock, which will represent % of the outstanding Common Stock (approximately % if the Underwriters' over-allotment option is exercised in full) and % of the outstanding Common Stock if the Series E Warrant is exercised in full, (approximately % if the Underwriters' over-allotment option is also exercised in full). If the holder of the Series E Preferred Stock should instead elect to receive shares of Special Common Stock on conversion of the Series E Preferred

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Stock, and assuming the Series E Warrant is exercised in full for shares of Special Common Stock, Mr. Glaser will hold % of the outstanding voting rights (approximately % if the Underwriters' over-allotment option is exercised in full). Accordingly, Mr. Glaser will have significant influence over the election of directors and matters submitted to a vote of the Company's shareholders. Control by Mr. Glaser may discourage certain types of transactions involving an actual or potential change of control of the Company, including transactions in which the holders of Common Stock might receive a premium for their shares over prevailing market prices. See "-- Impact of Exercise of the Series E Warrant; Election by Microsoft to Receive Common Stock or Special Common Stock" and "Principal Shareholders."

The Company's Articles provide that on closing of the offering, a Strategic Transactions Committee of the Board of Directors shall be created, which committee shall be comprised of three directors. Without the prior approval of such committee, and subject to certain limited exceptions, the Board of Directors shall not have the authority to (i) adopt a plan of merger, (ii) authorize the sale, lease, exchange or mortgage of (A) assets representing more than 50% of the book value of the Company's assets prior to the transaction or (B) any other asset or assets on which the long-term business strategy of the Company is substantially dependent, (iii) authorize the voluntary dissolution of the Company or (iv) take any action that has the effect of clauses (i) through (iii). The provisions with respect to the authority of the Strategic Transactions Committee may be amended only with the approval of 90% of the shares entitled to vote on an amendment to the Articles. In connection therewith, the Company entered into an agreement with Mr. Glaser (the "Glaser Agreement") providing him with a direct contractual right to require the Company to abide by and perform all terms of the Articles with respect to the Strategic Transactions Committee. The Glaser Agreement also provides that so long as Mr. Glaser owns a specified number of shares, the Company shall use its best efforts to cause Mr. Glaser to be nominated to, not removed from, and elected to, the Board of Directors. The Glaser Agreement could inhibit or deter a third party from attempting to acquire the Company. See "Description of Capital Stock" and "Management."

In addition, the Articles provide that on closing of the offering, Mr. Glaser shall serve, or shall appoint another officer of the Corporation who shall serve, as the Company's Policy Ombudsman, with the exclusive authority to adopt or change the editorial policies of the Company as reflected on the Company's Web sites or other communications or media where the Company has a significant editorial or media voice. See "Management -- Policy Ombudsman."

These provisions, as well as those relating to a classified Board of Directors, the availability of "blank check" preferred stock and certain provisions of Washington corporate law and of the shareholder rights plan that the Company intends to adopt prior to closing of the offering, could have the effect of making it more difficult or more expensive for a third party to acquire, or of discouraging a third party from attempting to acquire, control of the Company. See "Description of Capital Stock."

UNCERTAIN PROTECTION OF INTELLECTUAL PROPERTY; RISKS ASSOCIATED WITH LICENSED THIRD-PARTY TECHNOLOGY

The Company's success depends in part on its ability to protect its proprietary software and other intellectual property. To protect its proprietary rights, the Company relies generally on patent, copyright, trademark and trade secret laws, confidentiality agreements with employees and third parties, and license agreements with consultants, vendors and customers, although the Company has not signed such agreement in every case. Despite such protections, a third party could copy or otherwise obtain and use the Company's products or technology, or develop similar technology independently. There can be no assurance that the Company's agreements with employees, consultants and others who participate in product development activities will not be breached, that the Company will have adequate remedies for any breach, or that the Company's trade secrets will not otherwise become known or independently developed by competitors.

The Company currently has two patents pending in the U.S. relating to its product architecture and technology and holds one patent entitled "Method and Apparatus for Recommending Selections Based on Preferences in a Multi-User System." There can be no assurance that any pending or future patent

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applications will be granted, that any existing or future patent will not be challenged, invalidated or circumvented, or that the rights granted under any patent that has issued or may issue will provide competitive advantages to the Company. Many of the Company's current and potential competitors dedicate substantially greater resources to protection and enforcement of intellectual property rights, especially patents. If a blocking patent has issued or issues in the future, the Company would need to either obtain a license or design around the patent. There can be no assurance that the Company would be able to obtain such a license on acceptable terms, if at all, or to design around the patent. The Company pursues the registration of certain of its trademarks and service marks in the U.S. and in certain other countries, although it has not secured registration of all its marks. A significant portion of the Company's marks begin with the word "Real" (such as RealAudio and RealVideo). The Company is aware of other companies that use "Real" in their marks alone or in combination with other words, and the Company does not expect to be able to prevent all third-party uses of the word "Real" for all goods and services. In addition, the laws of some foreign countries do not protect the Company's proprietary rights to the same extent as do the laws of the U.S., and effective patent, copyright, trademark and trade secret protection may not be available in jurisdictions. The Company licenses certain of its proprietary rights to third parties, and there can be no assurance that such licensees will not fail to abide by compliance and quality control guidelines with respect to such proprietary rights or take actions that would materially adversely affect the Company's business, financial condition and results of operations.

To license many of its products, the Company relies in part on "shrinkwrap" and "clickwrap" licenses that are not signed by the end user and, therefore, may be unenforceable under the laws of certain jurisdictions. As with other software products, the Company's products are susceptible to unauthorized copying and uses that may go undetected, and policing such unauthorized use is difficult. In general, there can be no assurance that the Company's efforts to protect its intellectual property rights through patent, copyright, trademark and trade

secret laws will be effective to prevent misappropriation of its technology, or to prevent the development and design by others of products or technologies similar to or competitive with those developed by the Company, and the Company's failure or inability to protect its proprietary rights could materially adversely affect the Company's business, financial condition and results of operations.

The computer software market is characterized by frequent and substantial intellectual property litigation, which is often complex and expensive, and involves a significant diversion of resources and uncertainty of outcome. Litigation may be necessary in the future to enforce and protect the Company's intellectual property or to defend against a claim of infringement or invalidity. The Company has been and expects to continue to be subject to legal proceedings and claims from time to time in the ordinary course of its business, including claims of alleged infringement of third-party proprietary rights by the Company and its licensees. The Company attempts to avoid infringing known proprietary rights of third parties in its product development efforts. However, the Company has not conducted and does not conduct comprehensive patent searches to determine whether the technology used in its products infringes patents held by third parties. In addition, it is difficult to proceed with certainty in a rapidly evolving technological environment in which there may be numerous patent applications pending, many of which are confidential when filed, with regard to similar technologies. If the Company were to discover that its products violate third-party proprietary rights, there can be no assurance that it would be able to obtain licenses to continue offering such products without substantial reengineering or that any effort to undertake such reengineering would be successful, that any such licenses would be available on commercially reasonable terms, if at all, or that litigation could be avoided or settled without substantial expense and damage awards. Any claims relating to the infringement of third-party proprietary rights, even if not meritorious, could result in the expenditure of significant financial and managerial resources and could result in injunctions preventing the Company from distributing certain products. Such claims could materially adversely affect the Company's business, financial condition and results of operations.

The Company also relies on certain technology that it licenses from third parties, including software that is integrated with internally developed software and used in the Company's products, to perform key functions. There can be no assurance that such third-party technology licenses will continue to be

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available to the Company on commercially reasonable terms. The loss of any of these technologies could have a material adverse effect on the Company's business, financial condition and results of operations. Moreover, although the Company is generally indemnified against claims that such third-party technology infringes the proprietary rights of others, such indemnification is not always available for all types of intellectual property rights (for example, patents may be excluded) and in some cases the scope of such indemnification is limited. Even if the Company receives broad indemnification, third-party indemnitors are not always well capitalized and may not be able to indemnify the Company in the event of infringement, resulting in substantial exposure to the Company. There can be no assurance that infringement or invalidity claims arising from the incorporation of third-party technology, and claims for indemnification from the Company's customers resulting from such claims, will not be asserted or prosecuted against the Company. Such claims, even if not meritorious, could result in the expenditure of significant financial and managerial resources in addition to potential product redevelopment costs and delays, all of which could materially adversely affect the Company's business, financial condition and results of operations. See "Business -- Intellectual Property."

AVAILABILITY AND QUALITY OF CONTENT

The availability of compelling content for the Internet and intranets is

critical to the continued and increasing use and sales of the Company's RealAudio and RealVideo system. The willingness of content providers to offer and license content that appeals to end users and attracts advertisers is an important factor in promoting the continued and increasing use of the Company's products and services. There can be no assurance that such content will continue to be available on acceptable terms, if at all. Historically, the Company has recognized increased revenues from sales of RealPlayer Plus in months in which the Company bundled compelling content. If the Company were unable to bundle compelling content, license desirable content on favorable terms, or otherwise offer content that is widely accepted by a broad market audience, the Company's business, financial condition and results of operations would likely be adversely affected. It is possible that associations that represent collectives of content owners may seek to and may successfully establish minimum royalties or other conditions that apply to the licensing or distribution of content over the Internet and that may limit the availability of such content or increase the cost to the Company to use such content. The imposition of any such mandatory royalty payments may increase the Company's cost of revenues significantly, which would have a material adverse effect on the Company's business, financial condition and results of operation. See "Business -- Products and Services -- Media Publishing Products and Services."

MANAGEMENT OF GROWTH; ACQUISITION RISKS

The Company's rapid growth has placed, and is expected to continue to place, a significant strain on the Company's managerial, technical, operational and financial resources. None of the Company's executive officers has had senior management experience in a public company in the position he or she currently holds. From August 31, 1996 to August 31, 1997, the Company grew from 149 employees to 276 employees, and the Company expects this rapid growth to continue. To manage its growth, the Company must implement and improve its operational and financial systems and expand, train and manage its workforce. The Company will also need to manage an increasing number of complex relationships with customers, marketing partners and other third parties. In addition, the Company may pursue the acquisition of new or complementary businesses, products or technologies, although it has no present understandings, commitments or agreements with respect to any material acquisitions or investments. Any such future acquisitions would be accompanied by the risks commonly encountered in acquisitions of companies. Such risks include, among other things, the difficulty of assimilating the operations and personnel of the acquired companies, the potential disruption of the Company's ongoing business, the inability of management to incorporate successfully acquired technology and rights into the Company's products, services and media offerings, additional expense associated with amortization of acquired intangible assets, the maintenance of uniform standards, controls, procedures and policies, and the potential impairment of relationships with employees, customers and strategic partners.

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There can be no assurance that the Company's systems, procedures or controls will be adequate to support the Company's current or future operations or that the Company's management will be able to manage effectively the expansion and still achieve the rapid execution necessary to exploit fully the market for the Company's products and services. The Company's future operating results will also depend on its ability to expand its sales and marketing organizations, implement and manage new distribution channels to penetrate different and broader markets, including the market for intranet software products, and expand its support organization accordingly. If the Company were to fail to manage its growth effectively, its business, financial condition and results of operations would be materially adversely affected. See "-- Dependence on Key Personnel; Need for Additional Personnel" and "-- Risk of Capacity Constraints; Reliance on Internally Developed Systems; System Development Risks."

IMPACT OF EVOLVING STANDARDS

The Company's current streaming media products are based on protocols designed around certain standards, and the Company's business, financial condition and results of operations would be materially adversely affected if any of the Company's competitors were to establish a competing technology as the de facto industry standard for streaming audio and video transmission. The Company and Netscape Communications Corporation ("Netscape") co-authored the Real Time Streaming Protocol ("RTSP"), a proposed protocol for standardizing the control and delivery of streaming media over the Internet. RTSP can be used with a broad range of data types and is intended to promote a greater level of interoperability among various streaming media solutions by providing a standard way for clients and servers from multiple vendors to stream multimedia content. RTSP is built on top of a number of other Internet standard protocols and is complementary with ASF, a file format for streaming media that does not specify a method of client-server interaction. RTSP provides the client-server specification necessary to stream ASF files (and many other file types) on the Internet. There can be no assurance that RTSP will be established as the de facto industry standard or, if so accepted, that existing competitors and new entrants would not be able to compete more effectively with the Company's products. See "-- Competition; Relationship With Microsoft" and "Business -- Technology."

RISK OF CAPACITY CONSTRAINTS; RELIANCE ON INTERNALLY DEVELOPED SYSTEMS; SYSTEM DEVELOPMENT RISKS

The satisfactory performance, reliability and availability of the Company's Web sites, transaction-processing systems and network infrastructure are critical to the Company's reputation and ability to attract and retain customers and maintain adequate customer service. Any system interruptions that result in the unavailability of the Company's Web sites would adversely affect the Company's ability to conduct business. The Company's Web sites are complex and require considerable technical expertise to maintain. Personnel with technological expertise in this area are in great demand, and there can be no assurance that the Company can attract, train or retain such personnel. Many of the software systems used to support the Company's Web sites, including its electronic commerce operations, were developed internally. These systems will need to be enhanced over time or replaced with equivalent commercial products, either of which could entail considerable effort and expense.

The Company's ability to provide a consistent level of high-quality customer service depends in part on the efficient and uninterrupted operation of its computer and communications hardware systems. Substantially all of the Company's computer and communications hardware is located at a single leased facility in Seattle, Washington. The Company's systems and operations are vulnerable to damage or interruption from fire, flood, power loss, telecommunications failure, break-ins, earthquake and similar events. Because the Company does not presently have fully redundant systems or a formal disaster recovery plan, there can be no assurance that a system failure would not have a material adverse effect on the Company's business, financial condition and results of operations. The Company's servers are vulnerable to computer viruses, physical or electronic break-ins and similar disruptions, which could lead to interruptions, delays, loss of data or the inability to accept and fulfill customer orders. The occurrence

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of any of the foregoing risks could have a material adverse effect on the Company's business, financial condition and results of operations. See "Business -- Technology."

ONLINE COMMERCE SECURITY RISKS

Online commerce and communications depend to a significant extent on the

ability to conduct secure transmission of confidential information over public networks. The Company relies on encryption and authentication technology licensed from third parties to provide the security and authentication intended to effect secure transmission of confidential information, such as customer credit card numbers. There can be no assurance that the Company's efforts in this area or advances in computer capabilities, new discoveries in the field of cryptography, or other events or developments will not result in a compromise or breach of the algorithms used by the Company to protect customer transaction data. Any compromise of the Company's security could have a material adverse effect on the Company's business, financial condition and results of operations. A party who is able to circumvent the Company's security measures could misappropriate proprietary information or cause interruptions in the Company's operations. The Company may be required to expend significant capital and other resources to protect against such security breaches or to alleviate problems caused by such breaches. In addition, there can be no assurance that credit card companies will not restrict online credit card transactions in the future for reasons such as fraudulent credit card transactions or other risks associated with online commerce transactions, which restrictions could have a material adverse effect on the Company's business, financial condition and results of operations. To the extent that activities of the Company or third-party contractors involve the storage and transmission of proprietary information, security breaches could damage the Company's reputation and expose the Company to a risk of litigation and possible liability. There can be no assurance that the Company's security measures will prevent security breaches or that the failure to prevent such security breaches will not have a material adverse effect on the Company's business, financial condition and results of operations.

RISKS ASSOCIATED WITH INTERNATIONAL EXPANSION

For the year ended December 31, 1996 and the six months ended June 30, 1997, approximately 19% and 27%, respectively, of the Company's total net revenues were generated from sources outside the U.S. and Canada. As a result, the Company is subject to the risks of doing business abroad, including unexpected changes in regulatory requirements, export and import restrictions, tariffs and other trade barriers, difficulties in staffing and managing foreign operations, longer payment cycles, problems in collecting accounts receivable, potential adverse tax consequences, exchange rate fluctuations, increased risks of piracy, limits on the Company's ability to enforce its intellectual property rights, discontinuity of network infrastructures, limits on repatriation of funds and political risks that may limit or disrupt international sales. Such limitations and interruptions could have a material adverse effect on the Company's business, financial condition and results of operations. In addition, operations of the Company's foreign subsidiaries are translated from local currency into U.S. dollars based on average monthly exchange rates. The Company currently does not hedge its foreign currency transactions and is therefore subject to the risk of changes in exchange rates. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business -- Sales, Marketing and Distribution."

GOVERNMENTAL REGULATION AND LEGAL UNCERTAINTIES

The Company currently is not subject to direct regulation by any governmental agency, other than laws and regulations generally applicable to businesses, although certain U.S. export controls and import controls of other countries, including controls on the use of encryption technologies, may apply to the Company's products. Due to the increasing popularity and use of the Internet, it is possible that a number of laws and regulations may be adopted in the U.S. and abroad with particular applicability to the Internet. It is possible that governments will enact legislation that may be applicable to the Company to regulate areas such as content, network security, encryption and the use of key escrow, data and privacy protection, electronic authentication or "digital" signatures, illegal and harmful content, access charges

and retransmission activities. Moreover, the applicability to the Internet of existing laws governing issues such as property ownership, content, taxation, defamation and personal privacy is uncertain. The majority of such laws were adopted before the widespread use and commercialization of the Internet and, as a result, do not contemplate or address the unique issues of the Internet and related technologies. Any such export or import restrictions, new legislation or regulation or governmental enforcement of existing regulations may limit the growth of the Internet, increase the Company's cost of doing business or increase the Company's legal exposure, which could have a material adverse effect on the Company's business, financial condition and results of operations.

By distributing content over the Internet, the Company faces potential liability for claims based on the nature and content of the materials that it distributes, including claims for defamation, negligence or copyright, patent or trademark infringement, which claims have been brought, and sometimes successfully litigated, against Internet companies. The Company's general liability insurance may not cover potential claims of this type or may not be adequate to indemnify the Company for any liability that may be imposed. Any liability not covered by insurance or in excess of insurance coverage could have a material adverse effect on the Company's business, financial condition and results of operations. Although those sections of the Communications Decency Act of 1996 (the "CDA") that, among other things, proposed to impose criminal penalties on anyone distributing "indecent" material to minors over the Internet, were held to be unconstitutional by the U.S. Supreme Court, there can be no assurance that similar laws will not be proposed and adopted. While the Company does not currently distribute the types of materials that the CDA may have deemed illegal, the nature of such similar legislation and the manner in which it may be interpreted and enforced cannot be fully determined and, therefore, legislation similar to the CDA could subject the Company to potential liability, which in turn could have an adverse effect on the Company's business, financial condition and results of operations. Such laws could also damage the growth of the Internet generally and decrease the demand for the Company's products and services, which could adversely affect the Company's business, financial condition and results of operations. See "Business -- Governmental Regulation" and "-- Intellectual Property."

VOLATILITY OF STOCK PRICE

The Company believes that factors such as announcements of developments related to the Company's business, announcements of technological innovations, or new products or enhancements by the Company or its competitors, sales by competitors (including sales to the Company's customers), sales of the Common Stock into the public market (including sales by members of management), developments in the Company's relationships with its customers, partners, distributors and suppliers, shortfalls or changes in revenues, gross margins, earnings or losses or other financial results from analysts' expectations, regulatory developments, fluctuations in results of operations and conditions in the Company's market or the markets served by the Company's customers or the economy could cause the price of the Common Stock to fluctuate, perhaps substantially. In addition, in recent years the stock market in general, and the market for shares of small capitalization and technology stocks in particular, has experienced extreme price fluctuations, which have often been unrelated to the operating performance of affected companies. There can be no assurance that the market price of the Common Stock will not experience significant fluctuations in the future, including fluctuations that are unrelated to the Company's performance. Such fluctuations could materially adversely affect the market price of the Common Stock.

SALES AND OTHER TAXES

The Company currently does not collect sales or similar taxes with respect to the sale of products, license of technology, or provision of services into states and countries other than states in which the Company has offices. However, one or more states or foreign countries may seek to impose sales or

other tax obligations on companies that engage in online commerce within their jurisdictions. A successful assertion by one or more states or any foreign country that the Company should collect sales or other taxes on the sale of products, license of technology or provision of services, or remit payment of sales or

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other taxes for prior periods, could have a material adverse effect on the Company's business, financial condition and results of operations.

IMPACT OF EXERCISE OF THE SERIES E WARRANT; ELECTION BY MICROSOFT TO RECEIVE COMMON STOCK OR SPECIAL COMMON STOCK

In connection with Microsoft's investment in the Company in July 1997, the Company issued the Series E Warrant. If it is not exercised, the Series E Warrant will terminate upon the earliest of (i) the closing of an initial public offering, (ii) completion of a merger in which the Company is not the survivor, or the sale of substantially all the assets of the Company, (iii) Microsoft's breach of its agreement with the Company, which breach is not cured, or (iv) January 21, 2002. Microsoft may elect to convert the shares of Series E Preferred Stock issuable on exercise of the Series E Warrant into Common Stock or Special Common Stock or in part into each of such classes. If Microsoft elects to convert shares of Series E Preferred Stock into \$15,000,000 or more of Common Stock, it may be required to make a filing under the Hart-Scott-Rodino Antitrust Improvements Act, and obtain approval from the U.S. Department of Justice and Federal Trade Commission before completing the conversion into Common Stock. If the Series E Warrant is exercised in full, Microsoft will own % of the Company's outstanding capital stock immediately after the offering. There can be no assurance that Microsoft will exercise any or all of the Series E Warrant. In addition, there can be no assurance that if the Series E Warrant is exercised for shares of Series E Preferred Stock, Microsoft will elect to take any particular percentage of Common Stock or Special Common Stock.

Because the Microsoft Warrant may be exercised at any time until the closing of the offering, it is impossible to predict with any certainty the ultimate impact that the exercise thereof would have on the Company's resulting capitalization, dilution per share to existing and new investors, liquidity and capital resources, percentage of shares beneficially owned by the Company's executive officers, directors and significant shareholders, and certain matters involving corporate control. See "-- Competition; Relationship With Microsoft," "-- Department of Justice Subpoena," "-- Control by Mr. Glaser; Antitakeover Provisions," "Capitalization," "Dilution," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Business -- Microsoft Relationship," "Principal Shareholders" and "Description of Capital Stock."

NO SPECIFIC USE OF PROCEEDS

The Company has not designated any specific use for the net proceeds from the sale of the Common Stock offered hereby. The Company intends to use the net proceeds primarily for general corporate purposes, including working capital to fund anticipated operating losses and capital expenditures. Accordingly, management will have significant flexibility in applying the net proceeds of the offering. The failure of management to apply such funds effectively could have a material adverse effect on the Company's business, financial condition and results of operations. See "Use of Proceeds."

NO PRIOR MARKET FOR COMMON STOCK

Prior to the offering, there has been no public market for the Common Stock. The initial public offering price of the Common Stock will be determined by negotiations between the Company and the representatives of the Underwriters and may not be indicative of the market price of the Common Stock in the future. There can be no assurance that an active trading market will develop or be

sustained after the offering. See "Underwriting" for a discussion of the factors considered in determining the initial public offering price.

POSSIBLE ADVERSE EFFECT ON MARKET PRICE OF COMMON STOCK OF SHARES ELIGIBLE FOR FUTURE SALE AFTER THE OFFERING

On closing of the offering, the Company will have outstanding shares of Common Stock (shares if the Underwriters' over-allotment option is exercised in full), of which shares

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offered hereby (shares if the Underwriters' over-allotment option is exercised in full) will be freely transferable in the public market without restriction or further registration under the Securities Act of 1933, as amended (the "Securities Act"), except to the extent such shares are held by affiliates of the Company. The remaining 26,935,621 shares of Common Stock (the "Restricted Shares") outstanding on completion of the Offering (assuming no exercise of options or warrants after September 24, 1997) were issued by the Company in reliance upon exemptions from the registration requirements of the Securities Act, and public sale thereof is restricted except to the extent they are registered under the Securities Act or sold in accordance with an exemption from such registration. The Company and the holders of 26,654,431 of these Restricted Shares have entered into lock-up agreements (the "Lock-Up Agreements") with the Underwriters not to sell, offer to sell or otherwise dispose of any shares of Common Stock owned of record or beneficially as of the date of this Prospectus, including securities convertible into or exercisable or exchangeable for shares of Common Stock as of such date, as well as any shares of Common Stock later acquired by reason of the conversion, exercise or exchange of such securities, for a period of 180 days after the date of this Prospectus without the prior written consent of the Underwriters, except that persons other than officers, directors and holders of 1% or more of the capital stock of the Company will be free to sell or otherwise dispose of up to 5,000 shares of Common Stock to the extent permissible under Rule 144 or Rule 701 under the Securities Act. Of the remaining 281,190 Restricted Shares, 11,947 shares will be eligible for immediate public sale under Rule 144 under the Securities Act as currently in effect and the remaining 269,243 shares of Common Stock will be eligible for public sale subject to compliance with Rule 144, unless earlier registered under the Securities Act. At September 24, 1997, options for 6,374,214 shares of Common Stock were outstanding, of which options for 1,708,455 shares may be exercised during the 180 days following the date of this Prospectus, which shares potentially will be eligible for public sale 90 days after the date of this Prospectus pursuant to Rule 701 under the Securities Act; of these shares, 1,312,863 are subject to Lock-Up Agreements. Warrants to purchase an additional 4,707,363 shares of Common Stock, including the Series E Warrant to purchase 3,709,305 shares, which may be exercised in whole or in part for shares of either Common Stock or Special Common Stock, will be exercisable prior to or on closing of the offering, and the shares issued upon exercise will be potentially eligible for public sale under Rule 144. All of these shares are subject to Lock-Up Agreements. The holders of an aggregate of 16,390,753 shares of Common Stock (including shares of Common Stock issuable upon exercise of outstanding warrants and assuming that the Series E Preferred Stock converts into Common Stock and the Series E Warrant is exercised in its entirety for shares of Common Stock) have the right to require the Company to register their shares for sale under the Securities Act beginning six months after the closing of the offering. Sales of substantial numbers of shares of Common Stock in the public market following the offering could have a material adverse effect on the market price for the Common Stock. See "Shares Eligible for Future Sale."

DONATION OF NET INCOME TO CHARITY

The Company's philosophy includes a commitment to charitable responsibility. If sustained profitability is achieved, the Company intends to donate approximately 5% of its annual net income to charitable organizations. As

a result, the Company's net income will be reduced by the amount of these charitable donations. See "Business -- Position on Charitable Responsibility" and "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Charitable Donations."

ABSENCE OF DIVIDENDS

The Company has never declared or paid cash dividends on its capital stock and does not anticipate paying any cash dividends in the foreseeable future. See "Dividend Policy."

DILUTION

Investors in Common Stock in the offering will experience immediate and substantial dilution in the net tangible book value of their shares. Assuming an initial public offering price of \$ per share, dilution to new investors would be \$ per share. Additional dilution will occur upon exercise of outstanding stock options and warrants. See "Dilution."

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USE OF PROCEEDS

The net proceeds to the Company from the sale of the shares of Common Stock offered hereby at an assumed initial public offering price of \$ per share, after deducting the underwriting discount and estimated offering expenses payable by the Company, are estimated to be \$ (\$ if the Underwriters' over-allotment option is exercised in full).

The principal purposes of the offering are to increase the Company's equity capital, to create a public market for the Common Stock, to increase the visibility of the Company in the marketplace and to facilitate future access by the Company to public equity markets. The Company intends to use the net proceeds primarily for general corporate purposes, including working capital to fund anticipated operating losses and capital expenditures. The Company may, when the opportunity arises, use an unspecified portion of the net proceeds to acquire or invest in complementary businesses, products and technologies. The Company has no present understandings, commitments or agreements with respect to any material acquisition or investment. Pending use of the net proceeds for the above purposes, the Company intends to invest such funds in interest-bearing, investment-grade securities.

DIVIDEND POLICY

The Company has never declared or paid cash dividends on its capital stock. The Company currently anticipates that it will retain all of its future earnings, if any, for use in the expansion and operations of its business and, therefore, does not anticipate paying any cash dividends in the foreseeable future.

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CAPITALIZATION

The following table sets forth the capitalization of the Company at June 30, 1997 and as adjusted to give effect to the (i) issuance in July 1997 of 3,338,374 shares of Series E Preferred Stock at \$8.99 per share; (ii) conversion of all outstanding shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock into Common Stock on closing of the offering; (iii) sale by the Company of the shares of Common Stock offered hereby at an assumed initial public offering price of \$ per share (after deducting the underwriting

discount and estimated expenses of the offering); (iv) application of the estimated net proceeds of the offering; and (v) issuance of 998,058 shares of Common Stock reflecting exercise of outstanding warrants on the closing of the offering, except as noted below. See "Use of Proceeds" and Note 8 of Notes to Consolidated Financial Statements. The information set forth below is unaudited and should be read in conjunction with the Company's Consolidated Financial Statements and Notes thereto.

<TABLE>

<CAPTION>

	JUNE 30, 1997	
	ACTUAL	AS ADJUSTED
	(IN THOUSANDS)	
<S>	<C>	<C>
Note payable.....	\$ 991	\$
Redeemable, convertible preferred stock, par value \$0.001 per share: 9,344,306 shares authorized; 8,345,016 shares issued and outstanding, actual; no shares issued and outstanding, as adjusted(1).....	23,264	
Shareholders' equity (deficit):		
Convertible preferred stock, par value \$0.001 per share: 13,713,439 shares authorized; 13,713,439 issued and outstanding, actual; no shares issued and outstanding, as adjusted(1).....	932	
Preferred stock, undesignated, par value \$0.001 per share: 6,942,255 shares authorized; no shares issued and outstanding.....	--	
Common stock, par value \$0.001 per share: 50,000,000 shares authorized; 749,520 shares issued and outstanding, actual; shares issued and outstanding, as adjusted(2).....	89	
Additional paid-in capital.....	1,579	
Foreign currency translation adjustment.....	8	
Accumulated deficit.....	(12,372)	
Total shareholders' equity (deficit).....	(9,764)	
Total capitalization.....	\$ 14,491	\$
	=====	=====

</TABLE>

- - - - -

- (1) At June 30, 1997, the Company had 30,000,000 shares of preferred stock authorized, of which 13,713,439 shares were designated Series A Preferred Stock, 3,059,701 shares were designated Series B Preferred Stock, 3,004,305 shares were designated Series C Preferred Stock and 3,280,300 shares were designated Series D Preferred Stock. On July 21, 1997, 7,127,242 shares were designated Series E Preferred Stock. On September 19, 1997, the numbers of shares of the Company's authorized preferred stock and common stock were increased to 60,000,000 and 300,000,000, respectively.
- (2) Excludes (i) 6,336,486 shares of Common Stock issuable at a weighted average exercise price of \$0.67 per share upon exercise of stock options outstanding at June 30, 1997, (ii) 4,896,723 shares of Common Stock reserved for future issuance under the Company's stock option plans, (iii) 1,000,000 shares of Common Stock reserved for issuance under the 1998 Employee Stock Purchase Plan, and (iv) up to 3,709,305 shares of Common Stock or Special Common Stock (representing additional cash and shareholders' equity of up to \$50,001,431) issuable on exercise of the Series E Warrant. See "Management -- Benefit Plans," "Certain Transactions," "Description of Capital Stock -- Warrants to Purchase Preferred Stock and Common Stock" and Note 7 of Notes to Consolidated Financial Statements.

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DILUTION

The pro forma net tangible book value of the Company at June 30, 1997, as adjusted to give effect to the (i) issuance in July 1997 of 3,338,374 shares of Series E Preferred Stock at \$8.99 per share; (ii) conversion of all outstanding shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock into Common Stock upon closing of the offering; (iii) sale by the Company of the _____ shares of Common Stock offered hereby at an assumed initial public offering price of \$ _____ per share, and the receipt by the Company of the estimated net proceeds therefrom, was approximately \$ _____, or \$ _____ per share of Common Stock; and (iv) exclusion of up to 3,709,305 shares of Common Stock or Special Common Stock (representing additional cash and shareholders' equity of up to \$50,001,431 and tangible book value per share of \$ _____) issuable on exercise of the Series E Warrant. Pro forma net tangible book value per share represents total tangible assets of the Company less total liabilities divided by the aggregate number of shares of Common Stock and Special Common Stock outstanding after closing of the offering. After giving effect to the net proceeds from the sale of the shares of Common Stock offered hereby, the adjusted pro forma net tangible book value of the Company at June 30, 1997 would have been approximately \$ _____, or \$ _____ per share of Common Stock and Special Common Stock. This represents an immediate increase in the pro forma net tangible book value of \$ _____ per share of Common Stock and Special Common Stock to existing shareholders and an immediate dilution of \$ _____ per share to new investors. The following table illustrates this per share dilution:

<TABLE>

<S>

Assumed initial public offering price per share.....	<C>	<C>
Pro forma net tangible book value per share before the offering.....	\$	\$
Increase per share attributable to new investors.....		

Adjusted pro forma net tangible book value per share after the offering....	-----

Dilution per share to new investors.....	\$
	=====

</TABLE>

The following table summarizes on a pro forma basis at June 30, 1997, after giving effect to the offering, the difference between existing shareholders and investors in the offering with respect to the number of shares of Common Stock and Special Common Stock purchased from the Company, the total consideration paid and the average price paid per share.

<TABLE>

<CAPTION>

	SHARES PURCHASED(1)(2)		TOTAL CONSIDERATION		AVERAGE
PRICE	NUMBER	PERCENT	AMOUNT	PERCENT	PER SHARE
--	-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>	<C>
Existing shareholders.....		. %	\$	. %	\$

New investors.....		.		.	
	-----	-----	-----	-----	
Total.....		100.0%	\$	100.0%	
	=====	=====	=====	=====	

</TABLE>

- (1) The table is based on ownership at June 30, 1997, giving effect to (i) the issuance in July 1997 of 3,338,374 shares of Series E Preferred Stock and (ii) the conversion of all outstanding shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock into Common Stock, and assumes no exercise of the Underwriters' over-allotment option. Exercise of the over-allotment option in full would (i) reduce the proportion of shares held by existing shareholders to . % of the total number of shares outstanding after the offering and (ii) increase the number of shares held by investors in the offering to shares, or . % of the total number of shares.
- (2) Excludes (i) 6,336,486 shares of Common Stock issuable at a weighted average exercise price of \$0.67 per share upon exercise of stock options outstanding at June 30, 1997, (ii) 4,896,723 shares of Common Stock reserved for future issuance under the Company's stock option plans, (iii) 1,000,000 shares of Common Stock reserved for issuance under the 1998 Employee Stock Purchase Plan, and (iv) 998,058 shares of Common Stock issuable upon exercise of outstanding warrants, and (v) up to 3,709,305 shares of Common Stock or Special Common Stock (representing additional cash and shareholders' equity of up to \$50,001,431) issuable on exercise of the Series E Warrant. See "Management -- Benefit Plans," "Certain Transactions," "Description of Capital Stock -- Warrants to Purchase Preferred Stock and Common Stock" and Note 7 of Notes to Consolidated Financial Statements.

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SELECTED CONSOLIDATED FINANCIAL DATA

The following selected consolidated financial data should be read in conjunction with the Company's Consolidated Financial Statements and Notes thereto and "Management's Discussion and Analysis of Financial Condition and Results of Operations," included elsewhere in this Prospectus. The selected consolidated financial data as of December 31, 1994, and for the period from February 9, 1994 (inception) to December 31, 1994, and as of and for the years ended December 31, 1995 and 1996 are derived from the Consolidated Financial Statements of the Company audited by KPMG Peat Marwick LLP, independent accountants. The selected consolidated financial data as of June 30, 1997 and for the six months ended June 30, 1996 and 1997 are derived from unaudited consolidated financial statements prepared by the Company on a basis consistent with the Company's audited Consolidated Financial Statements and, in the opinion of management, include all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation of the results for such periods. Operating results for the six months ended June 30, 1997 are not necessarily indicative of the results that may be expected for any other interim period or for the year ending December 31, 1997.

<TABLE>
<CAPTION>

MONTHS ENDED JUNE 30, -----	PERIOD FROM FEBRUARY 9, 1994 (INCEPTION) TO DECEMBER 31, -----	YEAR ENDED DECEMBER 31, -----			SIX -----
	1994	1995	1996	1996	1996
1997	-----	-----	-----	-----	-----
-	-----	-----	-----	-----	-----

(IN THOUSANDS, EXCEPT PER SHARE DATA)

(UNAUDITED)

<S>

<C>

<C>

<C>

<C>

<C>

STATEMENT OF OPERATIONS DATA:

Net revenues:

Software license fees.....	\$ --	\$ 1,782	\$11,876	\$
3,768 \$10,070				
Advertising.....	--	--	1,016	
170 1,107				
Service revenues.....	--	30	1,120	
306 2,189				

- -----	-----	-----	-----	-----
Total net revenues.....	--	1,812	14,012	
4,244 13,366				

Cost of revenues:

Software license fees.....	--	29	1,343	
143 1,134				
Advertising.....	--	--	288	
105 308				
Service revenues.....	--	33	554	
147 1,612				

- -----	-----	-----	-----	-----
Total cost of revenues.....	--	62	2,185	
395 3,054				

- -----	-----	-----	-----	-----
Gross profit.....	--	1,750	11,827	
3,849 10,312				

Operating expenses:

Research and development.....	202	1,380	4,812	
1,739 5,463				
Selling and marketing.....	47	1,218	7,540	
2,264 9,161				
General and administrative.....	296	747	3,491	
1,412 2,496				

- -----	-----	-----	-----	-----
Total operating expenses.....	545	3,345	15,843	
5,415 17,120				

- -----	-----	-----	-----	-----
Operating loss.....	(545)	(1,595)	(4,016)	
(1,566) (6,808)				

Net other income.....	--	94	227	
117 436				

- -----	-----	-----	-----	-----
Net loss.....	\$ (545)	\$ (1,501)	\$ (3,789)	
\$(1,449) \$(6,372)				

=====	=====	=====	=====	
Pro forma net loss per share.....			\$ ()	
\$ ()				

Shares used to compute pro forma net loss per share(1).....				

</TABLE>				

<TABLE>

<CAPTION>

DECEMBER 31,

- JUNE 30,				
	1994	1995	1996	

1997

(UNAUDITED)

<S>

<C>

<C>

<C>

<C>

BALANCE SHEET DATA:

Cash, cash equivalents and short-term investments.....	\$ --	\$ 6,116
\$19,595 \$11,496		
Working capital (deficit).....	(49)	5,948
16,893 8,879		
Total assets.....	64	7,574
26,468 22,148		
Redeemable, convertible preferred stock.....	--	7,655
23,153 23,264		
Shareholders' equity (deficit).....	15	(1,111)
(3,320) (9,764)		

</TABLE>

(1) For an explanation of the number of shares used to compute pro forma net loss per share, see Note 1 of Notes to Consolidated Financial Statements.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of the financial condition and results of operations of the Company should be read in conjunction with the Consolidated Financial Statements and Notes thereto included elsewhere in this Prospectus. This discussion contains forward-looking statements that involve risks and uncertainties. The Company's actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, but not limited to, those set forth under "Risk Factors" and elsewhere in this Prospectus.

OVERVIEW

RealNetworks is a leading provider of branded software products and services that enable the delivery of streaming media content over the Internet and intranets. The Company's products and services include its RealAudio and RealVideo software system, an electronic commerce Web site designed to promote the proliferation of streaming media products and a network of advertising-supported content aggregation Web sites.

The Company was incorporated in February 1994 and did not recognize any revenue until July 1995, when the Company began delivery of the commercial version of RealAudio Version 1.0. From inception through December 31, 1995, the Company's operating activities related primarily to recruiting personnel, raising capital, purchasing operating assets, conducting research and development, building the RealAudio brand and establishing the market for streaming audio. During 1996, the Company continued to invest heavily in research and development, marketing, building domestic and international sales channels and general and administrative infrastructure. In August 1996, the Company began selling RealPlayer Plus, a premium version of its RealPlayer product. RealPlayer continues to be available for free download from the Company's Web sites. In February 1997, the Company released a beta version of its RealVideo product and since that time has worked to build the market for streaming video.

The Company has a limited operating history on which an evaluation of the

Company and its prospects can be based. The Company's prospects must be considered in light of the risks, expenses and difficulties frequently encountered by companies in early stages of development, particularly companies in rapidly evolving markets such as media delivery and electronic commerce over the Internet and intranets. To achieve and sustain profitability, the Company must, among other things, establish widespread market acceptance of its existing products, successfully develop new products and services, respond quickly and effectively to competitive, market and technological developments, expand sales and marketing operations, broaden customer support capabilities, control expenses and continue to attract and retain qualified personnel. There can be no assurance that the Company will achieve or sustain profitability.

The Company has incurred significant losses since its inception, and as of June 30, 1997 had an accumulated deficit of \$12,372,000. The Company believes that its success will depend largely on its ability to extend its technological leadership and continue to build its brand position. Accordingly, the Company intends to invest heavily in research and development and sales and marketing. The Company expects to continue to incur substantial operating losses for the foreseeable future. In view of the rapidly evolving nature of the Company's business and its limited operating history, the Company believes that period-to-period comparisons of its revenues and operating results, including its gross profit margin and operating expenses as a percentage of total net revenues, are not necessarily meaningful and should not be relied upon as indications of future performance. Although the Company has experienced significant percentage growth in total net revenues, it does not believe that its historical growth rates are sustainable or indicative of future growth. The Company has used, and expects to continue to use, price promotions to increase trial, purchase and use of its products, as well as to increase overall recognition of its brands. The effect of such promotions on revenues in a particular period may be significant and extremely difficult to forecast.

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The following table sets forth certain financial data for the periods indicated as a percentage of total net revenues:

<TABLE>

<CAPTION>

	YEAR ENDED DECEMBER 31,		SIX MONTHS ENDED JUNE 30,	
	1995	1996	1996	1997
<S>	<C>	<C>	<C>	<C>
Net revenues:				
Software license fees.....	98.4%	84.8%	88.8%	75.3%
Advertising.....	--	7.2	4.0	8.3
Service revenues.....	1.6	8.0	7.2	16.4
Total net revenues.....	100.0	100.0	100.0	100.0
Cost of revenues:				
Software license fees.....	1.6	9.6	3.4	8.5
Advertising.....	--	2.0	2.4	2.3
Service revenues.....	1.8	4.0	3.5	12.1
Total cost of revenues...	3.4	15.6	9.3	22.9
Gross profit.....	96.6	84.4	90.7	77.1
Operating expenses:				
Research and development.....	76.2	34.3	41.0	40.9
Selling and marketing.....	67.2	53.8	53.3	68.5
General and administrative.....	41.2	24.9	33.3	18.7

Total operating expenses.....	184.6	113.0	127.6	128.1
Operating loss.....	(88.0)	(28.6)	(36.9)	(51.0)
Other income (expense):				
Interest income, net.....	5.2	2.1	3.5	3.3
Other expense.....	--	(0.5)	(0.7)	0.0
Net other income.....	5.2	1.6	2.8	3.3
Net loss.....	(82.8)%	(27.0)%	(34.1)%	(47.7)%
	=====	=====	=====	=====

</TABLE>

RESULTS OF OPERATIONS -- SIX MONTHS ENDED JUNE 30, 1996 AND 1997

REVENUES

The Company generates revenues primarily from three sources: software license fees, advertising and services. Software license fees are recognized upon delivery, net of allowances for estimated future returns, provided that no significant obligations of the Company remain and collection of the resulting receivable is deemed probable. Revenues from software license agreements with original equipment manufacturers ("OEM") are recognized when the OEM delivers its product incorporating the Company's software to the end user. In the case of prepayments from an OEM, the Company generally recognizes revenues based on the actual products sold by the OEM. If the Company anticipates providing ongoing support to the OEM in the form of future upgrades, enhancements or other services over the term of the contract, revenue generally is recognized on the straight-line method over the term of the contract. The Company recognizes revenues from software license agreements with value-added resellers ("VAR") upon delivery to the VAR, provided necessary conditions are met. If these conditions are not met, revenue is recognized upon redistribution by the VAR to the end user. Advertising revenues are recognized over the period in which the advertisement is displayed on one of the Company's Web pages. To the extent minimum guaranteed page impression deliveries are not met, the Company defers recognition of the corresponding advertising revenues until guaranteed page impression delivery levels are achieved. Service revenues include support and upgrade contracts, commissions from electronic sales of third-party products, consulting, content hosting and fees from user conferences. Support and upgrade revenues are recognized ratably over the term of the contract, which typically is 12 months. Payments for

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support and upgrade contracts are generally made in advance and are nonrefundable. Other service revenues are recognized when the service is performed.

Software License Fees. Software license fees were \$3,768,000 and \$10,070,000 for the six months ended June 30, 1996 and 1997, respectively. The increase was primarily due to growing market acceptance of the Company's server and player products, including the introduction of RealPlayer Plus in August 1996 and RealVideo in February 1997, successful product promotions and diversification of the Company's sales channels, including electronic distribution. Server product sales were \$3,616,000 and \$5,484,000 for the six months ended June 30, 1996 and 1997, respectively. Player product sales were \$152,000 and \$4,586,000 over the same respective periods. The Company began selling products electronically from its Web site in August 1996. Electronic sales of both server and player products for the six months ended June 30, 1997 were \$3,934,000, or 39% of software license fees in the period. The Company has used price promotions to increase the trial, purchase and use of its software products. In February 1997, the Company reduced the prices of its server products. In July 1997, the Company made its EasyStart Server available to

customers to download free of charge.

Advertising Revenues. Advertising revenues were \$170,000 and \$1,107,000 for the six months ended June 30, 1996 and 1997, respectively. The Company began selling advertising space on its Web sites in March 1996. Increased revenues in 1997 were due in large part to a full period of advertising sales and the Company's success in attracting a greater number of advertisers.

Service Revenues. Service revenues were \$306,000 and \$2,189,000 for the six months ended June 30, 1996 and 1997, respectively. Revenues from upgrade and support contracts were \$306,000 and \$1,473,000 for the six months ended June 30, 1996 and 1997, respectively. This increase was primarily due to a greater installed base of the Company's products. Service revenues for the six months ended June 30, 1997 also included fees of \$498,000 related to the Company's first RealMedia conference.

International Revenues. International revenues were 19% and 27% of total net revenues for the six months ended June 30, 1996 and 1997, respectively. The increase in international revenues was due in part to the creation of the Company's three foreign subsidiaries. The Company incorporated its French and Japanese subsidiaries in November 1996 and its U.K. subsidiary in February 1997. Substantially all international revenue was generated in Europe and Asia. The functional currency of the Company's foreign subsidiaries is the local currency in the country in which the subsidiary is incorporated. Operations of the Company's foreign subsidiaries are translated from local currency into U.S. dollars based on average monthly exchange rates. The Company currently does not hedge its foreign currency transactions and is therefore subject to the risk of changes in exchange rates.

COST OF REVENUES

Cost of Software License Fees. Cost of software license fees includes cost of product media, duplication, manuals, packaging materials, amounts paid for licensed technology and fees paid to third-party vendors for order fulfillment. Cost of software license fees was \$143,000 and \$1,134,000 for the six months ended June 30, 1996 and 1997, respectively, and 4% and 11%, respectively, of software license fees. The increase in absolute dollars was primarily due to higher sales volume. The increase in percentage terms was due to a shift in product mix toward lower-margin player products, a greater percentage of sales through indirect channels, and the utilization of a third-party order fulfillment agency.

Cost of Advertising Revenues. Cost of advertising revenues includes personnel associated with content creation and bandwidth expenses related to the Company's Web sites. Cost of advertising revenues was \$105,000 and \$308,000 for the six months ended June 30, 1996 and 1997, respectively, and 62% and 28%, respectively, of advertising revenues. The increase in absolute dollars was primarily due to increased head count associated with content creation and higher bandwidth expenses. The decrease in percentage terms was due to revenues growing at a faster rate than expenses.

Cost of Service Revenues. Cost of service revenues includes in-house and contract personnel providing services, bandwidth expenses for hosting services and user conference expenses. Cost of service revenues was \$147,000 and \$1,612,000 for the six months ended June 30, 1996 and 1997, respectively, and 48% and 74%, respectively, of service revenues. The increase in absolute dollars was primarily due to increased staff and other costs associated with providing these services to a greater number of customers, and, in March 1997, the Company incurred \$1,000,000 of costs associated with its RealMedia conference. No such costs were incurred in the comparable period in 1996. Excluding the effects of the RealMedia conference, cost of service revenues was 48% and 36% of service revenues for the six months ended June 30, 1996 and 1997, respectively. This

decrease was primarily attributable to better utilization of service personnel associated with an increased customer base.

Gross margins may be affected by the mix of distribution channels used by the Company, the mix of products sold, the mix of product revenues versus service revenues and the mix of international versus U.S. and Canada revenues. The Company typically realizes higher gross margins on direct channel sales relative to indirect channels and higher gross margins on software license fees relative to service revenues. If sales through indirect channels increase as a percentage of total net revenues, or if, as the Company anticipates, service revenues increase as a percentage of total net revenues, the Company's gross margins will be adversely affected.

OPERATING EXPENSES

Research and Development. Research and development expenses consist primarily of salaries and consulting fees paid to support product development. To date, all research and development costs have been expensed as incurred because technological feasibility of the Company's products is established upon completion of a working model. To date, costs incurred between completion of a working model and general release of products have been insignificant. The Company believes that continued investment in research and development is critical to attaining its strategic objectives and, as a result, expects research and development expenses to increase significantly. Research and development expenses were \$1,739,000 and \$5,463,000 for the six months ended June 30, 1996 and 1997, respectively, and 41% of total net revenues for both periods. The increase in absolute dollars was due primarily to increases in internal development personnel, travel, and consulting expenses. Research and development expenses incurred for the six months ended June 30, 1997 were related primarily to enhancements to existing products and development of new technology and products.

Selling and Marketing. Selling and marketing expenses consist primarily of salaries, commissions, consulting fees paid, trade show expenses, advertising and cost of marketing collateral. The Company intends to continue its aggressive branding and marketing campaign and therefore expects selling and marketing expenses to increase significantly. Selling and marketing expenses were \$2,264,000 and \$9,161,000 for the six months ended June 30, 1996 and 1997, respectively, and 53% and 69%, respectively, of total net revenues. The increases were due in large part to growth in sales personnel, commissions and costs related to the continued development and implementation of the Company's branding and marketing campaigns. During the six months ended June 30, 1997, the Company also incurred approximately \$694,000 in marketing expenses related to the launch of RealVideo.

General and Administrative. General and administrative expenses consist primarily of salaries and fees for professional services. The Company expects general and administrative expenses to increase as the Company expands its staff, incurs additional costs related to growth of its business, and becomes a publicly traded company. General and administrative expenses were \$1,412,000 and \$2,496,000 for the six months ended June 30, 1996 and 1997, respectively, and 33% and 19%, respectively, of total net revenues. The increase in absolute dollars was primarily a result of increased personnel and facility expenses necessary to support the Company's growth. The decrease in percentage terms was a result of revenues growing at a faster rate than expenses.

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NET OTHER INCOME

Other income and expenses consist primarily of earnings on the Company's cash and cash equivalents and short-term investments. Net other income was \$117,000 and \$436,000 for the six months ended June 30, 1996 and 1997, respectively. The increase was due primarily to interest income resulting from

additional invested cash and cash equivalents and short-term investments.

INCOME TAXES

The Company has had a net operating loss for each period since inception. As of June 30, 1997, the Company had approximately \$7,800,000 of net operating loss carryforwards for federal income tax purposes that will expire in 2010 through 2012 if not utilized. See Note 4 of Notes to Consolidated Financial Statements.

RESULTS OF OPERATIONS -- YEARS ENDED DECEMBER 31, 1995 AND 1996

REVENUES

Software License Fees. Software license fees were \$1,782,000 and \$11,876,000 for 1995 and 1996, respectively. The Company first began recognizing revenues from software license fees in July 1995. The increase in software license fees in 1996 was primarily due to a full period of sales, growing market acceptance of the Company's products, the introduction of RealPlayer Plus in August 1996 and diversification of sales channels, including electronic distribution. All of the Company's software license fees in 1995 were from the sale of its server software. In 1996, server product sales were \$8,188,000 and player product sales were \$3,688,000.

Advertising Revenues. Advertising revenues were \$1,016,000 for 1996. The Company began selling advertising space on its Web sites in March 1996, and, as a result no advertising revenues were generated in 1995.

Service Revenues. Service revenues were \$30,000 and \$1,120,000 for 1995 and 1996, respectively. The increase in service revenues in 1996 was primarily due to support and upgrade contracts associated with a larger installed base of the Company's products. Consulting, content hosting and user conference revenues were not significant in either period.

International Revenues. International revenues as a percentage of total net revenues were 15% and 19% for 1995 and 1996, respectively. Substantially all international revenues were generated in Europe and Asia.

COST OF REVENUES

Cost of Software License Fees. Cost of software license fees was \$29,000 and \$1,343,000 for 1995 and 1996, respectively, and 2% and 11%, respectively, of software license fees. The increase in absolute dollars was primarily due to higher sales volume. The increase in percentage terms was due to a shift in product mix toward lower-margin player products, a greater percentage of sales through indirect channels, and the utilization of a third-party order fulfillment agency.

Cost of Advertising Revenues. Cost of advertising revenues was \$288,000 for 1996, and was 28% of advertising revenues. Since the Company did not begin selling advertising until 1996, all content creation costs in 1995 were charged to research and development and selling and marketing expenses.

Cost of Service Revenues. Cost of service revenues was \$33,000 and \$554,000 for 1995 and 1996, respectively, and was 110% and 49%, respectively, of service revenues. The increase in absolute dollars was due primarily to increased staff and other costs associated with providing these services to a greater number of customers. The decrease in percentage terms was due to better utilization of service personnel associated with an increased customer base.

OPERATING EXPENSES

Research and Development. Research and development expenses were \$1,380,000 and \$4,812,000 for 1995 and 1996, respectively, and 76% and 34%, respectively, of total net revenues. The increase in absolute dollars was attributable primarily to increased personnel and related costs associated with enhancement of existing products and development of new products. The decrease in percentage terms was a result of revenues growing at a faster rate than research and development expenses.

Selling and Marketing. Selling and marketing expenses were \$1,218,000 and \$7,540,000 for 1995 and 1996, respectively, and 67% and 54%, respectively, of total net revenues. The increase in absolute dollars was due primarily to increased salaries, direct sales personnel, commissions, costs associated with international expansion and promotional expenses. The decrease in percentage terms was a result of revenues growing at a faster rate than selling and marketing expenses.

General and Administrative. General and administrative expenses were \$747,000 and \$3,491,000 for 1995 and 1996, respectively, and 41% and 25%, respectively of total net revenues. The increase in absolute dollars was primarily a result of increased salaries and related expenses associated with the hiring of additional personnel and increased facilities expenses. The decrease in percentage terms was a result of revenues growing at a faster rate than general and administrative expenses.

NET OTHER INCOME

Net other income was \$94,000 and \$227,000 for 1995 and 1996, respectively. The increase was due primarily to interest income resulting from higher invested cash and cash equivalents and short-term investments.

INCOME TAXES

The Company has had a net operating loss for each period since inception. As of December 31, 1996, the Company had approximately \$2,700,000 of net operating loss carryforwards for federal income tax purposes that will expire in 2010 and 2011 if not utilized. See Note 4 of Notes to Consolidated Financial Statements.

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QUARTERLY RESULTS OF OPERATIONS

The following table sets forth certain unaudited quarterly statement of operations data for the five quarters ended June 30, 1997. In the opinion of management, this information has been prepared substantially on the same basis as the audited Consolidated Financial Statements appearing elsewhere in this Prospectus, and all necessary adjustments, consisting only of normal recurring adjustments, have been included in the amounts stated below to present fairly the unaudited quarterly results. The quarterly data should be read in conjunction with the audited Consolidated Financial Statements of the Company and the Notes thereto appearing elsewhere in this Prospectus. The operating results for any quarter are not necessarily indicative of the operating results for any future period.

<TABLE>
<CAPTION>

	QUARTER ENDED				
	JUNE 30, 1996	SEPT. 30, 1996	DEC. 31, 1996	MARCH 31, 1997	JUNE 30, 1997
			(IN THOUSANDS)		
<S>	<C>	<C>	<C>	<C>	<C>
Total net revenues.....	\$ 2,479	\$ 4,030	\$ 5,738	\$ 6,356	\$ 7,010

Total cost of revenues.....	249	575	1,216	2,021	1,033
	----	-----	-----	-----	-----
Gross profit.....	2,230	3,455	4,522	4,335	5,977
Operating expenses:					
Research and development.....	989	1,334	1,739	2,725	2,738
Selling and marketing.....	1,445	2,125	3,151	4,350	4,811
General and administrative.....	820	906	1,173	1,171	1,325
	----	-----	-----	-----	-----
Total operating expenses.....	3,254	4,365	6,063	8,246	8,874
	----	-----	-----	-----	-----
Operating loss.....	(1,024)	(910)	(1,541)	(3,911)	(2,897)
Net other income.....	68	43	67	205	231
	----	-----	-----	-----	-----
Net loss.....	\$ (956)	\$ (867)	\$(1,474)	\$(3,706)	\$(2,666)
	=====	=====	=====	=====	=====

</TABLE>

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AS A PERCENTAGE OF TOTAL NET REVENUES

	JUNE 30, 1996	SEPT. 30, 1996	DEC. 31, 1996	MARCH 31, 1997	JUNE 30, 1997
	-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>	<C>
Total net revenues.....	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %
Total cost of revenues.....	10.0	14.3	21.2	31.8	14.7
	-----	-----	-----	-----	-----
Gross profit.....	90.0	85.7	78.8	68.2	85.3
Operating expenses:					
Research and development.....	39.9	33.1	30.3	42.9	39.1
Selling and marketing.....	58.3	52.7	54.9	68.4	68.6
General and administrative.....	33.1	22.5	20.5	18.4	18.9
	-----	-----	-----	-----	-----
Total operating expenses.....	131.3	108.3	105.7	129.7	126.6
	-----	-----	-----	-----	-----
Operating loss.....	(41.3)	(22.6)	(26.9)	(61.5)	(41.3)
Net other income.....	2.7	1.1	1.2	3.2	3.3
	-----	-----	-----	-----	-----
Net loss.....	(38.6)%	(21.5)%	(25.7)%	(58.3)%	
(38.0)%	=====	=====	=====	=====	=====

</TABLE>

The Company's total net revenues have increased in all quarters presented as a result of increasing market acceptance of the Company's direct products, diversification of the Company's sales channels, including electronic distribution, expansion of the Company's direct sales efforts, and continued increases in its installed customer base. In the third quarter of 1996, the Company released RealPlayer Plus. During the first quarter of 1997, the Company released a beta version of RealVideo and began recognizing revenues upon the final release of RealVideo in the second quarter of 1997. The increases in total cost of revenues as a percentage of total net revenues in the third and fourth quarters of 1996 were due to a shift in product mix toward RealPlayer Plus products, a greater percentage of sales through indirect channels and the utilization of a third-party order fulfillment agency. In the first quarter of 1997,

the Company held its first RealMedia conference and recognized revenues and cost of revenues of \$498,000 and \$1,000,000, respectively, which increased total cost

of revenues as a percentage of total net revenues.

Operating expenses increased in each quarter reflecting increased spending on developing, selling, marketing and supporting the Company's products, as well as building the Company's market presence. Research and development expenses have increased as a result of continued enhancements to existing products and development of new products. Selling and marketing expenses increased as a result of increased sales personnel and commissions. In the first and second quarters of 1997, the Company increased marketing activities associated with the release of RealVideo. The trend of increasing general and administrative expenses is due primarily to additional personnel and facilities costs.

FACTORS AFFECTING OPERATING RESULTS

As a result of the Company's limited operating history and the emerging nature of the markets in which it competes, the Company is unable to forecast accurately its revenues. The Company's expense levels are based in part on its expectations with regard to future revenues. The Company may be unable to adjust spending in a timely manner to compensate for any unexpected revenue shortfall. As a result, any significant shortfall in demand for the Company's products and services relative to the Company's expectations would have an immediate material adverse effect on the Company's business, financial condition and results of operations. Further, as a strategic response to changes in the competitive environment, the Company may from time to time implement pricing, service or marketing changes that could have a material adverse effect on its business, financial condition and results of operations. See "Risk Factors -- Unpredictability of Future Revenues; Potential Fluctuation in Quarterly Operating Results," "-- Competition; Relationship With Microsoft" and "Business -- Competition."

The Company expects to experience significant fluctuations in its future quarterly operating results due to a variety of factors, many of which are outside the Company's control, including (i) demand for the Company's products and services, (ii) introduction or enhancement of products and services by the Company and its competitors, (iii) market acceptance of new products and services of the Company and its competitors, (iv) price reductions by the Company or its competitors or changes in how products and services are priced (such as the Company's recent decision to distribute free of charge a version of its basic EasyStart Server, which previously sold for \$295 to \$995), (v) the mix of products and services sold by the Company and its competitors, (vi) the mix of distribution channels through which the Company's products are licensed and sold, (vii) the mix of international and North American revenues, (viii) costs of litigation and intellectual property protection, (ix) the growth in the use of the Internet, (x) the Company's ability to attract and retain qualified personnel, (xi) the amount and timing of operating costs and capital expenditures related to expansion of the Company's business, operations and infrastructure, (xii) technical difficulties with respect to the use of the Company's products, (xiii) governmental regulations and (xiv) general economic conditions and economic conditions specifically related to the Internet. It is often difficult to forecast what the effect of such factors would be, or the effect that any such factors or any combination thereof would have on the Company's results of operations for any given fiscal quarter. The Company has used, and expects to continue to use, price promotions to increase trial, purchase and use of its products, as well as to increase the overall brand awareness of RealNetworks. The effect of such promotions on revenues in a particular period may be significant and extremely difficult to forecast. Based on the foregoing, the Company believes that its quarterly revenues, expenses and operating results could vary significantly in the future, and that period-to-period comparisons should not be relied upon as indications of future performance.

Management has observed that revenues from advertising sales have tended to be higher in the second and fourth quarters, and retail sales have tended to be highest in the fourth quarter. The Company typically operates with little or no backlog. As a result, quarterly sales and operating results depend primarily on

the volume and timing of orders received in the quarter, both of which are difficult to forecast. The Company typically recognizes a substantial portion of its revenues in the last month of each quarter.

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Due to the foregoing factors, it is likely that in some future quarters the Company's operating results will fall below the expectations of securities analysts and investors, which would likely have a material adverse affect on the trading price of the Common Stock.

DONATION OF NET INCOME TO CHARITY

The Company's philosophy includes a commitment to charitable responsibility. If sustained profitability is achieved, the Company intends to donate approximately 5% of its annual net income to charitable organizations. As a result, the Company's net income will be reduced by the amount of these charitable donations. See "Business -- Position on Charitable Responsibility."

LIQUIDITY AND CAPITAL RESOURCES

Since inception, the Company has financed its operations primarily through private sales of preferred stock and common stock and contributions of capital by the Company's founder. Net proceeds from these sales and contributions totaled \$25,611,000.

Net cash used in operating activities was \$1,240,000 and \$635,000 in 1995 and 1996, respectively. Cash used in operating activities in 1995 was primarily attributable to a net loss of \$1,501,000. For 1996, cash used in operating activities resulted primarily from a net loss of \$3,789,000 and an increase of \$2,608,000 in trade accounts receivable, largely offset by increases of \$2,267,000 in deferred revenue, \$2,220,000 in accounts payable and \$822,000 in accrued expenses. Net cash used in operating activities was \$5,658,000 for the six months ended June 30, 1997. This was attributable primarily to a net loss of \$6,372,000, a decrease in accounts payable of \$862,000 and an increase of \$1,049,000 in trade accounts receivable, partially offset by increases of \$801,000 in accrued expenses and \$620,000 in deferred revenue.

Net cash used in investing activities of \$3,660,000, \$4,837,000, and \$5,107,000 for the years ended December 31, 1995 and 1996 and the six months ended June 30, 1997, respectively, was primarily related to purchases of property and equipment and increases in short-term investments.

Cash provided by financing activities of \$8,029,000 in 1995 consisted primarily of \$7,405,000 in net proceeds from the issuance of Series B and C Preferred Stock and a capital contribution by the founder of \$372,000. Cash provided by financing activities of \$17,091,000 in 1996 was primarily from net proceeds of \$17,047,000 from the issuance of Series D Preferred Stock. Cash flows provided by financing activities of \$1,009,000 for the six months ended June 30, 1997 were primarily from \$991,000 of proceeds from the issuance of a note payable.

As of June 30, 1997, the Company had \$4,972,000 of cash and cash equivalents and \$6,524,000 in short-term investments. As of June 30, 1997, the Company's principal commitments consisted of obligations outstanding under operating leases and a \$991,000 note payable. Although the Company has no material commitments for capital expenditures, it anticipates a substantial increase in its capital expenditures and lease commitments consistent with anticipated growth in operations, infrastructure and personnel.

In October 1996, the Company established a \$1,000,000 line of credit and a \$1,500,000 term loan with Silicon Valley Bank. The line of credit and term loan bear interest at the prime rate plus 0.75% and 1.0% per annum, respectively. In December 1996, Silicon Valley Bank amended the agreements to waive the financial

covenants applicable thereunder. There were no borrowings outstanding under the line of credit or the term loan as of December 31, 1996 and June 30, 1997.

Since inception, the Company has significantly increased its operating expenses. The Company currently anticipates that it will continue to experience significant growth in its operating expenses for the foreseeable future and that its operating expenses will be a material use of the Company's cash resources. The Company believes that the net proceeds from the offering, together with its current cash, cash equivalents and short-term investments, will be sufficient to meet its anticipated cash needs for working capital and capital expenditures for at least the next 12 months.

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RECENT DEVELOPMENTS

In June 1997, the Company and Microsoft entered into a strategic agreement pursuant to which the Company granted Microsoft a nonexclusive license to certain substantial elements of the source code of the Company's RealAudio/RealVideo Version 4.0 technology, including its basic RealPlayer and substantial elements of its EasyStart Server products, and related Company trademarks. In July 1997, the Company received a \$30,000,000 prepayment related to the license agreement. The agreement requires the Company to provide Microsoft with engineering consultation services, certain error corrections and certain technical support over a defined term. In connection with the agreement, Microsoft purchased a minority interest in the Company in the form of 3,338,374 shares of Series E Preferred Stock for \$30,000,000, plus a warrant to purchase up to 3,709,305 shares of Series E Preferred Stock at an exercise price of \$13.48 per share.

In August 1997, the U.S. Department of Justice commenced an investigation into horizontal merger activities within the streaming media industry. The Department of Justice served several companies, including the Company and Microsoft, with subpoenas to produce certain documents. As a result of the investigation, it is possible that the Department of Justice will require certain actions by the Company, Microsoft or other companies in the streaming media industry that could, among other things, affect Microsoft's obligations with respect to the distribution of the Company's products, require the Company to refund all or a portion of the license fee paid by Microsoft to the Company, require Microsoft to limit or divest certain of its acquisitions or investments in the streaming media industry, including its investment in the Company, and, if Microsoft were forced to rescind its agreement with the Company, place the Company at a significant competitive disadvantage within the industry. There can be no assurance that any such outcome would not have an immediate material adverse effect on the Company's business, financial condition and results of operations. See "Risk Factors -- Department of Justice Subpoena."

In September 1997, the Company terminated its line of credit and term loan with Silicon Valley Bank.

NEW ACCOUNTING PRONOUNCEMENTS

In February 1997, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 128, Earnings Per Share ("Statement 128"). Statement 128 establishes standards for the computation, presentation and disclosure of earnings per share ("EPS"), replacing the presentation of the currently required Primary EPS with a presentation of Basic EPS. It also requires dual presentation of Basic EPS and Diluted EPS on the face of the income statement for entities with complex capital structures. Basic EPS is based on the weighted average number of common shares outstanding during the period. Diluted EPS is based on the potential dilution that would occur upon exercise or conversion of securities into common stock using the treasury stock method. Statement 128 is effective for financial statements for periods ending after December 15, 1997, including interim periods; earlier application is not

permitted. When adopted, the Company will be required to restate its EPS data for all prior periods presented. The Company does not expect the impact of the adoption of Statement 128 to be material to its reported EPS amounts.

In June 1997, the FASB issued SFAS No. 130, Reporting Comprehensive Income ("Statement 130"). Statement 130 establishes standards for reporting and disclosure of comprehensive income and its components (revenues, expenses, gains and losses) in a full set of general-purpose financial statements. Statement 130 is effective for fiscal years beginning after December 15, 1997. Reclassification of financial statements for earlier periods provided for comparative purposes is required. The Company has not determined the manner in which it will present the information required by Statement 130.

In June 1997, the FASB issued SFAS No. 131, Disclosure About Segments of an Enterprise and Related Information ("Statement 131"). Statement 131 establishes standards for the way that public business enterprises report information about operating segments. It also establishes standards for related disclosures about products and services, geographic areas and major customers. Statement 131 is effective for financial statements for periods beginning after December 15, 1997. In the initial year of application, comparative information for earlier years is to be restated. The Company has not determined the manner in which it will present the information required by Statement 131.

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BUSINESS

THE COMPANY

RealNetworks is a leading provider of branded software products and services that enable the delivery of streaming media content over the Internet and intranets. The Company's products and services include its RealAudio and RealVideo software system, an electronic commerce Web site designed to promote the proliferation of streaming media products and a network of advertising-supported content aggregation Web sites. As the Web continues to evolve as a mass communications medium, the Company believes that an increasing amount of the types of content currently delivered through traditional media, such as radio and television, will be delivered over the Internet. The Company believes that streaming media technology is essential to this transition because it enables a more compelling user experience, allowing the Internet to compete more effectively with traditional media for audience share.

From its inception, the Company has strategically chosen to offer its RealPlayer software to individual users free of charge to promote the widespread adoption of its client software and to speed the acceptance of Internet multimedia. The Company believes that more than 18 million copies of its RealPlayer software have been downloaded and that over 200,000 copies of its premium client product, RealPlayer Plus, have been sold electronically in the product's first year of distribution. In addition, the Company believes that more than 55,000 hours per week of live audio and video content are broadcast over the Web using RealAudio and RealVideo technology, and that more than 150,000 Web pages use the Company's software. The Company's customers, including ABC Radio Net, Bloomberg Online, The Boeing Company, Dow Jones & Company, Inc. ("Dow Jones"), NBC Desktop, News Corporation ("News Corp."), Starwave Corporation ("Starwave") and 3Com Corporation ("3Com"), use its software products and services to deliver a broad range of streaming audio and video news, sports, entertainment and corporate information over the Internet and intranets.

INDUSTRY BACKGROUND

The Internet has grown rapidly in recent years, driven by the development of the Web and graphically intuitive Web browsers, the proliferation of multimedia PCs, increasingly robust network architectures and the emergence of

compelling Web-based content and commerce applications. The broad acceptance of the standard Internet Protocol ("IP") has also led to the emergence of intranets and the development of a wide range of non-PC devices that allow users to access the Internet and intranets. International Data Corporation ("IDC") estimates that the number of Web users worldwide will continue to grow rapidly from 28 million in 1996 to an estimated 175 million in 2001. In addition, users are spending an increasing amount of time on the Web. A recent study by the Georgia Institute of Technology indicates that 51% of total Internet users access the Internet for 10 or more hours per week as of April 1997, compared with 29% as of April 1995.

The development of the Web has contributed to the transition of the Internet from a text and e-mail-focused data-sharing network to a richer environment, capable of delivering graphical and interactive content. The Web has a number of features unavailable in traditional media and commerce channels that attract online users, content providers, advertisers and merchants. The relatively low barriers to publishing content on the Web have led to an explosion of Web-based content and the development of a large and diverse group of Web-based communication channels. As an interactive, searchable, user-controlled medium, the Web provides a highly engaging user experience and allows users to access this broad range of online content on demand and at their convenience. The narrow-casting capabilities of the Web enable content providers and advertisers to establish customized, personalized interactions with consumers.

The development of streaming media technology has further enhanced the graphical capabilities of the Internet and intranets. Streaming technology enables the transmission and playback of continuous "streams" of multimedia content, such as audio and video, and represents a significant advancement over earlier technologies. Prior to the advent of streaming technology, users could not initiate the

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playback of audio or video clips until such content was downloaded in its entirety, resulting in significant waiting times. As a result, live broadcasts of audio and video content over the Internet or intranets were not possible.

MARKET OPPORTUNITY

The Company believes that the emergence of rich multimedia capabilities, such as streaming audio and video, has significantly enhanced the effectiveness of the Web as a global mass communications medium and has accelerated the adoption of corporate intranets as a means to improve communications within enterprises. Many businesses and content providers now offer interactive audio, video and other multimedia content as a means of enriching and differentiating their Web sites. The Company believes that more than 55,000 hours per week of live audio and video content are broadcast over the Web using RealAudio and RealVideo technology, with a substantially greater amount of recorded media available on demand.

These enhanced multimedia capabilities, combined with the unique interactive properties of the Internet, are attracting a large and expanding audience, a growing number of advertisers and an increasing breadth and depth of content and online commercial applications. The market for Web advertising revenues is expected to grow from \$180 million in 1996 to \$2.9 billion in 2000, according to IDC. Overall usage growth, together with the Internet's unique interactive properties, has also led to a rapidly evolving online commerce opportunity. IDC estimates that worldwide revenues generated by Web-based commerce will grow from \$2.6 billion in 1996 to \$223 billion in 2001. As a result of the growth in business opportunities on the Internet, the market for software solutions that focus on the Internet and intranets is also growing rapidly. IDC estimates that Internet-focused software revenues will grow from \$359 million in 1996 to \$4.3 billion in 2000.

As the Web continues to evolve as a mass communications medium, the Company believes that an increasing amount of the types of content currently delivered through traditional media, such as radio and television, will be delivered over the Internet. The Company believes that streaming media technology is essential to this evolution because it provides a more compelling user experience, allowing the Internet to compete more effectively with traditional media for audience share.

The Company believes that to successfully capitalize on this opportunity, streaming media providers must address the following challenges:

DELIVER COMPELLING STREAMING MEDIA CONTENT IN BANDWIDTH CONSTRAINED ENVIRONMENTS. The Internet was designed to transmit discrete packets of data and is not inherently well suited to the delivery of continuous streams of multimedia data without additional software. In addition, bandwidth is limited in Internet and intranet environments, posing significant technological challenges for delivery of high-quality streaming audio and video content.

ENABLE BROAD-BASED ACCESS TO STREAMING MEDIA TECHNOLOGY. Online content providers, advertisers and merchants must make a significant investment to create and deliver streaming media content and need to reach a sufficiently large audience to generate an adequate return on such investment. As a result, content providers must consider the popularity and quality of a particular streaming media solution before committing resources to delivering content using that solution. The Company believes that Internet users prefer client software that has widespread market acceptance and is compatible with substantial amounts of encoded content.

DRIVE CONSUMER USAGE. The Company believes that consumer interest in streaming media content is driven in large part by the ability to locate and experience such content easily. As a result, the Company believes that the development of well-marketed, compelling Web sites that aggregate streaming media content is central to the continued growth of multimedia content on the Web.

The Company believes that a substantial opportunity exists to provide software solutions and content aggregation and delivery services that address these challenges and support the development of large and growing advertising and electronic commerce markets on the Web.

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THE REALNETWORKS SOLUTION

RealNetworks enables and promotes the transmission of real-time streaming media content over the Internet and intranets. The Company provides an integrated suite of branded streaming media software products and services, including its RealAudio and RealVideo system, an electronic commerce Web site designed to promote the proliferation of streaming media products and a network of advertising-supported content aggregation Web sites. Each of the Company's products and services has been designed to address the technological and market development challenges that confront streaming media content providers.

STREAMING MEDIA TECHNOLOGY. RealNetworks has been a pioneer in the development of streaming technology and continues to offer leading streaming media software solutions. The Company's products use advanced compression and error-correction technologies to deliver acceptable performance even in bandwidth-constrained environments. The Company has won numerous awards for its technology, including a PC Magazine Editor's Choice award for streaming video in October 1997. The Company's software runs on a broad range of operating systems and hardware platforms, enabling content providers to reach a broad audience and enterprises to deliver intranet content in heterogeneous computing environments.

REALPLAYER UBIQUITY AND BRAND STRENGTH. From its inception, the Company has strategically chosen to offer its RealPlayer software to individual users free of charge to promote the widespread adoption of its client software and speed the acceptance of Internet multimedia. The Company estimates that more than 18 million copies of its RealPlayer software have been downloaded and that more than 150,000 Web pages use the Company's software. In addition, over 1,200 third-party developers have joined the Company's Real Developer Program. To continue the broad market adoption of its server products, the Company now offers its basic server free of charge to accelerate the delivery of RealAudio and RealVideo content. As a result of these activities and the Company's aggressive promotional programs, the Company believes that the "Real" brand has become one of the most widely recognized brands on the Internet.

ELECTRONIC COMMERCE DISTRIBUTION CHANNEL. The Company has pursued an electronic commerce distribution strategy designed to further accelerate product adoption and drive upgrade and cross-selling opportunities among its existing installed user base. The Company's online distribution efforts have resulted in electronic sales of over 200,000 copies of the Company's RealPlayer Plus in its first year of distribution and the collection of a database of information of over 7 million names. Recently, the Company opened its RealStore Web site, an online store for the sale of the Company's products, third-party multimedia tools and utilities, and intranet-based training products. The Company believes that it will be able to continue to facilitate the adoption and growth of streaming media content by providing a concentrated marketplace and a low-cost distribution mechanism for emerging streaming media tools and their developers.

STREAMING MEDIA CONTENT AND AGGREGATION. The Company's advertising-supported Web sites, including Timecast, LiveConcerts.com, and Film.com, aggregate, organize and provide streaming media programming, in order to build consumer awareness and Web site traffic for streaming media content. According to I/Pro, the Company's network of Web sites attracted on average over 380,000 visitors and generated over two million page impressions per day. The Company's Daily Briefing and Destination Button services provide one-click access to a range of third-party programming. In addition to generating advertising revenues, these sites and services stimulate demand for and creation of streaming media content and the Company's RealAudio and RealVideo system.

BUSINESS STRATEGY

The Company's objective is to be the leading streaming media company, providing software and services that enable the delivery of a broad range of multimedia content over the Internet and intranets, thereby facilitating the evolution of the Internet into a mass communications and commerce medium. To achieve this objective, the Company's strategy includes the following key elements:

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EXTEND TECHNOLOGY LEADERSHIP. The Company has established a reputation as a leader in streaming media technology and intends to continue to maintain its reputation for quality and innovation by expanding the features and breadth of its audio and video product offerings. The Company believes that the fundamental architecture of its products can also be expanded to support synchronized streaming of a wide variety of other time-based data types, such as MIDI, images, animation and multimedia presentations. As part of this strategy, the Company has devoted and will continue to commit significant resources to the development of technologies that increase the scalability of streaming media solutions.

MAXIMIZE MARKET PENETRATION AND BRAND NAME RECOGNITION. The Company believes that it is the recognized leader in the streaming media technology and that its "Real" brand is one of the most widely recognized brand names on the Internet. Since its inception, the Company has sought to achieve rapid and broad adoption of its technologies and strong brand recognition. This strategy has

been pursued through various means, such as offering the Company's RealPlayer to individual users free of charge over the Internet, bundling the Company's products with those of other major vendors and using multiple distribution channels, including both direct sales and indirect OEM and retail relationships. The Company has recently intensified its efforts to proliferate its streaming technology by offering its basic EasyStart Server free of charge and entering into a licensing and distribution agreement with Microsoft. The Company also intends to continue to promote the adoption of industry standards that are either based on or compatible with its technologies. For example, the Company is one of the principal co-authors of RTSP, a proposed industry standard for the control and delivery of streaming media.

LEVERAGE MARKET POSITION TO EXPAND BUSINESS MODEL. Management believes that the Company's technology leadership, market position and brand name are significant assets that the Company can leverage to maintain and increase its market share and diversify its revenue base. The Company intends to leverage these assets as follows:

- **GROW STREAMING MEDIA SOFTWARE BUSINESS.** The Company intends to capitalize on the growth in demand for streaming media software by continuing to develop, market and support industry-leading products and services. The Company also plans to strengthen its marketing, sales and customer support efforts as the size of its market opportunity and customer base increases.
- **EXPAND INTERNET COMMERCE BUSINESS.** The Company's Web sites provide product information and fulfillment resources for streaming media content users and developers. The Company recently opened its RealStore Web site, an online store for the sale of the Company's products, third-party multimedia tools and utilities and intranet-based training products. The Company believes that it will be able to continue to facilitate the adoption and growth of streaming media content by providing a concentrated marketplace and a low-cost distribution mechanism for emerging streaming media tools and their developers.
- **OFFER LEADING CONTENT AGGREGATION SITES FOR STREAMING MEDIA.** The Company has developed a network of Web sites that aggregate links to third-party streaming media programming. The Company plans to continue building Web site traffic from these activities to increase Web site advertising revenues, increase visibility and sales of the Company's products, promote the use of streaming media content on the Internet or intranets and promote the Company's Internet commerce platform.

DEVELOP AND MARKET STREAMING MEDIA SOLUTIONS FOR A VARIETY OF PLATFORMS AND BANDWIDTHS. The Company's rapid growth is attributable in part to the wide acceptance of the streaming media solutions it has developed for PCs networked in low-bandwidth environments. However, significant efforts are underway to make the Internet available on a wider range of platforms, including non-PC Internet appliances, and over higher-speed connections, including cable modems. Accordingly, the Company has designed its solutions to add value in a range of bandwidth environments and to be flexible enough to port easily to new platforms. As a result, management believes that the Company is positioned to capitalize on possibly significant platform and bandwidth changes.

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STRENGTHEN STRATEGIC RELATIONSHIPS. The Company has established strategic relationships with a variety of industry participants, including software and hardware vendors, entertainment companies, content publishers and broadcast media companies. The Company's relationship with Microsoft enables wider distribution of the Company's products and promotes interoperability among numerous streaming media technologies. In addition to its relationship with Microsoft, the Company has formed strategic distribution relationships with several other companies, including Starlight Networks Inc. ("Starlight") and

Macromedia, has formed a joint venture in Japan with NTT PC Communications, Inc. ("NTT"), Kokusai Denshin Denwa Co., Ltd. ("KDD") and Trans Cosmos, Inc. ("Trans Cosmos") and has entered into a pilot program with MCI Communications Corporation ("MCI") to distribute the RealNetwork broadcast service. The Company pursues strategic relationships for a variety of purposes, such as maximizing rapid penetration, validation and adoption of its technologies; aiding the development of compelling content to build consumer demand for streaming media over the Internet; and expanding the range of commercial activities based on its technology and brand name. The Company has also collaborated with other industry leaders for the purpose of developing software protocols for proposed adoption as industry standards. Although the Company has not engaged in significant joint technology development relationships to date, it anticipates that it may form third-party development relationships in the future as it seeks to expand the fundamental architecture of its technology and influence the direction of technological developments in the industry.

PRODUCTS AND SERVICES

The Company develops and markets software products and services that enable the delivery of streaming audio and video content over the Internet and intranets. The Company also conducts electronic commerce and sells advertising through its Web sites, provides audio and video broadcast services to third parties, and provides various other services designed to promote widespread usage of the Company's technology.

MEDIA SYSTEM

The Company's streaming media system allows content providers to encode content such as live music, video or other multimedia programming into discrete data packets that can be broadcast to large numbers of simultaneous users.

EASYSTART SERVERS. The Company offers a basic EasyStart Server free of charge from its Web site. This product enables content providers to stream both audio and video to as many as 60 simultaneous users.

PROFESSIONAL SERVERS. The Professional Server is designed for use by commercial Web sites, including media content providers that distribute audio and/or video content over the Internet to a broad base of consumers. This server can be purchased for either audio-only or both audio and video broadcasting purposes. In addition to the basic streaming features of the EasyStart Server, the Professional Server offers advanced administrative features and the ability to reach a larger audience. Professional Server licenses start at \$4,995 and are priced based on the number of streams licensed.

INTRANET SYSTEMS. The Intranet System is a Professional Server designed specifically for use in intranet applications. The Intranet System includes a site license for the RealPlayer. A 10-user Intranet System is available free of charge from the Company's Web site. Larger system licenses start at \$6,995 and are priced according to the number of licensed users.

REALENCODERS. The Company's RealEncoders enable content providers to convert live or recorded audio and video programming into the Company's proprietary file format. This highly compressed file format increases the efficiency of limited-bandwidth transmissions and is readable by the Company's players. The RealEncoder is distributed free of charge from the Company's Web site.

REALNETWORK BROADCAST SERVICE. The Company operates the RealNetwork broadcast service, which uses the Company's splitter technology to broadcast content to thousands of simultaneous users

through IP multicasting or traditional unicasting. In August 1997, the Company

and MCI announced that they had commenced a pilot program in which the Company's technology will be incorporated into MCI's Internet backbone. The RealNetwork broadcast service will enable broadcasters to reach up to 50,000 users simultaneously by combining MCI's nationwide network of datalines and computer centers with the Company's streaming media and splitter technologies. Current content providers using the RealNetwork broadcast service include ABC News, Inc., Atlantic Recording Corporation, ESPN, Inc., and Major League Baseball teams, including the Los Angeles Dodgers and the Seattle Mariners. The Company often uses the RealNetwork broadcast service to host its own content. In select cases, the Company has and will continue to enter into relationships with content providers in which the providers' content is hosted on the RealNetwork broadcast service at the Company's expense in exchange for a share of the advertising or other revenue generated.

In May 1997, the Company entered into a joint venture with NTT, KDD and Trans Cosmos in Japan to establish J-Stream Co. Inc. ("J-Stream"), which, like the Company's RealNetwork broadcast service, streams audio and video content to users through IP multicasting or traditional unicasting. The Company supplies its RealAudio and RealVideo system and technical support for the operation of the J-Stream broadcast network. The Company holds a 24% interest in the joint venture.

CONSULTING. The Company provides a range of consulting services that principally relate to the creation and maintenance of streaming media networks based on the Company's technology. Commonly provided services include sound editing, video production assistance and network design.

CONSUMER PRODUCTS AND ELECTRONIC COMMERCE

The Company's player enables a user to listen to or view content from Web sites that use the Company's server products. The player decompresses and decodes audio and video packets transmitted by the server, reassembles them in the correct order, identifies and requests retransmission of any missing data packets, and then plays back the reassembled audio or video content for the user in real-time. The players can be easily installed and used by nontechnical computer users, even using dial-up modems over standard voice-grade telephone lines.

REALPLAYER. RealPlayer, the Company's standard player, can be downloaded free of charge from the Company's Web site and currently is distributed by a number of third parties in combination with their own products. RealPlayer offers basic functions such as play, stop, fast-forward, rewind and volume adjustment, as well as the ability to program six Destination Buttons, which provide one-click access to preprogrammed audio and video content.

REALPLAYER PLUS. The RealPlayer Plus is an enhanced player that can be downloaded from the Company's Web site or purchased in a retail store for a suggested price of \$29.95. RealPlayer Plus not only offers basic RealPlayer functions, but also features a scan function and 40 programmable buttons that allow users to preset favorite content. Customers who purchase a RealPlayer Plus also have access to special content available only to RealPlayer Plus users.

ELECTRONIC COMMERCE AND REALSTORE. Since August 1996, the Company has sold its products electronically. On September 8, 1997, it opened its RealStore Web site, an online store for the sale of the Company's products, third-party streaming media tools and utilities and intranet-based corporate training products. Through this distribution channel, the Company is able to offer a broad selection of products with little inventory risk or merchandising expense.

MEDIA PUBLISHING PRODUCTS AND SERVICES

The Company's network of Web sites aggregates, organizes and provides streaming media programming through a variety of navigational and theme-oriented content sites. These sites derive revenues from the sale of advertising to third parties such as General Motors Corporation, International Business Machines

Corporation, AT&T Corp. and Microsoft. The Company has been instrumental in pioneering new forms of Internet advertising, including in-stream advertising, in which streamed audio and video advertisements are inserted into selected programming.

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In addition to its main Web site, the Company's network of Web sites includes:

Timecast, a guide to RealAudio and RealVideo content that offers programming information from and links to over 2,500 Web sites, including over 500 radio and television stations;

LiveConcerts.com, which, in cooperation with House of Blues, offers live streamed music concerts using the Company's products as well as access to services, including up-to-date concert schedules;

Film.com, which the Company began hosting in September 1997, provides in-depth information about, and streaming media clips of, movies, including reviews and previews; and

Daily Briefing allows customers to design their own custom streaming media newscasts from over 35 short programs in the areas of news, sports, entertainment, weather and business/technology, and to receive the custom newscasts daily. Daily Briefing providers include NBC News, The Weather Channel, CBS/SportsLine, and Warner Bros.

TECHNOLOGY

The Company's client/server software system is designed to optimize the delivery of streaming media over the Internet, intranets or any IP-based network. The system is based on open industry standards and works with a broad range of operating systems, hardware platforms and media types.

CODECS

The Company's system uses multiple compression/decompression algorithms (or "codecs") to translate time-based data-intensive content such as audio and video data into discrete data packets and then broadcast (or "stream") the packets to the client (or "player"). The player then reassembles the packets in the correct order and plays back the streaming media content in real-time. The compression process enables the data to be streamed to the player even in very low bandwidth (14.4 kbps) or congested network environments by reducing the amount of data to be streamed.

TRANSMISSION TECHNOLOGY AND PROTOCOLS

Neither of the two basic Internet transport protocols, User Datagram Protocol ("UDP") and Transport Control Protocol ("TCP"), was originally designed to handle the transmission of real-time content. UDP is able to transmit data packets efficiently and without delays, but is not generally robust enough to ensure delivery of all data packets. TCP generates robust and reliable transmissions, but is not designed for efficient and continuous real-time delivery of content. Higher level Internet protocols, such as File Transfer Protocol ("FTP") and Hypertext Transfer Protocol ("HTTP"), were designed originally for one-way continuous transmissions and as such do not efficiently allow the player to communicate back to the server to activate functions such as fast forward, pause and rewind or to select a particular portion of a clip for playing.

To address the inherent limitations of the Internet with respect to multimedia delivery, the Company has developed its own client/server software architecture based on advanced transmission technologies and protocols. Key

elements of the Company's technology solution include:

- BUFFERING: Because the streaming of continuous, time-based content such as audio or video must occur in real-time and with minimal transmission loss, the Company's technology incorporates a time delay (or "buffering") feature that allows the player extra time to accumulate data packets and, if any are missing, request retransmission of particular packets. As a result, transmission and playback quality can be optimized, even in highly congested transmission environments.
- BIDIRECTIONAL COMMUNICATION: The Company's server and player communicate during transmission regarding the bandwidth and quality of the user's connection to optimize the transmission by using the system's bandwidth negotiation and dynamic connection management capabilities. For

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example, the system is able to detect the available bandwidth and the extent of packet loss and performance degradation.

- ERROR-MITIGATION: To the extent that buffering and packet retransmission efforts are insufficient to maintain acceptable quality of user experience, the Company's system draws on several techniques designed to mitigate performance degradation, including interpolation methods that "reconstruct" lost data packets based on approximations regarding adjacent or closely related data packets, UDP-based retransmission of lost packets and forward error correction.
- SMART NETWORKING: This feature allows a server to stream content to the player via unicasting or IP multicasting and automatically select the appropriate transmission protocol (UDP, TCP or HTTP) depending on current network conditions and the presence of firewalls or proxies.
- VIDEO-OPTIMIZED TRANSMISSION: Because video transmissions are more data-intensive than audio transmissions, the encoding of video streams for low bandwidth requires a higher compression ratio. In addition to standard compression techniques, the Company uses a technique known as interframe compression, which reduces unnecessary repetition of redundant background data in neighboring video frames, thereby reducing the number of data packets being transmitted. The system also incorporates "stream thinning" technology that responds to episodes of performance degradation by dynamically reducing the amount of video content being streamed to the user, thereby preserving bandwidth for audio packets to maintain the continuity of the audio stream, which is often more central to the user experience than video.

In addition to its core client/server technology, the Company has adopted RTSP, a proposed protocol for standardizing the control and delivery of streaming media over the Internet. RTSP is a unified standard for a broad range of media data types and is intended to promote a greater level of interoperability among various streaming media solutions. RTSP is built on top of a number of other Internet standard protocols such as HTTP, TCP/IP and Real Transport Protocol, and is complementary with ASF, a file format for streaming media that does not specify a method of client-server interaction. RTSP provides the client-server specification necessary to stream ASF files (and many other file types) on the Internet. RTSP was submitted to the IETF in October 1996 with the support of over 40 companies. See "-- Microsoft Relationship" and "Risk Factors -- Impact of Evolving Standards."

NETWORKED MULTIMEDIA FOR LARGE-SCALE DELIVERY

The Company's splitter technology allows broadcasters to transmit large numbers of simultaneous streams. Traditionally, a standalone server sends a separate signal to each individual user, which is an inefficient use of network

bandwidth because the same signal is often being distributed through many of the same links on the network.

The Company's splitter technology enables one "central" server to broadcast a signal to a set of servers distributed around a network, which servers then transmit the signal to the end user, thereby minimizing the use of the network backbone and improving signal quality. The Company uses this technology in its RealNetwork broadcasting service, as well as in its J-Stream joint venture in Japan. See "-- Business Strategy -- Strengthen Strategic Relationships" and "-- Products and Services -- Media System."

RESEARCH AND DEVELOPMENT

The Company devotes a substantial portion of its resources to developing new products and product features, expanding and improving its fundamental streaming technology, and strengthening its technological expertise. During the fiscal year ended December 31, 1996, and the six months ended June 30, 1997, the Company expended approximately 34% and 41%, respectively, of its total net revenues on research and development activities. The Company intends to continue to devote substantial resources toward research and development for the next several years. At August 31, 1997, the Company had 90 employees, or 32% of its workforce, engaged in research and development activities. The Company must

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hire additional skilled software engineers to further its research and development efforts. The Company's business, financial condition and results of operations could be adversely affected if it is not able to hire and retain the required number of engineers.

SALES, MARKETING AND DISTRIBUTION

The Company believes that any individual or company that desires to transmit or receive streaming media content over the Internet or intranets is a potential Company customer. To reach as many customer segments as possible, the Company markets its products and services through several direct and indirect distribution channels, including over the Internet, through a direct sales force, through OEMs and VARs, and internationally through distributors and the J-Stream joint venture. As of August 31, 1997, the Company employed 98 sales and marketing personnel worldwide.

ELECTRONIC COMMERCE. The Company's Consumer and E-Commerce Divisions are responsible for electronic commerce sales and marketing of the Company's products as well as third-party multimedia development products sold on the Company's RealStore Web site. Substantially all of the Company's products may be downloaded directly from the Company's Web sites, with over 18 million product downloads to date. The Company sells third-party products on its RealStore Web site on a consignment basis and, accordingly, incurs no inventory risk with respect to such products. Electronic distribution provides the Company with a low-cost, globally accessible, 24-hour sales channel.

DIRECT SALES FORCE. The Company's direct sales force markets the Company's products and services primarily to corporate customers worldwide. The direct sales force is comprised of the Major Accounts, National Accounts and Telesales groups of the Company's Media Systems Division. The Major Accounts and National Accounts groups market and sell to corporate customers primarily interested in server products for commercial Internet Web sites or intranets. The Telesales group develops and pursues leads generated from inquiries on the Company's Web sites and from downloads of its EasyStart Server.

OEMS AND VARs. The Strategic Channels, OEM and Consulting groups of the Company's Media Systems Division market and establish indirect distribution agreements. The Company has entered into various distribution relationships with third parties pursuant to which the Company's products are incorporated into, or

bundled with, the third party's products for delivery by the third party to end users. Such third parties include Creative Labs, Inc., Apple Computer, Inc., Network Computer, Inc., WebTV Networks, Inc. and Microsoft.

ADVERTISING SALES. The Company's Advertising Sales group markets and sells advertising on the Company's Web sites and within media streams that the Company hosts on behalf of its corporate customers.

INTERNATIONAL SALES. The Company has three international subsidiaries that market and sell the Company's products outside the U.S. and Canada. The Company distributes its products internationally through a direct sales force and distribution arrangements.

MARKETING PROGRAMS. The Company participates in trade shows, conferences and seminars, provides product information through the Company's Web sites, promotes and co-promotes special events, places advertising for the Company's products and services in print and electronic media, and sponsors special programs for software developers, including its own conference. The Company's marketing programs are aimed at informing distributors and end users about the capabilities and benefits of the Company's products and services, increasing brand name awareness, stimulating demand across all market segments and encouraging independent software developers to develop products and applications that are compatible with the Company's products and technology.

MICROSOFT RELATIONSHIP

In June 1997, the Company entered into a strategic agreement with Microsoft, pursuant to which the Company granted Microsoft a nonexclusive license to certain substantial elements of the source code of

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the Company's RealAudio/RealVideo Version 4.0 technology, including its basic RealPlayer and substantial elements of its EasyStart Server products, and related Company trademarks. Under the agreement, Microsoft may sublicense its rights to the RealAudio and RealVideo Version 4.0 technology to third parties under certain circumstances. The agreement also provides for substantial refunds to Microsoft under prescribed circumstances that are solely within the Company's control. The amount of these refunds diminishes over time. The Company may not assign its obligations under the agreement without Microsoft's consent. Microsoft is obligated to distribute the Company's RealPlayer Version 4.0 for a defined term as long as the Company's player supports certain Microsoft architectures. The Company also agreed to work with Microsoft and several other companies to author and promote ASF as a standard file format for streaming media. The agreement also requires the Company to provide Microsoft with engineering consultation services, certain error corrections and certain technical support over a defined term.

In connection with the agreement, Microsoft also purchased a minority interest in the Company. Microsoft currently offers its own streaming media product, NetShow. In addition, Microsoft recently acquired Vxtreme, a direct competitor of the Company in the market for streaming media software. Microsoft also owns a minority interest in VDOnet, a direct competitor of the Company in the market for streaming video software. As a result of Microsoft's agreement with the Company, its acquisition of Vxtreme, and its investment in VDOnet, Microsoft will be able to augment substantially the functionality of NetShow, its streaming media product, which could have a material adverse effect on the competitiveness of the Company's products. See "Risk Factors -- Department of Justice Subpoena."

Microsoft currently competes with the Company in the market for streaming media server and player software. The Company believes that Microsoft will compete more directly with the Company in the future. The Company also believes that Microsoft's commitment to and presence in the streaming media industry will

dramatically increase competitive pressure in the overall market for streaming media software, leading to, among other things, increased pricing pressure and longer sales cycles. Such pressures may result in further price reductions in the Company's products and may also materially reduce the Company's market share. The Company believes that Microsoft will incorporate streaming media technology in its Web browser software and certain of its server software offerings, possibly at no additional cost to the user. In addition, notwithstanding the Company's cooperation with Microsoft regarding ASF, Microsoft may promote technologies and standards not compatible with the Company's technology. Microsoft has a longer operating history, a larger installed base of customers and dramatically greater financial, distribution, marketing and technical resources than the Company. As a result, there can be no assurance that the Company will be able to compete effectively with Microsoft now or in the future, or that the Company's financial condition and results of operations will not be materially adversely affected. In addition, if considerable consolidation occurs, there can be no assurance that the Company will be able to continue to compete effectively.

CUSTOMERS

Since the Company's inception, the following companies have paid \$45,000 or more to the Company for the purchase of products or services or the license of technology: ABC Radio Net, Apple Computer, Inc., Bandai Digital Entertainment Corporation, Bloomberg L.P., Boeing-Inform, Cisco Systems, Inc., Creative Labs, Inc., Dow Jones, Forefront Graphics Corporation, Internet Canada, Merrill Lynch & Co. Inc, Microsoft, Multiple Zones, Muzak, Navio Communications, Inc., NBC Desktop, NetRadio Network, Network Computer Inc., News Corp., Prodigy Services Company, Starwave, Tele2 Danmark A/S, Teledanmark In, Telia Data AB, 3Com, United Technologies Corp., WavePhone, Inc. and WebTV Networks, Inc. The Company's customers consist primarily of resellers and users located in the U.S. and Canada and various foreign countries. Sales to customers outside the U.S. and Canada, primarily Asia and Europe, were approximately 15%, 19% and 27% of total net revenues in the years ended December 31, 1995 and 1996 and the six months ended June 30, 1997, respectively.

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CUSTOMER SUPPORT

The Company's customers have a choice of support options depending on the level of service desired. The Company maintains a technical support hotline to answer inquiries and provides an online database of technical information. The Company's support staff also responds to e-mail inquiries. The Company tracks all support requests through a series of customer databases, including current status reports and historical customer interaction logs. The Company uses customer feedback as a source of ideas for product improvements and enhancements. As of August 31, 1997, the Company employed 10 technical representatives to respond to customer requests for support.

COMPETITION

The market for software and services for the Internet and intranets is relatively new, constantly evolving and intensely competitive. The Company expects that competition will intensify in the future. Many of the Company's current and potential competitors have longer operating histories, greater name recognition and significantly greater financial, technical and marketing resources than the Company. The Company's principal competitors in the development and distribution of audio and video streaming solutions include Microsoft, VxTreme, VDOnet, Xing, Precept, Cubic, Motorola, Vivo, Vosaic and Oracle. The Company's RealAudio and RealVideo system also competes to a lesser degree with non-streaming audio and video delivery technologies such as AVI and Quicktime, and indirectly with delivery systems for multimedia content other than audio and video, such as Flash by Macromedia and Enliven by Narrative. Competitive factors in this market include the quality and reliability of

software; features for creating, editing and adapting content; ease of use and interactive user features; scalability and cost per user; and compatibility with the user's existing network components and software systems. To expand its user base and further enhance the user experience, the Company must continue to innovate and improve the performance of its RealAudio and RealVideo system. The Company anticipates that consolidation will continue in the streaming media industry and related industries such as computer software, media and communications. Consequently, competitors may be acquired by, receive investments from or enter into other commercial relationships with, larger, well-established and well-financed companies. There can be no assurance that the Company can establish or sustain a leadership position in this market segment. See "-- Microsoft Relationship."

The Company is committed to the continued market penetration of its brand, products and services, which, as a strategic response to changes in the competitive environment, may require pricing, licensing, service or marketing changes intended to extend its current brand and technology franchise. By way of example, the Company recently decided to distribute free of charge a version of its EasyStart Server, which previously sold for \$295 to \$995. Continued price concessions or the emergence of other pricing or distribution strategies by competitors may have a material adverse effect on the Company's business, financial condition and results of operations.

The Company derives significant revenues from the electronic distribution of certain of its products. The Company recently opened its RealStore Web site, an online store for the sale of the Company's products, third-party streaming media tools and utilities and Internet-based training products. The Company competes with a variety of Web sites, such as Buydirect.Com and Software.Net, which also offer software products for download. To compete successfully in the electronic commerce market, the Company must attract sufficient commercial traffic to its RealStore Web site by offering high-quality merchandise in a compelling, easy-to-purchase format. There can be no assurance that the Company will be able to compete successfully in this market, and any failure to do so could have a material adverse effect on the Company's business, financial condition and results of operations.

In the Internet advertising segment, the Company competes for Internet advertising revenues with a wide variety of Web sites and Internet service providers. While Internet advertising revenues across the industry continue to grow, the number of Web sites competing for such revenue is also growing rapidly. The Company's advertising sales force and infrastructure are still in early stages of development relative to the Company's competitors. There can be no assurance that advertisers will place advertising with the

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Company or that revenues derived from such advertising will be material. In addition, if the Company loses advertising customers, fails to attract new customers, is forced to reduce advertising rates or modify its rate structure to retain or attract customers, or loses Web site traffic, the Company's business, financial condition and results of operations may be materially adversely affected.

POSITION ON CHARITABLE RESPONSIBILITY

Immediately subsequent to the offering, Mr. Glaser will contribute 5% of his Common Stock to charitable organizations. In addition, Mr. Jacobsen will also make a sizable contribution of his Common Stock to charitable organizations. The Company is strongly committed to charitable responsibility, as evidenced by its donations of software to charitable organizations. If sustained profitability is achieved, the Company intends to donate approximately 5% of its annual net income to charitable organizations. The Company hopes to encourage employee giving by using a portion of its intended contribution to match charitable donations made by employees. See "Risk Factors -- Position on

Charitable Responsibility."

GOVERNMENTAL REGULATION

The Company currently is not subject to direct regulation by any governmental agency, other than laws and regulations generally applicable to businesses, although certain U.S. export controls and import controls of other countries, including controls on the use of encryption technologies, may also apply to the Company's products. However, due to the increasing popularity and use of the Internet, it is possible that a number of laws and regulations may be adopted in the U.S. and abroad with particular applicability to the Internet. It is possible that governments will enact legislation that may be applicable to the Company in areas such as content, network security, encryption and the use of key escrow, data and privacy protection, electronic authentication or "digital" signatures, illegal and harmful content, access charges and retransmission activities. Moreover, the applicability to the Internet of existing laws governing issues such as property ownership, content, taxation, defamation and personal privacy is uncertain. The majority of such laws were adopted before the widespread use and commercialization of the Internet and, as a result, do not contemplate or address the unique issues of the Internet and related technologies. Any such export or import restrictions, new legislation or regulation or governmental enforcement of existing regulations may limit the growth of the Internet, increase the Company's cost of doing business or increase the Company's legal exposure, which could have a material adverse effect on the Company's business, financial condition and results of operations.

By distributing content over the Internet, the Company faces potential liability for claims based on the nature and content of the materials that it distributes, including claims for defamation, negligence or copyright, patent or trademark infringement, which claims have been brought, and sometimes successfully litigated, against Internet companies. The Company's general liability insurance may not cover potential claims of this type or may not be adequate to indemnify the Company for any liability that may be imposed. Any liability not covered by insurance or in excess of insurance coverage could have a material adverse effect on the Company's business, financial condition and results of operations. Although those sections of the Communications Decency Act of 1996 ("CDA") that, among other things, proposed to impose criminal penalties on anyone distributing "indecent" material to minors over the Internet, were held to be unconstitutional by the U.S. Supreme Court, there can be no assurance that similar laws will not be proposed and adopted. While the Company does not currently distribute the types of materials that the CDA may have deemed illegal, the nature of such similar legislation and the manner in which it may be interpreted and enforced cannot be fully determined and, therefore, legislation similar to the CDA could subject the Company to potential liability, which in turn could have an adverse effect on the Company's business, financial condition and results of operations. Such laws could also damage the growth of the Internet generally and decrease the demand for the Company's products and services, which could adversely affect the Company's business, financial condition and results of operations.

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INTELLECTUAL PROPERTY

The Company's success depends in part on its ability to protect its proprietary software and other intellectual property. To protect its proprietary rights, the Company relies generally on patent, copyright, trademark and trade secret laws, confidentiality agreements with employees and third parties, and license agreements with consultants, vendors and customers, although the Company has not signed such agreements in every case. Despite such protections, a third party could, without authorization, copy or otherwise obtain and use the Company's products or technology to develop similar technology independently. There can be no assurance that the Company's agreements with employees, consultants and others who participate in product development activities will

not be breached, that the Company will have adequate remedies for any breach, or that the Company's trade secrets will not otherwise become known or independently developed by competitors.

The Company currently has two patents pending in the U.S. relating to its product architecture and technology and holds one patent entitled "Method and Apparatus for Recommending Selections Based on Preferences in a Multi-User System." There can be no assurance that any pending or future patent applications will be granted, that any existing or future patent will not be challenged, invalidated or circumvented, or that the rights granted under any patent that has issued or may issue will provide competitive advantages to the Company. Many of the Company's current and potential competitors dedicate substantially greater resources to protection and enforcement of intellectual property rights, especially patents. If a blocking patent has issued or issues in the future, the Company would need either to obtain a license or design around the patent. There can be no assurance that the Company would be able to obtain such a license on acceptable terms, if at all, or to design around the patent. The Company pursues the registration of certain of its trademarks and service marks in the U.S. and in certain other countries, although it has not secured registration of all its marks. As of September 19, 1997, the Company had 9 registered U.S. trademarks or service marks, and had applications pending for an additional 26 U.S. trademarks. A significant portion of the Company's marks begin with the word "Real" (such as RealAudio and RealVideo). The Company is aware of other companies that use "Real" in their marks alone or in combination with other words, and the Company does not expect to be able to prevent all third-party uses of the word "Real" for all goods and services. In addition, the laws of some foreign countries do not protect the Company's proprietary rights to the same extent as do the laws of the U.S., and effective patent, copyright, trademark and trade secret protection may not be available in such jurisdictions. The Company licenses certain of its proprietary rights to third parties, and there can be no assurance that such licensees will not fail to abide by compliance and quality control guidelines with respect to such proprietary rights or take actions that would materially adversely affect the Company's business, financial condition and results of operations.

To license many of its products, the Company relies in part on "shrinkwrap" and "clickwrap" licenses that are not signed by the end user and, therefore, may be unenforceable under the laws of certain jurisdictions. As with other software products, the Company's products are susceptible to unauthorized copying and uses that may go undetected, and policing such unauthorized use is difficult. In general, there can be no assurance that the Company's efforts to protect its intellectual property rights through patent, copyright, trademark and trade secret laws will be effective to prevent misappropriation of its technology, or to prevent the development and design by others of products or technologies similar to or competitive with those developed by the Company, and the Company's failure or inability to protect its proprietary rights could materially adversely affect the Company's business, financial condition and results of operations.

The computer software market is characterized by frequent and substantial intellectual property litigation, which is often complex and expensive, and involves a significant diversion of resources and uncertainty of outcome. Litigation may be necessary in the future to enforce and protect the Company's intellectual property and trade secrets or to defend against a claim of infringement or invalidity. The Company has been and expects to continue to be subject to legal proceedings and claims from time to time in the ordinary course of its business, including claims of alleged infringement of third-party proprietary rights by the Company and its licensees. The Company attempts to avoid infringing known

proprietary rights of third parties in its product development efforts. However, the Company has not conducted and does not conduct comprehensive patent searches

to determine whether the technology used in its products infringes patents held by third parties. In addition, it is difficult to proceed with certainty in a rapidly evolving technological environment in which there may be numerous patent applications pending, many of which are confidential when filed, with regard to similar technologies. If the Company were to discover that its products violate third-party proprietary rights, there can be no assurance that it would be able to obtain licenses to continue offering such products without substantial reengineering or that any effort to undertake such reengineering would be successful, that any such licenses would be available on commercially reasonable terms, if at all, or that litigation could be avoided or settled without substantial expense and damage awards. Any claims relating to the infringement of third-party proprietary rights, even if not meritorious, could result in the expenditure of significant financial and managerial resources and could result in injunctions preventing the Company from distributing certain products. Such claims could materially adversely affect the Company's business, financial condition and results of operations.

The Company also relies on certain technology that it licenses from third parties, including software that is integrated with internally developed software and used in the Company's products, to perform key functions. There can be no assurance that such third-party technology licenses will continue to be available to the Company on commercially reasonable terms. The loss of any of these technologies could have a material adverse effect on the Company's business, financial condition and results of operations. Moreover, although the Company is generally indemnified against claims that such third-party technology infringes the proprietary rights of others, such indemnification is not always available for all types of intellectual property rights (for example, patents may be excluded) and in some cases the scope of such indemnification is limited. Even if the Company receives broad indemnification, third-party indemnitors are not always well capitalized and may not be able to indemnify the Company in the event of infringement, resulting in substantial exposure to the Company. There can be no assurance that infringement or invalidity claims arising from the incorporation of third-party technology, and claims for indemnification from the Company's customers resulting from such claims, will not be asserted or prosecuted against the Company. Such claims, even if not meritorious, could result in the expenditure of significant financial and managerial resources in addition to potential product redevelopment costs and delays, all of which could materially adversely affect the Company's business, financial condition or results of operations. See "Risk Factors -- Uncertain Protection of Intellectual Property; Risks Associated with Licensed Third-Party Technology."

EMPLOYEES

At August 31, 1997, the Company had 276 full-time employees and two part-time employees, 250 of whom were based at the Company's executive offices in Seattle, Washington, 21 of whom were based at the Company's offices in Japan, England or France and five of whom were salespersons based at other locations. None of the Company's employees is subject to a collective bargaining agreement, and the Company believes that its relations with its employees are good.

FACILITIES

The Company's executive offices are located in downtown Seattle, Washington in an office building in which, as of September 30, 1997, the Company leases an aggregate of 80,345 square feet at a current monthly rental of \$122,411. The lease agreement terminates on April 30, 2001. The Company has an option to extend the lease agreement for two additional five-year terms.

The Company anticipates that it will require additional space within the next 12 months, but that suitable additional space will be available on commercially reasonable terms, although there can be no assurance in this regard. The Company does not own any real estate.

LEGAL PROCEEDINGS

From time to time the Company has been, and expects to continue to be, subject to legal proceedings and claims in the ordinary course of its business, including claims of alleged infringement of third-party trademarks and other intellectual property rights by the Company and its licensees. Such claims, even if not meritorious, could result in the expenditure of significant financial and managerial resources. In August 1997, the Company was subpoenaed by the Department of Justice in connection with its investigation into horizontal merger activity in the streaming media industry. The investigation, including interviews by the Department of Justice of Company officers, and document production requests, is ongoing. As a result of the investigation, it is possible that the Department of Justice will require certain actions by the Company or other companies in the streaming media industry, which could have a material adverse effect on the Company's competitive position, and on its business, financial condition and results of operations. The Company is cooperating in the investigation. The Company is not aware of any other legal proceedings or claims that it believes will have, individually or in the aggregate, a material adverse effect on its business, financial condition or results of operations. See "Risk Factors -- Department of Justice Subpoena" and "-- Uncertain Protection of Intellectual Property; Risks Associated With Licensed Third-Party Technology."

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MANAGEMENT

DIRECTORS, EXECUTIVE OFFICERS AND KEY EMPLOYEES

The executive officers, directors and key employees of the Company as of September 26, 1997 are as follows:

<TABLE>

<CAPTION>

NAME	AGE	POSITION

<S>	<C>	<C>
Robert Glaser(1).....	35	Chairman of the Board, Chief Executive Officer, Secretary and Treasurer
Bruce Jacobsen(2).....	37	President, Chief Operating Officer and Director
Mark Klebanoff.....	35	Chief Financial Officer
Len Jordan.....	31	Senior Vice President -- Media Systems
Phillip Barrett.....	44	Senior Vice President -- Media Systems
Maria Cantwell.....	38	Senior Vice President -- Consumer and E-Commerce
James Higa.....	39	Vice President -- Asia/Rest of World ("ROW")
John Atcheson.....	38	Vice President -- Media Publishing
James Wells.....	50	Vice President -- Sales
Kelly Jo MacArthur.....	33	Vice President and General Counsel
Erik Moris.....	38	Vice President -- Marketing
James Breyer(1)(2).....	36	Director
Mitchell Kapor(1)(2).....	46	Director

</TABLE>

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(1) Member of the Compensation Committee.

(2) Member of the Audit Committee.

Set forth below is certain information regarding the business experience during the past five years for each of the above-named persons.

ROBERT GLASER has served as Chairman of the Board, Chief Executive Officer

and Treasurer of the Company since its inception in February 1994, and as Secretary since March 1995. On closing of the offering, he will also serve as the Company's Policy Ombudsman, with the exclusive authority to adopt or change the editorial policies of the Company as reflected on the Company's Web sites or other communications or media where the Company has a significant editorial or media voice. See "Description of Capital Stock -- Certain Voting and Other Matters." From 1983 to 1993, Mr. Glaser was employed at Microsoft, most recently as Vice President of multimedia and consumer systems, where he focused on the development of new businesses related to the convergence of the computer, consumer electronics and media industries. Mr. Glaser holds a B.A. and an M.A. in Economics and a B.S. in Computer Science from Yale University.

BRUCE JACOBSEN has served as President and Chief Operating Officer of the Company since February 1996 and as a Director since August 1997. From April 1995 to February 1996, Mr. Jacobsen was Chief Operating Officer of Dreamworks Interactive, a joint venture between Microsoft and Dreamworks SKG, a partnership among Steven Spielberg, Jeffery Katzenberg and David Geffen. From August 1986 to April 1995, Mr. Jacobsen was employed at Microsoft in a number of capacities, including General Manager of the Kids/Games business unit. Mr. Jacobsen graduated summa cum laude with Honors from Yale University and holds an M.B.A. from Stanford University.

MARK KLEBANOFF has served as Chief Financial Officer of the Company since June 1996. From May 1992 to June 1996, Mr. Klebanoff was Vice President of Finance and Operations of Industrial Systems, Inc., a client/server process information management software vendor, which merged with Aspen Technology, Inc. in 1995. From 1989 to 1992, Mr. Klebanoff worked in a number of general management capacities for the Japanese trading company Itochu Corporation. Mr. Klebanoff holds a B.A. from Yale University and a Masters degree from the Yale School of Management.

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LEN JORDAN has served as Senior Vice President -- Media Systems of the Company since January 1997. From November 1993 to November 1996, Mr. Jordan was employed at Creative Multimedia, Inc., a developer and publisher of CD-ROM/Internet products in a number of capacities, most recently as President. From September 1989 to November 1993, Mr. Jordan was employed at Central Point Software, Inc., a utility software publisher. Mr. Jordan graduated magna cum laude from the Eccles School of Business at the University of Utah with B.S. degrees in Finance and Economics.

PHILLIP BARRETT has served as Senior Vice President -- Media Systems of the Company since January 1997, and from November 1994 to January 1997 as Vice President -- Software Development. From March 1986 to October 1994, Mr. Barrett was a Development Group Manager at Microsoft, where he led development efforts for Windows 386, Windows 3.0 and Windows 3.1. Mr. Barrett holds an A.B. in Mathematics from Rutgers University and an M.S. in Computer Sciences from the University of Wisconsin, Madison.

MARIA CANTWELL has served as Senior Vice President -- Consumer and E-Commerce of the Company since July 1997. From April 1995 to July 1997, Ms. Cantwell served as Vice President -- Marketing of the Company. From February 1995 to April 1995, Ms. Cantwell was a consultant to the Company. From 1992 to January 1995, Ms. Cantwell served as a member of the 103rd Congress. Ms. Cantwell holds a B.A. in Public Administration from Miami University.

JAMES HIGA has served as Vice President -- Asia/ROW of the Company since September 1996. From January 1989 to August 1996, Mr. Higa was the Director for Asia/Pacific for NeXT Software, Inc. From 1986 to 1989, Mr. Higa served as Director of Product Marketing at Apple Japan, Inc. Mr. Higa holds a B.A. in Political Science from Stanford University.

JOHN ATCHESON has served as Vice President -- Media Publishing of the

Company since January 1997. From March 1990 to May 1996, Mr. Atcheson was President and Chief Executive Officer of MNI Interactive, Inc., a developer and distributor of consumer interactive services. Mr. Atcheson holds a B.A. from Brown University and an M.B.A. from the Stanford Graduate School of Business.

JAMES WELLS has served as Vice President -- Sales of the Company since May 1995. From March 1994 to April 1995, Mr. Wells served as a consultant in sales, marketing and product strategy at Aldus Corporation, a developer and marketer of publishing software. From January 1991 to February 1994, Mr. Wells served in various senior sales and marketing positions with Apple Computer, Inc. Mr. Wells holds a B.S. in Engineering from Lamar University and an M.B.A. from the University of Delaware.

KELLY JO MACARTHUR has served as Vice President and General Counsel of the Company since October 1996. From January 1995 to March 1996, Ms. MacArthur served as General Counsel and Director of Business Affairs for Compton's NewMedia, Inc., which was acquired by Learning Co., Inc. in 1996. From July 1989 to December 1994, Ms. MacArthur was an attorney at Sidley & Austin. Ms. MacArthur graduated summa cum laude from the University of Illinois at Champaign-Urbana and holds a J.D. from Harvard Law School.

ERIK MORIS has served as Vice President -- Marketing of the Company since August 1997. From April 1997 to July 1997, Mr. Moris served as a Product Manager for the Company. From September 1996 to April 1997, Mr. Moris was a consultant to the Company. From May 1995 to August 1996, Mr. Moris was employed at Microsoft, where he managed advertising for the Windows 95 launch and was Group Manager for the Internet Platform and Tools Division. From 1985 to 1994, Mr. Moris was a Senior Vice President at McCann-Erickson Advertising. Mr. Moris holds a B.A. in Communications and Business from Western Washington University.

JAMES BREYER has been a Director of the Company since October 1995. Mr. Breyer has served as a Managing Partner of Accel Partners L.P. in Palo Alto/San Francisco since November 1995 and as a general partner from 1990 to 1995. At Accel Partners L.P., Mr. Breyer has sponsored investments in over a dozen companies that have completed public offerings or successful mergers. Previously, Mr. Breyer was a management consultant at McKinsey & Company, and worked in product management and

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marketing at Apple Computer, Inc. and Hewlett-Packard Corporation. Mr. Breyer holds a B.S. from Stanford University and an M.B.A. from Harvard University, where he was named a Baker Scholar.

MITCHELL KAPOR has been a Director of the Company since October 1995. From 1990 to 1993, Mr. Kapor was President, from 1993 to 1995 he was Chairman and from 1995 to 1996 he was a director, of the Electronic Frontier Foundation, a nonprofit public Internet organization that he co-founded in 1990. Mr. Kapor designed Lotus 1-2-3, and founded Lotus Development Corporation in 1982 and served as its President and Chief Executive Officer from April 1982 to July 1986. Mr. Kapor holds a B.A. in Cybernetics from Yale University and an M.A. in Psychology from Beacon College.

NUMBER, TERM AND ELECTION OF DIRECTORS

The Company's Articles provide that the number of directors shall be determined in the manner provided by the Company's Bylaws. The Bylaws provide that the number of directors shall not be less than one, with the precise number to be determined by resolution of the Board of Directors. The Board of Directors has determined that the number of directors shall be seven. Four directors currently serve on the Board, with three vacancies currently existing.

Prior to September 1997, each director was elected to serve until the next annual meeting of shareholders and the election and qualification of his or her

successor or until his or her earlier resignation or removal. In September 1997, the Company established a classified Board of Directors with three classes (Class 1, Class 2 and Class 3), each class as nearly equal in number of directors as possible. Each of the current directors was elected in September 1997 to one of these three classes. Commencing with the annual shareholders meeting in 1998 and thereafter, each director shall serve for a term ending at the third annual meeting of shareholders following such director's election. Mr. Kapor was elected to Class 1 with a term expiring at the annual shareholders meeting in 1998; Messrs. Breyer and Jacobsen were elected to Class 2 with terms expiring at the annual shareholders meeting in 1999; and Mr. Glaser was elected to Class 3 with a term expiring at the annual shareholders meeting in 2000.

CONTRACTUAL ARRANGEMENTS

Pursuant to the terms of a Second Amended and Restated Investors' Rights Agreement (the "Investors' Rights Agreement"), the holders of Series B Preferred Stock are entitled to nominate one member to the Board of Directors, the holders of Series C Preferred Stock are entitled to nominate one member to the Board of Directors and the holders of Series E Preferred Stock are entitled to nominate one member to the Board of Directors. Mr. Kapor is the director nominated by the holders of the Series B Preferred Stock, Mr. Breyer is the director nominated by the holders of the Series C Preferred Stock, and the holders of the Series E Preferred Stock currently have not nominated a director. The right to nominate directors pursuant to the Investors' Rights Agreement will terminate on closing of the offering.

Under a voting agreement (the "Voting Agreement") entered into in September 1997 among the Company, Accel IV L.P. ("Accel IV") and Messrs. Jacobsen, Kapor and Glaser, each of Accel IV and Messrs. Jacobsen and Kapor have agreed, effective on closing of the offering, to vote all shares of stock of the Company owned by such shareholders to elect Mr. Glaser to the Board of Directors of the Company in each election in which he is a nominee. The obligations under the Voting Agreement terminate with respect to shares transferred by the parties thereto. The Voting Agreement terminates upon the death of Mr. Glaser.

Pursuant to the terms of the Glaser Agreement, the Company granted to Mr. Glaser a direct contractual right to require the Company to abide by and perform all terms of the Articles with respect to strategic transactions. The agreement also provides that so long as Mr. Glaser owns a specified number of shares, the Company shall use its best efforts to cause Mr. Glaser to be nominated to, not removed from, and elected to, the Board of Directors.

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COMPENSATION OF DIRECTORS

Directors of the Company do not receive cash compensation for their services as directors or members of committees of the Board of Directors, but are reimbursed for their reasonable expenses incurred in attending Board of Directors meetings. The Company has not made option grants to outside directors, but intends to make such grants to outside directors.

BOARD COMMITTEES

The Company has established an Audit Committee, a Compensation Committee and a Strategy Committee. In addition, the Articles provide that, following the closing of the offering, the Company will establish a Strategic Transactions Committee. Following the closing of the offering, the Company also intends to establish a Nominating Committee.

The Audit Committee consists of Messrs. Breyer, Jacobsen and Kapor. The functions of the Audit Committee are to make recommendations to the Board of Directors regarding the selection of independent auditors, review the results and scope of the audit and other services provided by the Company's independent

auditors and evaluate the Company's internal controls.

The Compensation Committee consists of Messrs. Breyer, Glaser and Kapor. The functions of the Compensation Committee are to review and approve the compensation and benefits for the Company's executive officers, administer the Company's stock option and stock purchase plans and make recommendations to the Board of Directors regarding such matters.

The Strategy Committee consists of Messrs. Breyer, Glaser, Jacobsen and Kapor. The functions of the Strategy Committee are to make recommendations to the Board of Directors regarding the overall strategic goals of the Company and review significant business transactions that affect the future strategic direction of the Company.

The Strategic Transactions Committee will be comprised of three directors, who shall initially be Messrs. Glaser, Breyer and Kapor. Without the prior approval of such committee, and subject to certain limited exceptions, the Board of Directors shall not have the authority to (i) adopt a plan of merger, (ii) authorize the sale, lease, exchange or mortgage of (A) assets representing more than 50% of the book value of the Company's assets prior to the transaction or (B) any other asset or assets on which the long-term business strategy of the Company is substantially dependent, (iii) authorize the Company's voluntary dissolution or (iv) take any action that has the effect of clauses (i) through (iii). Any vacancy on the Committee shall be filled by the remaining members of the Committee. If two members of the Committee remain and they are unable to agree on an individual to fill the vacancy, the vacancy may be filled by the member who holds or controls, directly or indirectly, the larger percentage of the outstanding shares of the Company's capital stock. The Committee, by vote of the Chairman of the Committee and one additional member, may limit the powers of the Committee or may terminate the Committee. The existence and powers of the Committee shall terminate when the members in the aggregate cease to hold or control, directly or indirectly, at least 10% of the outstanding shares of the Company's capital stock.

The Nominating Committee will be comprised of the Company's Chief Executive Officer and certain other directors of the Company. The function of the Nominating Committee will be to recommend persons for election to the Board of Directors.

POLICY OMBUDSMAN

Under the Articles, Mr. Glaser shall serve, or shall appoint another officer of the Company who shall serve, as the Company's Policy Ombudsman, with the exclusive authority to adopt or change the editorial policies of the Company as reflected on the Company's Web sites or other communications or media where the Company has a significant editorial or media voice. Upon the death, resignation or removal of Mr. Glaser as the Policy Ombudsman, the Chief Executive Officer shall serve or appoint another officer of the Company to serve as his or her successor.

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EXECUTIVE COMPENSATION

The following table sets forth information concerning the compensation received for services rendered to the Company in all capacities during the year ended December 31, 1996 by the Company's Chief Executive Officer and by the other three executive officers of the Company whose salary and bonus exceeded \$100,000 in 1996 (the "Named Executive Officers").

SUMMARY COMPENSATION TABLE

<TABLE>
<CAPTION>

NAME AND PRINCIPAL POSITION	ANNUAL COMPENSATION		LONG-TERM COMPENSATION AWARDS
	SALARY(\$)(1)	BONUS(\$)	SECURITIES UNDERLYING OPTIONS(#)
<S>	<C>	<C>	<C>
Robert Glaser..... Chairman, Chief Executive Officer, Secretary and Treasurer	\$100,000	\$ --	--
Bruce Jacobsen..... President and Chief Operating Officer	118,158	--	1,176,367
James Wells..... Vice President -- Sales	90,000	23,625	--
Andrew Sharpless..... Senior Vice President	102,295	--	125,000(2)
</TABLE>			

(1) The current annual salaries for Messrs. Glaser, Jacobsen and Wells are \$100,000, \$135,000 and \$90,000, respectively.

(2) Mr. Sharpless resigned as an officer of the Company effective August 2, 1996, after which time he served as a Vice President of the Company until February 1997, when he terminated his employment with the Company. Mr. Sharpless exercised this option with respect to 12,500 shares on April 8, 1997, after terminating his employment with the Company. The remainder of the shares subject to this option were unvested as of his termination date, and therefore were canceled.

The following table shows information concerning stock options granted to the Named Executive Officers in 1996 and reflects the conversion of Series B Common Stock and Series C Common Stock underlying such options into Common Stock on closing of the offering.

OPTION GRANTS IN 1996

<TABLE> <CAPTION>		INDIVIDUAL GRANTS				POTENTIAL	
REALIZABLE RATES APPRECIATION TERM(3)	NAME	NUMBER OF SECURITIES UNDERLYING OPTIONS	% OF TOTAL GRANTED TO EMPLOYEES IN 1996	EXERCISE PRICE (\$/SHARE)(2)	EXPIRATION DATE	VALUE AT ASSUMED ANNUAL OF STOCK FOR OPTION	
		GRANTED(#)(1)				5%(\$)	10%
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
Robert Glaser.....	--	--	--	--	--	\$ --	\$ --
Bruce Jacobsen.....	1,176,367	31.2%	\$ 0.20	2/16/2016	388,977		
James Wells.....	--	--	--	--	--	--	--
Andrew Sharpless....	125,000	3.3%	\$ 0.20	5/29/1997(4)	41,332		

143,187
</TABLE>

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- (1) All options granted to the Named Executive Officers in 1996 were nonqualified stock options that vest with respect to 20% of the shares on the first anniversary of the date of grant and thereafter at a rate of 10% for each six months of services rendered by the optionee to the Company, except for one option granted to Mr. Jacobsen on February 16, 1996 for the purchase of 470,544 shares of Common Stock, of which 50% vests one year from date of grant and 25% vests every six months thereafter.

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- (2) The exercise price of each option was the estimated fair market value of the underlying securities on the date of grant, as determined by the Board.
- (3) Based on the estimated fair market value of the underlying securities on the date of grant and assumed appreciation over the original 20-year option term at the respective annual rates of stock appreciation shown. Potential gains are net of the exercise price but before taxes associated with the exercise. The 5% and 10% assumed annual rates of compounded stock price appreciation are mandated by the rules of the Securities and Exchange Commission (the "Commission") and do not represent the Company's estimate of the future price of the Common Stock. Actual gains, if any, on stock option exercises depend on the future financial performance of the Company and overall market conditions. The actual value realized may be greater or less than the potential realizable value set forth in the table.
- (4) Mr. Sharpless exercised this option with respect to 12,500 shares on April 8, 1997, after terminating his employment with the Company. The remainder of the shares subject to this option were unvested as of his termination date and therefore were canceled.

The following table sets forth information regarding option exercises, and the fiscal year-end values of stock options held, by each of the Named Executive Officers during the year ended December 31, 1996. The table reflects the conversion of Series B Common Stock and Series C Common Stock underlying such options into Common Stock on closing of the offering.

AGGREGATED OPTION EXERCISES IN 1996 AND YEAR END OPTION VALUES

<TABLE>

<CAPTION>

UNEXERCISED OPTIONS			NUMBER OF SECURITIES UNDERLYING UNEXERCISED OPTIONS AT	VALUE OF IN-THE-MONEY AT
DECEMBER 31, 1996(\$)	SHARES ACQUIRED	VALUE REALIZED(\$) (MARKET PRICE AT EXERCISE LESS EXERCISE PRICE)	DECEMBER 31, 1996(#)	
----- EXERCISABLE/ NAME UNEXERCISABLE(4)	ON EXERCISE(#)(1)	EXERCISE LESS EXERCISE PRICE)	EXERCISABLE/ UNEXERCISABLE(3)	
-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>
Robert Glaser.....	--	\$ --	--/--	\$ --/--
Bruce Jacobsen.....	--	--	--/1,176,367	-

-/941,094			
James Wells.....	--	--	82,500/192,500
76,725/179,025			
Andrew Sharpless(2)...	300,000	87,750	12,500/112,500 (5)
10,000/90,000			

</TABLE>

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- (1) Does not include options exercised in 1997.
- (2) The fair market value of the underlying securities at the close of business on the dates of exercise of Mr. Sharpless' options to purchase 225,000 shares and 75,000 shares were estimated to be approximately \$0.20 and \$0.85 per share, respectively, as determined by the Company's Board of Directors.
- (3) Does not include options granted in 1997.
- (4) The fair market value of the underlying securities at the close of business on December 31, 1996 was estimated to be approximately \$1.00 per share, as determined by the Company's Board of Directors.
- (5) Mr. Sharpless exercised this option with respect to 12,500 shares on April 8, 1997, after terminating his employment with the Company. The remainder of the shares subject to this option were unvested as of his termination date, and therefore were canceled.

LIMITATION OF LIABILITY AND INDEMNIFICATION MATTERS

The Company's Articles limit the liability of the Company's directors to the full extent permitted by Washington law. The Washington Business Corporation Act (the "Washington Act") provides that a corporation's articles of incorporation may contain a provision eliminating or limiting the personal liability of directors for monetary damages for breach of their fiduciary duty as directors, except for liability for (i) acts or omissions that involve intentional misconduct or a knowing violation of law, (ii) unlawful

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payments of dividends or unlawful stock repurchases or redemptions as provided in Section 23B.08.310 of the Washington Act ("Washington Act") or (iii) any transaction from which the director derived an improper personal benefit. The Articles provide that the Company shall indemnify its directors and officers, and may indemnify its employees and agents, to the fullest extent permitted by law.

The Company has entered into agreements with its directors and executive officers that, among other things, indemnify them for certain expenses (including attorneys' fees), judgments, fines and settlement amounts incurred by such persons in any action or proceeding, including any action by or in the right of the Company, arising out of such person's services as a director or officer of the Company, any subsidiary of the Company or any other company or enterprise to which the person provides services at the request of the Company. The Company believes that these provisions and agreements are necessary to attract and retain qualified directors and officers. These agreements also provide officers with the same limitation of liability for monetary damages that the Washington Act and the Articles provide to directors.

BENEFIT PLANS

1995 STOCK OPTION PLAN. The Company's 1995 Stock Option Plan (the "1995 Plan") was adopted by the Board of Directors, and approved by the Company's shareholders, in March 1995. The 1995 Plan provides for the grant of nonqualified options to purchase up to an aggregate of 3,600,000 shares of

Common Stock to employees, officers, directors, consultants and independent contractors of the Company. As of June 30, 1997, options to purchase 2,122,545 shares of Common Stock were outstanding under the 1995 Plan, with exercise prices ranging from \$0.07 to \$1.00 per share, options to purchase 864,236 shares were available for grant and options to purchase 613,219 shares had been exercised. The Company has resolved to not grant any additional options under the 1995 Plan, and has amended its Amended and Restated 1996 Stock Option Plan to provide for an increase in the number of shares reserved for issuance thereunder. See "-- Amended and Restated 1996 Stock Option Plan."

The provisions of the 1995 Plan with respect to the administration of the 1995 Plan and options granted thereunder, the term and termination of options granted, including any provision regarding the acceleration of exercisability thereof, are as set forth below with respect to the Amended and Restated 1996 Stock Option Plan.

AMENDED AND RESTATED 1996 STOCK OPTION PLAN. The Company's Amended and Restated 1996 Stock Option Plan (the "1996 Plan") was originally adopted by the Board of Directors in February 1996, and will be approved by the Company's shareholders in October 1997. The 1996 Plan provides for the grant of incentive and non-qualified options to purchase up to an aggregate of 9,692,736 shares of Common Stock to employees, officers, directors, consultants and independent contractors of the Company or any of its affiliates (the "Initial Option Amount"). The Initial Option Amount can be increased to up to 11,233,209 shares after taking into account 1,540,473 shares of Common Stock subject to options outstanding under the 1995 Plan on September 24, 1997, to the extent that such options terminate without having been exercised in full. As of June 30, 1997, options to purchase 4,213,941 shares of Common Stock were outstanding under the 1996 Plan, with exercise prices ranging from \$0.20 to \$2.75 per share, options to purchase 1,456,956 shares of Common Stock were available for grant and options to purchase 129,103 shares of Common Stock had been exercised.

The 1996 Plan is administered by the Board of Directors, which has the authority to grant options and to specify the terms and conditions of each option so granted, including the number of shares covered by the option, the type of option, the exercise price and the vesting provisions.

Options granted under the 1996 Plan must be exercised within three months of the termination of the optionee's employment with, or service to, the Company, or within one year after the optionee's termination due to death or disability, but in no event later than the expiration of the option term. Options granted under the 1996 Plan are not transferable by the optionee except by will or the laws of descent and distribution and generally are exercisable during the optionee's lifetime only by the optionee.

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In the event of a sale of all or substantially all of the Company's assets, a merger or reorganization in which the Company is not the surviving corporation, or the sale or other transfer of shares representing more than 50% of the combined voting power of the then outstanding securities of the Company (each, a "Terminating Event"), the Board may determine whether provision will be made for assumption of, or substitution for, the stock options granted under the 1996 Plan by the successor corporation. If, with respect to a Terminating Event that has been approved by the Board, the Board determines that no such assumption or substitution will be made, then all options will become fully vested, and each optionee will have the right to exercise any unexercised options prior to closing of the Terminating Event. All options not so exercised will expire upon closing of the Terminating Event.

1998 EMPLOYEE STOCK PURCHASE PLAN. The Company's 1998 Employee Stock Purchase Plan (the "ESPP"), which was adopted by the Board of Directors and approved by the Company's shareholders in September 1997, will become effective on January 1, 1998. The Company has reserved 1,000,000 shares of Common Stock

for issuance under the ESPP. The ESPP is intended to qualify for favorable tax treatment under Section 423 of the Internal Revenue Code of 1986, as amended. The ESPP will be implemented through a series of offering periods of six months' duration, with new offering periods commencing on January 1 and July 1 of each year. The ESPP will be administered by the Compensation Committee of the Board of Directors of the Company. Each eligible employee of the Company or of any majority-owned subsidiary of the Company who has been employed by the Company or such majority-owned subsidiary of the Company for at least 90 days will be eligible to participate in the ESPP if such employee is employed by the Company or any such subsidiary for more than 20 hours per week and more than five months per year. The ESPP permits eligible employees to purchase Common Stock through payroll deductions, which may not exceed 10% of their compensation, at a price equal to 85% of the lower of the fair market value of the Common Stock at the beginning or end of the offering period. Employees may terminate their participation in the ESPP any time during the offering period; provided, however, that employees may not change their level of participation in the ESPP at any time during the offering period. Participation in the ESPP terminates automatically on the employee's termination of employment with the Company.

401(k) PLAN. The Company maintains a 401(k) plan that covers all employees who satisfy certain eligibility requirements relating to minimum age, length of service and hours worked. Under the profit-sharing portion of the plan, the Company may make an annual contribution for the benefit of eligible employees in an amount determined by the Board of Directors. The Company has not made any such contribution to date and currently has no plans to do so. Under the 401(k) portion of the plan, eligible employees may make pretax elective contributions of up to 20% of their compensation, subject to maximum limits on contributions prescribed by law.

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CERTAIN TRANSACTIONS

SALES OF PREFERRED STOCK

Since the Company's inception in February 1994, the Company has issued, in private placement transactions, shares of Preferred Stock as follows: (i) in April 1995, an aggregate of 2,686,567 shares of Series B Preferred Stock at \$0.67 per share, (ii) in October 1995, an aggregate of 2,904,305 shares of Series C Preferred Stock at approximately \$1.96 per share, (iii) in November 1996, an aggregate of 2,381,010 shares of Series D Preferred Stock at \$7.53 per share and (iv) in July 1997, an aggregate of 3,338,374 shares of Series E Preferred Stock at \$8.99 per share. In addition, in connection with these private placements, the Company issued warrants as follows: (i) in April 1995, a warrant to purchase up to 373,134 shares of Series B Preferred Stock at an exercise price of \$0.67 per share, which warrant was exercised in October 1995, (ii) in October 1995, warrants to purchase up to 100,000 shares of Series C Preferred Stock at an exercise price of approximately \$1.96 per share and warrants to purchase up to 183,755 shares of Series B Common Stock at an exercise price of approximately \$0.20 per share, (iii) in November 1996, warrants to purchase up to 714,303 shares of Series D Preferred Stock at an exercise price of approximately \$9.41 per share and (iv) in July 1997, warrants to purchase up to 3,709,305 shares of Series E Preferred Stock at an exercise price of \$13.48 per share. In April 1995, in connection with the Company's Series B Preferred Stock financing, Mr. Glaser exchanged 10,000 shares of the capital stock of the Company for one share of Series A Common Stock and 13,713,439 shares of Series A Preferred Stock to reflect capital contributions made by Mr. Glaser of approximately \$0.07 per share. The purchasers of the Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock and the accompanying warrants to purchase Series B Common Stock and Series C, Series D and Series E Preferred Stock included, among others, the following 5% shareholders, executive officers, directors and entities associated with directors:

<TABLE>
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PREFERRED STOCK

NAME	SERIES B	SERIES C	SERIES D	SERIES E
<S>	<C>	<C>	<C>	<C>
Robert Glaser.....	287,313	50,825	39,841	
Mitchell Kapor.....	1,492,537	656,172	66,401	
Accel Entities(1)....		2,037,282	66,401	
Microsoft Corporation.....				3,338,374
Phillip Barrett.....	373,134			

<TABLE>
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WARRANTS

NAME STOCK(2)	SERIES B COMMON STOCK(2)	SERIES C PREFERRED STOCK(2)	SERIES D PREFERRED STOCK	SERIES E PREFERRED
<S>	<C>	<C>	<C>	<C>
Robert Glaser.....			11,952	
Mitchell Kapor.....	33,755		19,920	
Accel Entities(1)....	150,000	100,000	19,921	
Microsoft Corporation.....				3,709,305

(1) The "Accel Entities" include Accel IV L.P., Accel Investors '95 L.P., Accel Keiretsu L.P. and Ellmore C. Patterson Partners. James Breyer, a director of the Company, is affiliated with the Accel Entities. See "Principal Shareholders."

(2) These warrants terminate automatically on closing of the offering.

In addition, members of Mr. Glaser's immediate family purchased an aggregate of 223,881 shares of Series B Preferred Stock in April 1995, and an aggregate of 39,498 shares of Series C Preferred Stock in October 1995, in each case on the same terms as the other investors.

Pursuant to the terms of the Investors' Rights Agreement, the holders of Series B Preferred Stock are entitled to nominate one member to the Board of Directors, the holders of Series C Preferred Stock are entitled to nominate one member to the Board of Directors and the holders of Series E Preferred Stock are entitled to nominate one member to the Board of Directors. In addition, all holders of preferred stock hold

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preemptive rights to purchase their pro rata share of new securities issued by the Company. The rights to nominate directors and the preemptive rights will terminate on closing of the offering. In addition, the Investors' Rights Agreement provides registration rights obligating it, under certain circumstances, to effect a registration under the Securities Act of any common stock issued upon conversion of the Preferred Stock, and the Common Stock issued

pursuant to the exercise of the Series B Common Stock warrants. See "Shares Eligible for Future Sale -- Registration Rights." All shares of Preferred Stock will be converted into an equivalent number of shares of Common Stock or Special Common Stock on closing of the offering.

The Company has entered into indemnification agreements with each of its executive officers and directors. See "Management -- Limitation of Liability and Indemnification Matters."

MICROSOFT CORPORATION

The Company and Microsoft entered into an agreement in June 1997 pursuant to which the Company granted Microsoft a nonexclusive license to certain substantial elements of the source code of the Company's core RealAudio/RealVideo Version 4.0 technology, including its basic RealPlayer and substantial elements of its EasyStart Server products. Under the agreement, Microsoft may sublicense its rights to the RealAudio and RealVideo Version 4.0 technology to third parties under certain conditions. The agreement also provides for substantial refunds to Microsoft under prescribed circumstances that are solely within the Company's control. The amount of these refunds diminishes over time. In addition, the Company may not assign the agreement without Microsoft's consent. Microsoft is obligated to distribute the Company's RealPlayer Version 4.0 for a defined term as long as the Company's player supports certain Microsoft architectures. The Company also agreed to work with Microsoft and several other companies to author and promote ASF as a standard file format for streaming media. The agreement also requires the Company to provide Microsoft with engineering consultation services, certain error corrections, and certain technical support over a defined term. In connection with the agreement, Microsoft purchased 3,338,374 shares of nonvoting Series E Preferred Stock at approximately \$8.99 per share for approximately \$30,000,000. Each share of Series E Preferred Stock is convertible at the option of Microsoft into either one share of Common Stock or one share of Special Common Stock. Microsoft also received a warrant to purchase 3,709,305 shares of Series E Preferred Stock at an exercise price of \$13.48 per share. If exercised, each share of Series E Preferred Stock acquired upon exercise will be automatically converted, at the election of the holder, into either one share of Common Stock or one share of Special Common Stock. If Microsoft elects to convert shares of Series E Preferred Stock into \$15,000,000 or more of Common Stock, it may be required to make a filing under the Hart-Scott-Rodino Antitrust Improvements Act and obtain approval from the Department of Justice and the Federal Trade Commission before completing the conversion into Common Stock. This warrant terminates on closing of the offering. In connection with its equity investment, Microsoft also granted a limited proxy to the Company. See "Risk Factors -- Competition; Relationship With Microsoft," "-- Department of Justice Subpoena," "Business -- Microsoft Relationship" and "Description of Capital Stock -- Certain Voting and Other Matters."

JAPANESE JOINT VENTURE

Trans Cosmos is the beneficial owner of 1,381,142 shares of Common Stock of the Company. In May 1997, Trans Cosmos, the Company and two other parties entered into a joint venture agreement with respect to the establishment and management of J-Stream to operate an Internet streaming business in Japan. Trans Cosmos owns 28% of J-Stream and each of the Company and the other two parties own 24%. Trans Cosmos is responsible for managing J-Stream, and the Company supplies J-Stream with software and technology for streaming on Internet networks. Trans Cosmos contributed approximately \$1,165,000 for its 28% interest and the Company contributed approximately \$998,000 for its 24% interest in J-Stream. Trans Cosmos loaned the Company the amount of the Company's contribution, and the Company may, under certain circumstances, tender its 24% interest to Trans Cosmos as repayment of the loan.

CHANGES TO CAPITAL STRUCTURE

In connection with the offering, the Board recommended, and the Company's shareholders approved, amendments to the Company's Articles that, among other things, reduced the number of series of authorized Common Stock from five to two: voting Common Stock and nonvoting Special Common Stock. A majority of the previously authorized series were owned by certain of the Company's directors and executive officers. The amendments to the Articles also establish the Strategic Transactions Committee and provide for a Policy Ombudsman with authority to determine certain matters related to editorial policies of the Company. See "Management -- Policy Ombudsman" and "Description of Capital Stock -- Certain Voting and Other Matters."

TRANS COSMOS RELATIONSHIP

The Company and Trans Cosmos are parties to a Master Distribution Agreement pursuant to which the Company granted Trans Cosmos a nonexclusive, nontransferable license to reproduce and distribute RealPlayer and RealPlayer Plus, and distribute the Company's server products, in Japan. Trans Cosmos is required to comply with certain marketing requirements, personnel commitments and specified minimum distribution requirements. Under the distribution agreement, Trans Cosmos paid the Company license fees of \$820,000 in 1996, and approximately \$467,000 from January 1, 1997 through August 31, 1997. The distribution agreement became effective on July 22, 1996 and terminated pursuant to the terms of the agreement on July 22, 1997; however, the Company and Trans Cosmos have continued to adhere to the terms of the agreement and are currently renegotiating the agreement.

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PRINCIPAL SHAREHOLDERS

The following table sets forth certain information regarding the beneficial ownership of the Common Stock as of September 19, 1997, assuming the conversion of all shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock into Common Stock, and as adjusted to reflect the sale of shares of Common Stock in the offering for (i) each person known to the Company to own beneficially more than 5% of the Common Stock, (ii) each of the Company's directors, (iii) each of the Named Executive Officers and (iv) all executive officers and directors as a group.

<TABLE>
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NAME	COMMON STOCK		
	NUMBER OF SHARES BENEFICIALLY OWNED(1)	PERCENT OWNERSHIP	
		BEFORE OFFERING	AFTER OFFERING(2)
<S>	<C>	<C>	<C>
Accel IV L.P..... c/o Accel Partners L.P. One Embarcadero Center Suite 3820 San Francisco, CA 94111	2,373,604(3)	8.7%	%
Mitchell Kapor..... Kapor Enterprises, Inc. 238 Main Street Cambridge, MA 02142	2,258,785(4)	8.4	
Robert Glaser.....	14,101,871(5)	52.3	

c/o RealNetworks, Inc.
 1111 Third Avenue
 Suite 2900
 Seattle, WA 98101

Microsoft Corporation.....	7,047,679**	23.0	
One Microsoft Way Redmond, WA 98052-6399			
Trans Cosmos USA, Inc.....	1,381,142(6)	5.1	
4040 Lake Washington Blvd. N.E. Suite 205 Kirkland, WA 98033			
Bruce Jacobsen.....	492,073(7)	1.8	
James W. Breyer.....	2,373,604(8)	8.7	
James Wells.....	137,500(9)	*	*
Andrew Sharpless.....	312,500	1.2	
All directors and executive officers as a group (13 persons)(10).....	20,255,867	73.2%	%

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* Less than 1%.

** Includes 3,709,305 shares of Common Stock issuable on exercise of the Series E Warrant. The Series E Warrant has an exercise price of \$13.48 per share and, if not exercised, will automatically terminate on closing of the offering. Excluding shares subject to the Series E Warrant, Microsoft currently owns 12.1% of the common stock. Assuming the Series E Warrant is not exercised prior to closing of the offering, Microsoft will own only % of the common stock immediately after closing. See "Risk Factors -- Competition; Relationship With Microsoft," "Business -- Microsoft Relationship" and "Description of Capital Stock -- Warrants to Purchase Preferred Stock and Common Stock."

- (1) Beneficial ownership is determined in accordance with rules of the Commission and includes shares over which the beneficial owner exercises voting or investment power. Shares of Common Stock

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subject to options or warrants currently exercisable or exercisable within 60 days of September 19, 1997 are deemed outstanding for the purpose of computing the percentage ownership of the person holding the options or warrants, but are not deemed outstanding for the purpose of computing the percentage ownership of any other person. Except as indicated, and subject to community property laws where applicable, the Company believes, based on information provided by such persons, that the persons named in the table above have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them.

- (2) In the event that Microsoft elects to exercise the Series E Warrant in its entirety for the purchase of shares of Common Stock, the resulting ownership percentages on the closing of the offering for the other shareholders listed in the table would be as follows: Accel IV L.P. -- %; Mr. Kapur -- %; Mr. Glaser -- %; Trans Cosmos USA, Inc. ("TCI") -- %; Mr. Jacobsen -- %; Mr. Breyer -- %; Mr. Wells -- %; Mr. Sharpless -- %; and all directors and executive officers as a group -- %.
- (3) Includes 1,926,973 shares owned by Accel IV L.P., 39,970 shares owned by Accel Keiretsu L.P., 90,459 shares owned by Accel Investors '95 L.P. and 46,281 shares owned by Ellmore C. Patterson Partners (together the "Accel Group"). Also includes 247,247 shares, 5,129 shares, 11,607 shares, and 5,938 shares of Common Stock issuable on exercise of warrants owned by

Accel IV L.P., Accel Keiretsu L.P., Accel Investors '95 L.P. and Ellmore C. Patterson Partners, respectively.

- (4) Includes 53,675 shares of Common Stock issuable on exercise of warrants.
- (5) Includes 11,952 shares of Common Stock issuable on exercise of a warrant.
- (6) Includes 796,813 shares of Common Stock owned by Trans Cosmos USA, Inc. ("TCI") and 265,604 shares of Common Stock owned by Encompass Group, Inc., an affiliate of TCI ("Encompass"). Also includes 239,043 and 79,682 shares of Common Stock issuable on exercise of warrants owned by TCI and Encompass, respectively.
- (7) Includes 292,073 shares of Common Stock issuable on exercise of options.
- (8) Mr. Breyer may be deemed to be the beneficial owner of the 2,373,604 shares of Common Stock beneficially owned by the Accel Group because he is a general partner of Accel Partners L.P., which is the general partner of Accel IV L.P. Mr. Breyer disclaims beneficial ownership of these shares except to the extent of his pecuniary interest therein. See footnote (3) above.
- (9) Includes 27,500 shares of Common Stock issuable on exercise of options.
- (10) Does not include shares owned by Mr. Sharpless, who terminated his employment with the Company in February 1997. Includes an aggregate of 415,473 shares and 335,548 shares, respectively, of Common Stock issuable upon exercise of options and warrants.

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DESCRIPTION OF CAPITAL STOCK

The following description of the capital stock of the Company and certain provisions of the Articles and the Bylaws is a summary and is qualified in its entirety by reference to the provisions of the Articles and the Bylaws, copies of which have been filed with the Commission as exhibits to the Company's Registration Statement, of which this Prospectus forms a part. The descriptions of the Common Stock and preferred stock reflect an amendment to the Articles, which amendment will be effective prior to the closing of the offering.

The authorized capital stock of the Company consists of 300,000,000 shares of common stock and 60,000,000 shares of preferred stock.

COMMON STOCK

Subject to the rights of the holders of any preferred stock that may be outstanding, each holder of Common Stock is entitled to one vote per share. Holders of Common Stock on the applicable record date are entitled to receive such dividends as may be declared by the Board of Directors out of funds legally available therefor and, in the event of liquidation, to share pro rata in any distribution of the Company's assets after payment or providing for the payment of liabilities and the liquidation preference of any outstanding preferred stock. Holders of Common Stock have no cumulative voting rights or preemptive rights to purchase or subscribe for any shares of Common Stock or other securities of the Company.

The Company has 7,047,679 authorized shares of Special Common Stock that have identical rights to the Common Stock, except that they have voting rights only to the extent provided by applicable law. The Special Common Stock may only be converted into common stock on the prior written consent of the Board of Directors.

PREFERRED STOCK

The Company's Board of Directors has the authority to issue shares of preferred stock in one or more series and to fix and determine the relative rights and preferences of the shares constituting any series to be established, without any further vote or action by the shareholders. Any shares of preferred stock so issued may have priority over the Common Stock with respect to dividend or liquidation rights or both. On closing of the offering, no shares of preferred stock will be outstanding. The Company has no current intention to issue any shares of preferred stock.

WARRANTS TO PURCHASE PREFERRED STOCK AND COMMON STOCK

At August 30, 1997, the Company had outstanding warrants to purchase 183,755 shares of Series B Common Stock at an exercise price of approximately \$0.20 per share, warrants to purchase 100,000 shares of Series C Preferred Stock at an exercise price of approximately \$1.96 per share, warrants to purchase 714,303 shares of Series D Preferred Stock at an exercise price of approximately \$9.41 per share and a warrant to purchase 3,709,305 shares of Series E Preferred Stock at an exercise price of \$13.48 per share. The warrants to purchase shares of Series B Common Stock, Series C Preferred Stock and Series E Preferred Stock will expire on closing of the offering. The warrants to purchase shares of Series D Preferred Stock expire on November 27, 1998 and, following the offering, will be exercisable for an equivalent number of shares of Common Stock. All of the Company's outstanding warrants currently are exercisable.

CERTAIN VOTING AND OTHER MATTERS

Holders of preferred stock or other capital stock hereafter issued by the Company may be entitled to vote in connection with certain mergers and share exchanges or certain proposals to sell substantially all of the Company's assets and for certain other actions and separate approval may be required to the extent class voting rights are accorded to the holders of other capital stock of the Company.

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Amendments to the Articles must be approved by the Board of Directors and the holders of a majority of the outstanding shares of Common Stock in most instances.

ARTICLES AND BYLAWS

Under the Articles, Mr. Glaser shall serve, or shall appoint another officer of the Company to serve, as the Company's Policy Ombudsman, with the exclusive authority to adopt or change the editorial policies of the Company as reflected on the Company's Web sites or other communications or media where the Company has a significant editorial or media voice. Upon the death, resignation or removal of Mr. Glaser as the Policy Ombudsman, the Chief Executive Officer shall serve or appoint another officer of the Company to serve as his or her successor. The provisions delineating the authority of the Policy Ombudsman may be amended only with the approval of 90% of the shares entitled to vote on an amendment to the Articles.

In addition, the Articles provide for a Strategic Transactions Committee comprised of three directors, who shall initially be Messrs. Glaser, Breyer and Kapor. Without the prior approval of such committee, and subject to certain limited exceptions, the Board of Directors shall not have the authority to (i) adopt a plan of merger, (ii) authorize the sale, lease, exchange or mortgage of (A) assets representing more than 50% of the book value of the Company's assets prior to the transaction or (B) any other asset or assets on which the long-term business strategy of the Company is substantially dependent, (iii) authorize the Company's voluntary dissolution or (iv) take any action that has the effect of clauses (i) through (iii). Any vacancy on the Committee shall be filled by the remaining members of the Committee. If two members of the Committee remain and

they are unable to agree on an individual to fill the vacancy, such vacancy may be filled by the member who holds or controls, directly or indirectly, the larger percentage of the outstanding shares of the Company's capital stock. The Committee, by vote of the Chairman of the Committee and one additional member, may limit the powers of the Committee or may terminate the Committee. The existence and powers of the Committee shall terminate when the members in the aggregate cease to hold or control, directly or indirectly, at least 10% of the outstanding shares of the Company's capital stock. The provisions with respect to the authority of the Strategic Transactions Committee may be amended only with the approval of 90% of the shares entitled to vote on an amendment to the Articles.

Special meetings of the shareholders may be called only by the Board of Directors, the Chairman of the Board, the President or the holders of at least 25% of all votes entitled to be cast on any issues proposed to be considered at such special meeting. The Company's Bylaws provide that shareholders seeking to bring business before, or to nominate directors at, any meeting of shareholders must provide timely notice thereof in writing. To be timely, a shareholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Company not less than 70 days prior to the date of the meeting, or the tenth day after notice of the meeting is first given to shareholders, whichever is later, if the meeting is an annual meeting or a special meeting at which directors are to be elected. The Bylaws also contain specific requirements for the form of a shareholder's notice. These provisions may preclude or deter some shareholders from bringing matters before the shareholders or from making nominations for directors.

CONTRACTUAL AGREEMENTS

On July 21, 1997, the Company and Microsoft entered into a Limited Proxy and Voting Agreement (the "Proxy Agreement") that gives Mr. Glaser, or Mr. Jacobsen if Mr. Glaser is unable to act, an irrevocable proxy with respect to the future voting of Microsoft's shares of the Company's nonvoting capital stock. The Proxy Agreement does not apply to voting with respect to certain matters, such as certain amendments to the Articles in which the class of shares held by Microsoft is treated adversely or disproportionately relative to other classes. The Proxy Agreement terminates upon the earliest of (i) the date on which Microsoft no longer holds any nonvoting shares, (ii) the conversion of the Series E Preferred Stock into Common Stock and (iii) July 21, 2007.

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Under the Voting Agreement entered into in September 1997 among the Company, Accel IV and Messrs. Jacobsen, Kapur and Glaser, each of Accel IV and Messrs. Jacobsen and Kapur have agreed, effective on closing of the offering, to vote all shares of their or its stock of the Company owned by such shareholders to elect Mr. Glaser to the Board of Directors of the Company in each election in which he is a nominee. The obligations under the Voting Agreement terminate with respect to shares transferred by the parties thereto. The Voting Agreement terminates upon the death of Mr. Glaser.

The Company, Mr. Glaser and certain holders of Series B Common Stock and Series C Common Stock (together, the "Shares") have entered into a Shareholders' Buy-Sell Agreement dated March 31, 1995 (the "Buy-Sell Agreement") that restricts the free transferability of Shares held by parties to the Buy-Sell Agreement. The Buy-Sell Agreement gives the Company and the parties to the Buy-Sell Agreement a right of first refusal with respect to another party's proposed transfer of Shares, other than transfers to the Company, to certain family members and to trusts that are created and administered for the exclusive benefit of certain family members. The Buy-Sell Agreement is terminable upon the written agreement of the Company and the holders of two-thirds of the Shares on the dissolution, bankruptcy or insolvency of the Company, or at such time as there is only one remaining party to the Buy-Sell Agreement.

WASHINGTON ANTITAKEOVER STATUTE

Washington law contains certain provisions that may have the effect of delaying, deterring or preventing a takeover or change in control of the Company. Chapter 23B.19 of the Washington Act prohibits the Company, with certain exceptions, from engaging in certain significant business transactions with an "acquiring person" (defined as a person who acquires 10% or more of the Company's voting securities without the prior approval of the Company's Board of Directors) for a period of five years after such acquisition. The prohibited transactions include, among others, a merger with, disposition of assets to, or issuance or redemption of stock to or from, the acquiring person, or otherwise allowing the acquiring person to receive any disproportionate benefit as a shareholder. The Company may not exempt itself from coverage of this statute. These statutory provisions may have the effect of delaying, deterring or preventing a change in control of the Company.

SHAREHOLDER RIGHTS PLAN

The Company currently is contemplating entering into a Shareholder Rights Plan (the "Rights Plan") by and between the Company and a rights agent to be selected by the Company that would be adopted prior to the closing of the offering. Under the proposed Rights Plan, the Board would declare and distribute to the shareholders of record of the Company as of the date selected by the Board a dividend of one right ("Right") for each outstanding share of Common Stock and Special Common Stock, if any. Shares of Common Stock issued in the offering (assuming no triggering event) would automatically receive the Rights. The Rights would not be exercisable or transferable separately from shares of Common Stock and Special Common Stock, if any, until the earlier of: (i) 10 days following a public announcement that a person or group has acquired, or obtained the right to acquire, beneficial ownership of a designated percentage of the outstanding shares of the Common Stock and (ii) 10 days following the commencement or announcement of an intention to make a tender or exchange offer that would result in an acquiring person or group beneficially owning a designated percentage of outstanding shares of Common Stock, unless the Board sets a later date (the earlier of such dates, the "Distribution Date"). The Board would have the option to redeem the Rights at a nominal cost or prevent the Rights from being triggered by designating offers for all outstanding Common Stock as a permitted offer. Prior to the Distribution Date, the Company would be able to amend or supplement the Rights Plan without the consent of any of the holders of the Rights. Following the Distribution Date, the Rights Plan could be amended to cure any ambiguity, to correct or supplement any inconsistent provision or any other provision so long as such amendment or supplement would not adversely affect the holders of the Rights (other than an acquiring person or group). The Rights would expire 10 years after the date of adoption of the Rights Plan by the Board unless earlier redeemed by the Company.

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The Rights, when exercisable, would entitle their holders (other than those held by an acquiring person or group) to purchase a specified fraction of a share of preferred stock (subject to adjustment) or, in certain instances, other securities of the Company. In certain circumstances, if the Company, in a merger or consolidation, is not the surviving entity or disposes of more than 50% of the Company's assets or earnings power, the Rights would also entitle their holders (other than an acquiring person or group) to purchase the highest priority voting shares in the surviving entity or its affiliates having a market value of two times the exercise price of the Rights.

The Rights Plan is intended to encourage a potential acquiring person or group to negotiate directly with the Board, but may have certain antitakeover effects. The Rights Plan, if adopted, could significantly dilute the interests in the Company of an acquiring person or group. The Rights Plan could therefore have the effect of delaying, deterring or preventing a change in control of the Company.

TRANSFER AGENT AND REGISTRAR

The transfer agent and registrar for the Common Stock is ChaseMellon Shareholder Services, Ridgefield Park, New Jersey.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for the Common Stock, and there can be no assurance that a significant public market for the Common Stock will be developed or be sustained after this offering. Sales of substantial amounts of Common Stock in the public market after this offering, or the possibility of such sales occurring, could adversely affect prevailing market prices for the Common Stock or the future ability of the Company to raise capital through an offering of equity securities.

On closing of the offering, the Company will have outstanding shares of Common Stock (shares if the Underwriters' over-allotment option is exercised in full), of which shares offered hereby (shares if the Underwriters' over-allotment option is exercised in full) will be freely transferable in the public market without restriction or further registration under the Securities Act unless purchased by "affiliates" of the Company as that term is defined in Rule 144 of the Securities Act (an "Affiliate"), which shares will be subjected to the resale limitations of Rule 144 adopted under the Securities Act. The remaining 26,935,621 shares outstanding on completion of the offering (assuming no exercise of options or warrants after September 24, 1997) and held by existing shareholders will be "Restricted Securities" as that term is defined under Rule 144 (the "Restricted Shares"). The Restricted Shares were issued in private transactions in reliance on exemptions from registration under the Securities Act. Restricted Shares may be sold in the public market only if registered or if they qualify for an exemption from registration under Rule 144 or 701 promulgated under the Securities Act, which rules are summarized below.

Pursuant to the Lock-Up Agreements, persons who hold approximately 26,654,431 shares of Common Stock, including all officers and directors and certain existing shareholders of the Company, have agreed with the representatives of the Underwriters that, for a period of 180 days following the date of this Prospectus, they will not sell, offer to sell or otherwise dispose of any shares of Common Stock owned of record or beneficially by such persons as of the date of this Prospectus, including securities convertible into or exercisable or exchangeable for Common Stock as of said date, as well as any shares of Common Stock later acquired by reason of the conversion, exercise or exchange of such securities, except that persons other than officers, directors and holders of 1% or more of the capital stock of the Company each will be free to sell or otherwise dispose of up to 5,000 shares of Common Stock to the extent permissible under Rule 144 or Rule 701. The Lock-Up Agreements may be released at any time as to all or any portion of the shares subject to such agreements at the sole discretion of Goldman, Sachs & Co. on behalf of the Underwriters.

Based on the provisions of the Lock-Up Agreements and the provisions of Rules 144 and 701 of the Securities Act, additional shares will be available for sale in the public market as follows:

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(i) 11,947 shares will be available for immediate sale in the public market on the date of this Prospectus, (ii) 268,243 shares issued upon exercise of options prior to September 24, 1997 not subject to Lock-Up Agreements will be eligible for sale in the public market in accordance with Rules 144 and 701 as soon as 90 days after the date of this Prospectus, (iii) 4,707,363 shares issuable upon the exercise of warrants (assuming all outstanding warrants are exercised) will not be available for sale until various dates after 180 days following the date of this Prospectus, (iv) 26,654,431 currently outstanding shares will be eligible

for sale upon expiration of Lock-Up Agreements (of which 23,909,137 shares will be subject to certain volume, manner of sale and other limitations under Rule 144); and (v) 1,000 remaining shares will be eligible for sale pursuant to Rule 144 on the expiration of a one-year holding period. As of September 24, 1997, options for 6,374,214 shares of Common Stock were outstanding, of which options for 1,708,455 shares may be exercised during the 180 days following the date of the Prospectus, which shares potentially will be eligible for public sale 90 days after the date of this Prospectus pursuant to Rule 701 under the Securities Act; of these shares, 1,312,863 are subject to Lock-Up Agreements.

In general, Rule 144 provides that any person who has beneficially owned shares for at least one year, including an "affiliate" (as defined in Rule 144), is generally entitled to sell, within any three-month period, a number of shares that does not exceed the greater of 1% of the shares of Common Stock then outstanding (approximately shares immediately after the offering) or the reported average weekly trading volume of the Common Stock during the four calendar weeks immediately preceding the date on which notice of the sale is sent to the Commission. Sales under Rule 144 are subject to certain manner of sale restrictions, notice requirements and availability of current public information concerning the Company. A person who is not an affiliate of the Company, and who has not been an affiliate within three months prior to the sale, generally may sell shares without regard to the limitations of Rule 144 provided that the person has held such shares for a period of at least two years.

Any employee, director or officer of, or consultant to, the Company holding shares purchased pursuant to a written compensatory plan or contract (including options) entered into prior to the offering is entitled to rely on the resale provisions of Rule 701, which permit nonaffiliates to sell such shares without having to comply with the public information, holding period, volume limitation or notice requirements of Rule 144 and permit affiliates to sell their Rule 701 shares without having to comply with the holding period restrictions of Rule 144, in each case commencing 90 days after the date of this Prospectus.

REGISTRATION RIGHTS

Pursuant to the Investors' Rights Agreement, which provides registration rights to certain holders of shares of the Company's capital stock, holders of 16,390,753 shares of Common Stock or their permitted transferees (assuming (i) exercise of all outstanding warrants to purchase shares of Common Stock, (ii) conversion of the Series E Preferred Stock into Common Stock and (iii) exercise of the Series E Warrant in its entirety for shares of Common Stock (collectively, the "Registrable Shares") have certain rights with respect to the registration of the Registrable Shares under the Securities Act. Under the terms of the Investors' Rights Agreement, if the Company proposes to register any of its securities under the Securities Act for its own account or for the account of others, Registrable Shares may be included, subject to any limitation set by the underwriters on the number of shares included in such registration. Holders of not less than 30% of the Registrable Shares may also require the Company, not more than twice, to file a registration statement under the Securities Act, at the Company's expense, with respect to any Registrable Shares holders desire to include. In addition, Holders of Registrable Shares may require the Company to file up to three registration statements on Form S-3, at the expense of the holders, for public offerings of Registrable Shares, provided that the aggregate offering price for such registration is not less than \$250,000. The Company is required to use its best efforts to effect all such registrations, subject to certain conditions and limitations.

LEGAL MATTERS

The validity of the Common Stock being offered hereby will be passed upon for the Company by Graham & James LLP/Riddell Williams P.S., Seattle,

Washington. Certain legal matters in connection with the offering will be passed upon for the Underwriters by Perkins Coie, Seattle, Washington.

EXPERTS

The consolidated balance sheets at December 31, 1995 and 1996 and the consolidated statements of operations, shareholders' equity (deficit) and cash flows for the period from February 9, 1994 (inception) to December 31, 1994, and for the years ended December 31, 1995 and 1996 included in this Prospectus and in the Registration Statement of which this Prospectus forms a part have been included herein in reliance on the report of KPMG Peat Marwick LLP, independent accountants, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

ADDITIONAL INFORMATION

The Company has filed with the Commission a Registration Statement on Form S-1 (together with all amendments and exhibits thereto, the "Registration Statement") under the Securities Act with respect to the offer and sale of Common Stock pursuant to this Prospectus. This Prospectus, filed as a part of the Registration Statement, does not contain all the information set forth in the Registration Statement or the exhibits thereto in accordance with the rules and regulations of the Commission, and reference is hereby made to such omitted information. Statements made in this Prospectus concerning the contents of any contract, agreement or other document filed as an exhibit to the Registration Statement are summaries of the terms of such contracts, agreements or documents and are not necessarily complete. Reference is made to each such exhibit for a more complete description of the matters involved and such statements shall be deemed qualified in their entirety by such reference. The Registration Statement and the exhibits thereto filed with the Commission may be inspected, without charge, and copies may be obtained at prescribed rates, at the public reference facility maintained by the Commission at Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549 and at the regional offices of the Commission located at 7 World Trade Center, 13th Floor, New York, New York 10048 and Citicorp Center, 500 West Madison Street, Suite 1400, Chicago, Illinois 60661-2511. The Registration Statement and other information filed by the Company with the Commission are also available at the Web site maintained by the Commission on the World Wide Web at <http://www.sec.gov>. For further information pertaining to the Company and the Common Stock offered by this Prospectus, reference is made to the Registration Statement.

The Company intends to furnish its shareholders with annual reports containing consolidated financial statements audited by its independent accountants and quarterly reports for the first three quarters of each fiscal year containing unaudited consolidated financial statements.

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REALNETWORKS, INC. AND SUBSIDIARIES

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Consolidated Balance Sheets as of December 31, 1995 and 1996 and June 30, 1997 (unaudited).....	F-3
Consolidated Statements of Operations for the period from February 9, 1994 (inception) to December 31, 1994, the years ended December 31, 1995 and 1996, and the six months ended June 30, 1996 and 1997 (unaudited).....	F-4
Consolidated Statements of Shareholders' Equity (Deficit) for the period from February 9, 1994 (inception) to December 31, 1994, the years ended December 31, 1995 and 1996, and the six months ended June 30, 1997 (unaudited).....	F-5
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INDEPENDENT AUDITORS' REPORT

The Board of Directors
 RealNetworks, Inc.:

We have audited the accompanying consolidated balance sheets of RealNetworks, Inc. (formerly Progressive Networks, Inc.) and subsidiaries as of December 31, 1995 and 1996, and the related consolidated statements of operations, shareholders' equity (deficit) and cash flows for the period from February 9, 1994 (inception) to December 31, 1994, and the years ended December 31, 1995 and 1996. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of RealNetworks, Inc. and subsidiaries as of December 31, 1995 and 1996, and the results of their operations and their cash flows for the period from February 9, 1994 (inception) to December 31, 1994, and the years ended December 31, 1995 and 1996 in conformity with generally accepted accounting principles.

KPMG Peat Marwick LLP

March 14, 1997
 Seattle, Washington

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REALNETWORKS, INC.
 AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

ASSETS

<TABLE>
 <CAPTION>

	DECEMBER 31,		JUNE

30,	1995	1996	
1997			
-----	-----	-----	-----
(UNAUDITED)			
<S>	<C>	<C>	<C>

CURRENT ASSETS:

Cash and cash equivalents.....	\$ 3,129,394	\$14,737,806	\$
4,971,916			
Short-term investments.....	2,986,493	4,857,163	
6,523,710			
Trade accounts receivable, net of allowance for doubtful	667,847	3,275,518	
4,352,334			
accounts and sales returns of \$129,869 in 1995,			
\$383,350 in 1996 and \$581,219 in 1997.....			
Other receivables.....	48,568	105,888	
149,628			
Inventory.....	3,218	60,543	
80,270			
Prepaid expenses and other current assets.....	143,328	491,348	
457,428			
-----	-----	-----	-----

Total current assets.....	6,978,848	23,528,266	
16,535,286			
Property and equipment, net.....	594,042	2,678,798	
4,019,255			
Investment in joint venture.....	--	--	
998,208			
Other assets.....	836	261,094	
595,105			
-----	-----	-----	-----

	\$ 7,573,726	\$26,468,158	\$
22,147,854			
=====	=====	=====	

LIABILITIES AND SHAREHOLDERS' DEFICIT

CURRENT LIABILITIES:

Accounts payable.....	\$ 185,368	\$ 2,405,490	\$
1,557,017			
Accrued compensation.....	49,981	346,011	
784,484			
Other accrued expenses.....	149,909	971,499	
1,774,847			
Deferred revenue.....	645,416	2,911,922	
3,540,235			
-----	-----	-----	-----

Total current liabilities.....	1,030,674	6,634,922	
7,656,583			
-----	-----	-----	-----

Note payable.....	--	--	
991,268			
Redeemable, convertible preferred stock, no par value.			
Authorized 9,344,306 shares; issued and outstanding	7,654,528	23,153,494	
23,264,467			
5,964,006 shares at December 31, 1995, and 8,345,016			
shares at December 31, 1996 and June 30, 1997			
(aggregate liquidation preference of \$7,752,312 at			
December 31, 1995 and \$34,645,820 at December 31,			
1996 and June 30, 1997 and aggregate redemption			
value of \$7,752,312 at December 31, 1995 and			
\$25,681,317 at December 31, 1996 and June 30,			
1997).....			
SHAREHOLDERS' DEFICIT:			
Convertible preferred stock, no par value.			
Authorized, issued and outstanding; 13,713,439 shares	932,385	932,385	
932,385			
at December 31, 1995 and 1996, and June 30, 1997			

(aggregate liquidation preference of \$999,710 at December 31, 1995 and 1996, and June 30, 1997).....			
Preferred stock, undesignated series, no par value.			
Authorized 6,942,255 shares; no shares issued and			
--	--	--	--
outstanding.....			
Common stock, no par value.			
Authorized 50,000,000 shares; issued and outstanding;			
2,680	46,450		
88,617			
36,948 shares at December 31, 1995, 535,491 shares at December 31, 1996 and 749,520 shares at June 30, 1997.....			
Additional paid-in capital.....			
--	1,579,000		
1,579,000			
Foreign currency translation adjustment.....			
--	(11,307)		
7,886			
Accumulated deficit.....			
(2,046,541)	(5,866,786)		
(12,372,352)			

Total shareholders' deficit.....			
(1,111,476)	(3,320,258)		
(9,764,464)			
Commitments and contingencies			

\$ 7,573,726 \$26,468,158 \$			
22,147,854			
=====			

</TABLE>

See accompanying notes to consolidated financial statements.

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REALNETWORKS, INC.
AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

<TABLE>

<CAPTION>

	PERIOD FROM FEBRUARY 9, 1994 (INCEPTION) TO	YEAR ENDED DECEMBER 31,		SIX MONTHS
ENDED JUNE 30, -----	DECEMBER 31, -----	-----	-----	-----
	1994	1995	1996	1996
1997	-----	-----	-----	-----

(UNAUDITED)				(UNAUDITED)
<S>	<C>	<C>	<C>	<C>
<C>				
NET REVENUES:				
Software license fees.....	\$ --	\$ 1,781,763	\$11,875,945	\$ 3,767,785
\$10,070,075				
Advertising.....	--	--	1,015,964	170,102
1,106,582				
Service revenues.....	--	29,835	1,120,479	306,055
2,189,520				

Total net revenues.....	--	1,811,598	14,012,388	4,243,942
13,366,177				
COST OF REVENUES:				
Software license fees.....	--	29,194	1,342,942	142,984
1,134,446				
Advertising.....	--	--	288,024	104,752
307,751				
Service revenues.....	--	32,940	554,558	146,913
1,612,080				
Total cost of	--	62,134	2,185,524	394,649
3,054,277				
revenues.....				
Gross profit.....	--	1,749,464	11,826,864	3,849,293
10,311,900				
OPERATING EXPENSES:				
Research and development.....	201,847	1,379,727	4,812,188	1,738,867
5,462,851				
Selling and marketing.....	47,181	1,217,900	7,539,924	2,264,285
9,160,905				
General and administrative.....	296,211	746,645	3,491,296	1,412,120
2,495,695				
Total operating	545,239	3,344,272	15,843,408	5,415,272
17,119,451				
expenses.....				
Operating loss.....	(545,239)	(1,594,808)	(4,016,544)	(1,565,979)
(6,807,551)				
OTHER INCOME (EXPENSE):				
Interest income, net.....	--	93,506	296,427	147,505
437,249				
Other expense.....	--	--	(69,128)	(30,620)
(1,484)				
Net other income.....	--	93,506	227,299	116,885
435,765				
Net loss.....	\$ (545,239)	\$(1,501,302)	\$(3,789,245)	\$(1,449,094)
\$(6,371,786)				
	=====	=====	=====	=====
Pro forma net loss per share...				
Shares used to compute pro				
forma net loss per share.....				

</TABLE>

See accompanying notes to consolidated financial statements.

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REALNETWORKS, INC.
AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY (DEFICIT)

<TABLE>
<CAPTION>

TOTAL		PREFERRED STOCK		COMMON STOCK		ADDITIONAL	CUMULATIVE		
SHAREHOLDERS'						PAID-IN	TRANSLATION		
ACCUMULATED	EQUITY	SHARES	AMOUNT	SHARES	AMOUNT	CAPITAL	ADJUSTMENT		
DEFICIT	(DEFICIT)								
-----		-----	-----	-----	-----	-----	-----	-----	
<S>		<C>	<C>	<C>	<C>	<C>	<C>		
<C>	<C>								
Sale of common stock.....		--	\$ --	10,000	\$ 72,838	\$ --	\$ --	\$ --	
-- \$ 72,838									
Contribution of capital									
by founder.....		--	--	--	487,357	--	--		
-- 487,357									
Net loss.....		--	--	--	--	--	--		
(545,239) (545,239)									
-----		-----	-----	-----	-----	-----	-----	-----	
Balances at December 31,									
1994.....		--	--	10,000	560,195	--	--		
(545,239) 14,956									
Contribution of capital									
by									
founder.....		--	--	--	372,283	--	--		
-- 372,283									
Exchange of common stock									
for Series A preferred									
stock.....		13,713,439	932,385	(9,999)	(932,385)	--	--		
-- --									
Exercise of common stock									
options.....		--	--	30,750	2,153	--	--		
-- 2,153									
Issuance of common stock									
in exchange for									
services.....		--	--	6,197	434	--	--		
-- 434									
Net loss.....		--	--	--	--	--	--		
(1,501,302) (1,501,302)									
-----		-----	-----	-----	-----	-----	-----	-----	
Balances at December 31,									
1995.....		13,713,439	932,385	36,948	2,680	--	--		
(2,046,541) (1,111,476)									
Exercise of common stock									
options.....		--	--	498,543	43,770	--	--		
-- 43,770									
Issuance of preferred									
stock warrants.....		--	--	--	--	1,579,000	--		
-- 1,579,000									
Translation adjustment...		--	--	--	--	--	(11,307)		
-- (11,307)									
Accretion of redemption									
value of redeemable,									
convertible preferred									
stock.....		--	--	--	--	--	--		
(31,000) (31,000)									
Net loss.....		--	--	--	--	--	--		
(3,789,245) (3,789,245)									
-----		-----	-----	-----	-----	-----	-----	-----	

Balances at December 31,							
1996.....	13,713,439	932,385	535,491	46,450	1,579,000	(11,307)	
(5,866,786) (3,320,258)							
Exercise of common stock							
options (unaudited)....	--	--	213,029	40,167	--	--	
-- 40,167							
Issuance of common stock							
in exchange for							
services (unaudited)...	--	--	1,000	2,000	--	--	
-- 2,000							
Accretion of redemption							
value of redeemable,							
convertible preferred							
stock (unaudited).....	--	--	--	--	--	--	
(133,780) (133,780)							
Translation adjustment							
(unaudited).....	--	--	--	--	--	19,193	
-- 19,193							
Net loss (unaudited)...	--	--	--	--	--	--	
(6,371,786) (6,371,786)							

Balances at June 30, 1997							
(unaudited).....	13,713,439	\$932,385	749,520	\$ 88,617	\$1,579,000	\$ 7,886	\$
(12,372,352) \$(9,764,464)							
=====		=====	=====	=====	=====	=====	
=====							

</TABLE>

See accompanying notes to consolidated financial statements.

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REALNETWORKS, INC.
AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

<TABLE>

<CAPTION>

		PERIOD FROM FEBRUARY 9, 1994		YEAR ENDED	
SIX MONTHS ENDED		(INCEPTION) TO		DECEMBER 31,	
JUNE 30,		DECEMBER 31,		-----	
-----		-----		-----	
		1994	1995	1996	
1996	1997	-----	-----	-----	-----

(UNAUDITED)	(UNAUDITED)				
<S>		<C>	<C>	<C>	<C>
<C>					
Cash flows from operating activities:					
Net loss.....		\$ (545,239)	\$(1,501,302)	\$ (3,789,245)	\$
(1,449,094) \$ (6,371,786)					
Adjustments to reconcile net loss to net					
cash used in operating activities:					
Depreciation and amortization.....		5,295	93,265	699,087	
162,468 841,432					
Common stock issued in exchange for					

services.....	--	434	--
-- 2,000			
Change in certain assets and liabilities:			
Trade accounts receivable.....	--	(667,847)	(2,607,671)
(1,122,513) (1,049,378)			
Other receivables.....	--	--	(57,320)
31,274 (43,740)			
Inventory.....	--	(3,218)	(57,325)
(17,114) (19,727)			
Prepaid expenses and other current assets.....	--	(143,328)	(348,723)
(234,271) 33,600			
Other assets.....	--	--	(78,298)
137 (44,881)			
Accounts payable.....	--	185,368	2,220,292
641,150 (861,716)			
Accrued compensation.....	15,817	34,164	296,030
123,752 435,002			
Other accrued expenses.....	33,217	116,692	821,590
224,338 801,381			
Deferred revenue.....	--	645,416	2,266,506
972,875 620,148			
-----	-----	-----	-----
Net cash used in operating activities.....	(490,910)	(1,240,356)	(635,077)
(666,998) (5,657,665)			
-----	-----	-----	-----
Cash flows from investing activities:			
Purchases of property and equipment.....	(67,542)	(624,503)	(2,783,994)
(1,300,315) (2,162,479)			
Purchases of short-term investments.....	--	(3,035,061)	(30,514,885)
(11,077,977) (10,614,439)			
Proceeds from sales and maturities of short-term investments.....	--	--	28,644,215
10,952,121 8,947,892			
Investment in joint venture.....	--	--	--
-- (998,208)			
Increase in other assets.....	(1,393)	--	(181,960)
(215,550) (279,267)			
-----	-----	-----	-----
Net cash used in investing activities.....	(68,935)	(3,659,564)	(4,836,624)
(1,641,721) (5,106,501)			
-----	-----	-----	-----
Cash flows from financing activities:			
Proceeds from issuance of note payable...	--	--	--
-- 991,268			
Proceeds from sale of preferred stock and stock warrants, net.....	--	7,404,528	17,046,966
--			
Offering costs.....	--	--	--
-- (22,807)			
Proceeds from exercise of preferred stock warrant.....	--	250,000	--
--			
Proceeds from exercise of common stock options.....	--	2,153	43,770
20,410 40,167			
Proceeds from sale of common stock.....	72,838	--	--
--			

Contribution of capital by founder.....	487,357	372,283	--	
--				--
-----	-----	-----	-----	-----
Net cash provided by financing activities.....	560,195	8,028,964	17,090,736	
20,410 1,008,628				--
-----	-----	-----	-----	-----
Effect of exchange rate changes on cash....	--	--	(10,623)	
-- (10,352)				--
-----	-----	-----	-----	-----
Net increase (decrease) in cash and cash equivalents.....	350	3,129,044	11,608,412	
(2,288,309) (9,765,890)				
Cash and cash equivalents at beginning of period.....	--	350	3,129,394	
3,129,394 14,737,806				--
-----	-----	-----	-----	-----
Cash and cash equivalents at end of period.....	\$ 350	\$ 3,129,394	\$ 14,737,806	\$
841,085 \$ 4,971,916				
=====	=====	=====	=====	=====
Supplemental disclosure of cash flow information -- cash paid during the period for interest.....	\$ --	\$ 1,853	\$ 4,430	\$
-- \$ 26,633				
Supplemental disclosure of noncash financing and investing activities:				
Exchange of common stock for Series A preferred stock.....	\$ --	\$ 932,385	\$ --	\$
-- \$ --				
Accretion of redemption value of redeemable, convertible preferred stock.....	\$ --	\$ --	\$ 31,000	\$
-- \$ 133,780				

</TABLE>

See accompanying notes to consolidated financial statements.

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REALNETWORKS, INC.
AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
DECEMBER 31, 1994, 1995 AND 1996, AND JUNE 30, 1996 AND 1997

(INFORMATION AS OF JUNE 30, 1997 AND FOR THE SIX MONTHS
ENDED JUNE 30, 1996 AND 1997 IS UNAUDITED)

(1) NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Nature of Business

RealNetworks, Inc. (formerly Progressive Networks, Inc.) and subsidiaries (Company) is a leading provider of branded software products and services that enable the delivery of streaming media content over the Internet and intranets. Streaming technology enables the transmission and playback of continuous "streams" of multimedia content, such as audio and video, over the Internet and intranets. The Company's products and services include its RealAudio and

RealVideo software system, an electronic commerce Web site and a network of advertising-supported content aggregation Web sites.

Inherent in the Company's business are various risks and uncertainties, including its limited operating history and the limited history of commerce on the Internet. The Company's success may depend in part upon the emergence of the Internet as a communication medium, the acceptance of the Company's technology by the marketplace and the Company's ability to generate license and advertising revenues from the use of its technology on the Internet.

(b) Basis of Presentation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

(c) Cash Equivalents

The Company considers all short-term investments with a remaining contractual maturity at date of purchase of three months or less to be cash equivalents.

(d) Short-Term Investments

Short-term investments consist principally of short-term investment-grade, interest-bearing debt securities.

The Company classifies its short-term investments as available-for-sale. Accordingly, these investments are carried at fair value. The fair value of such securities approximated cost, and there were no unrealized holding gains or losses at December 31, 1995 and 1996, and June 30, 1997. All short-term investments have contractual maturities of less than one year at December 31, 1996 and June 30, 1997.

(e) Inventory

Inventory is stated at the lower of cost or market, with cost determined on the first-in, first-out basis.

(f) Property and Equipment

Property and equipment are stated at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally three years. Leasehold improvements are amortized over the lesser of the term of the lease or the estimated useful life of the asset.

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

(g) Investment in Joint Venture

The Company accounts for its investment in joint venture using the equity method. Accordingly, the initial investment is recorded at cost. Subsequently, the carrying amount of the investment is increased or decreased to reflect the Company's share of income or losses of the joint venture and is reduced to reflect dividends received from the joint venture. The Company's share of income or losses of the joint venture is included in the Company's statements of operations.

(h) Research and Development

Research and development costs are charged to operations as incurred. Statement of Financial Accounting Standards (SFAS) No. 86, Accounting for the Costs of Computer Software to be Sold, Leased or Otherwise Marketed, requires capitalization of certain software development costs subsequent to the establishment of technological feasibility.

Based on the Company's product development process, technological feasibility is established upon completion of a working model. Costs incurred by the Company between completion of the working model and the point at which the product is ready for general release have been insignificant.

(i) Revenue Recognition

The Company recognizes revenue from software license fees upon delivery, net of an allowance for estimated returns, provided that no significant obligations remain on the Company's behalf and collection of the resulting receivable is deemed probable.

Revenue from software license agreements with original equipment manufacturers (OEM) is recognized when the OEM delivers its product incorporating the Company's software to the end user. In the case of prepayments received from an OEM, the Company generally recognizes revenue based on the actual products sold by the OEM. If the Company anticipates providing ongoing support to the OEM in the form of future upgrades, enhancements or other services over the term of the contract, revenue is generally recognized on the straight-line method over the term of the contract.

The Company recognizes revenue from software license agreements with value-added resellers (VAR) upon delivery to the VAR, provided necessary conditions are met. If these conditions are not met, revenue is recognized upon redistribution by the VAR to the end user.

Revenues from advertising appearing on the Company's World Wide Web (Web) sites are recognized on the straight-line method over the terms of the advertising contracts. The Company guarantees to certain advertising customers a minimum number of page impressions to be delivered to users of its Web sites for a specified period. To the extent guaranteed minimum page impression deliveries are not met, the Company defers recognition of the corresponding revenues until guaranteed page impression delivery levels are achieved. As of December 31, 1996 and June 30, 1997, no revenues had been deferred as a result of these guarantees.

Service revenue includes revenue from upgrade and support agreements, consulting, content hosting, and fees from user conferences. Service revenue from upgrade and support agreements is recognized ratably over the term of the related agreements. Other service revenue is recognized when the service is performed.

(j) Financial Instruments and Concentrations of Risk

The Company's financial instruments consist of cash and cash equivalents, short-term investments, trade accounts receivable, accounts payable, accrued expenses, and note payable. The fair value of

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

these instruments approximates their financial statement carrying amount. The Company maintains substantially all of its cash and cash equivalents and

short-term investments with two financial institutions. Management believes that the financial risks associated with such deposits are minimal. Credit is extended to customers based on an evaluation of their financial condition, and collateral is not required. The Company performs ongoing credit evaluations of its customers and maintains an allowance for potential credit losses. Substantially all of the Company's accounts receivable are derived from domestic sales.

The Company's customers consist primarily of resellers and end users located in the United States and various foreign countries. Revenues in the years ended December 31, 1995 and 1996 and the six months ended June 30, 1996 and 1997 by geographic region, as a percent of total net revenues, are as follows:

<TABLE>

<CAPTION>

	DECEMBER 31,		JUNE 30,	
	1995	1996	1996	1997
	----	----	----	----
<S>	<C>	<C>	<C>	<C>
United States and Canada.....	85%	81%	81%	73%
Europe.....	5%	7%	7%	12%
Asia.....	8%	7%	4%	10%
Other.....	2%	5%	8%	5%

</TABLE>

One customer accounted for approximately 14% of total net revenues in 1995. No one customer accounted for more than 10% of total net revenues in 1996 and the six months ended June 30, 1996 and 1997.

(k) Advertising Expenses

The Company expenses the cost of advertising and promoting its products as incurred. Such costs are included in selling and marketing expense and totaled approximately \$68,000 and \$665,000 during the years ended December 31, 1995 and 1996, respectively, and \$96,000 and \$560,000 during the six months ended June 30, 1996 and 1997, respectively.

(l) Income Taxes

The Company was an S corporation for federal income tax purposes from inception through April 8, 1995. Consequently, taxable income or loss of the Company through April 8, 1995 was attributed to the Company's shareholders. Effective April 8, 1995, the Company changed its election to utilize the provisions of subchapter S of the Internal Revenue Code of 1986, as amended, and elected to be taxed as a subchapter C corporation.

The Company utilizes the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in results of operations in the period that includes the enactment date.

Pro forma income tax information has not been provided for the period from inception to April 8, 1995. As a result of the operating losses recognized prior to April 8, 1995, any income tax benefit would

REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

have been fully offset by the establishment of a valuation allowance for deferred tax assets had the Company been taxed as a subchapter C corporation.

(m) Foreign Currency Translation

The functional currency of the Company's foreign subsidiaries is the local currency in the country in which the subsidiary is incorporated. Assets and liabilities of foreign operations are translated into U.S. dollars using rates of exchange in effect at the end of the reporting period. Income and expense accounts are translated into U.S. dollars using average rates of exchange. The net gain or loss resulting from translation is shown as a cumulative translation adjustment in shareholders' equity.

(n) Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(o) Stock-Based Compensation

The Company accounts for its stock option plans for employees in accordance with the provisions of Accounting Principles Board (APB) Opinion No. 25, Accounting for Stock Issued to Employees, and related interpretations. As such, compensation expense related to employee stock options would be recorded only if, on the date of grant, the fair value of the underlying stock exceeded the exercise price. On January 1, 1996, the Company adopted the disclosure-only requirements of SFAS No. 123, Accounting for Stock-Based Compensation, which allows entities to continue to apply the provisions of APB Opinion No. 25 for transactions with employees and provide pro forma net income and pro forma earnings per share disclosures for employee stock option grants made in 1995 and future years as if the fair-value-based method of accounting in SFAS No. 123 had been applied to these transactions.

(p) Impairment of Long-Lived Assets

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets.

(q) Reclassifications

Certain reclassifications have been made to the 1994 and 1995 consolidated financial statements to conform with the 1996 presentation.

(r) Unaudited Interim Financial Statements

In the opinion of the Company's management, the June 30, 1996 and 1997 unaudited interim financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation.

REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

(s) Pro Forma Net Loss Per Share

Pro forma net loss per share is computed by dividing the sum of net loss plus accretion of redemption value of redeemable, convertible preferred stock by the weighted average number of shares of common stock and common stock equivalents outstanding during each period and the shares resulting from the conversion of all outstanding shares of preferred stock, including Series E preferred stock, which was issued in July 1997. Common stock equivalents include all warrants and stock options which would have a dilutive effect, applying the treasury stock method. Additionally, common and common equivalent shares issued during the twelve months immediately preceding the initial filing of the Company's initial public offering (IPO) have been included in the calculation of common and common equivalent shares as if they were outstanding for all periods presented, including loss years where the impact of the incremental shares is antidilutive, using the treasury stock method and an assumed initial public offering price of \$ per share. Due to the significant impact of the assumed conversion of the preferred stock upon closing of the IPO, historical net loss per share is not meaningful and, therefore, is not presented.

The Company has not calculated pro forma net loss per share because information regarding the pricing of the shares of Common Stock under the contemplated IPO has not yet been determined.

(t) New Accounting Pronouncements

In February 1997, the Financial Accounting Standards Board (FASB) issued SFAS No. 128, Earnings Per Share (Statement 128). Statement 128 establishes standards for the computation, presentation and disclosure of earnings per share (EPS), replacing the presentation of currently required Primary EPS with a presentation of Basic EPS. It also requires dual presentation of Basic EPS and Diluted EPS on the face of the income statement for entities with complex capital structures. Basic EPS is based on the weighted average number of common shares outstanding during the period. Diluted EPS is based on the potential dilution that would occur upon exercise or conversion of securities into common stock using the treasury stock method. Statement 128 is effective for periods ending after December 15, 1997, including interim periods; earlier application is not permitted. When adopted, the Company will be required to restate its EPS data for all prior periods presented. The Company does not expect the impact of the adoption of Statement 128 to be material to its reported EPS amounts.

In June 1997, the FASB issued SFAS No. 130, Reporting Comprehensive Income (Statement 130). Statement 130 establishes standards for reporting and disclosure of comprehensive income and its components (revenues, expenses, gains and losses) in a full set of general-purpose financial statements. Statement 130 is effective for fiscal years beginning after December 15, 1997. Reclassification of financial statements for earlier periods provided for comparative purposes is required. The Company has not determined the manner in which it will present the information required by Statement 130.

In June 1997, the FASB issued SFAS No. 131, Disclosure About Segments of an Enterprise and Related Information (Statement 131). Statement 131 establishes standards for the way that public business enterprises report information about operating segments. It also establishes standards for related disclosures about products and services, geographic areas and major customers. Statement 131 is effective for periods beginning after December 15, 1997. In the initial year of application, comparative information for earlier years is to be restated. The Company has not determined the manner in which it will present the information required by Statement 131.

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

(2) PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

<TABLE>

<CAPTION>

	DECEMBER 31,		JUNE 30,
	1995	1996	1997
			(UNAUDITED)
<S>	<C>	<C>	<C>
Computer equipment and software.....	\$ 529,705	\$ 2,210,799	\$ 3,630,964
Furniture, fixtures and leasehold improvements.....	162,340	1,251,354	2,013,870
	692,045	3,462,153	5,644,834
Less accumulated depreciation and amortization.....	98,003	783,355	1,625,579
	\$ 594,042	\$ 2,678,798	\$ 4,019,255
	=====	=====	=====

</TABLE>

(3) COMMITMENTS

(a) Leases

The Company leases facilities under operating lease agreements expiring through April 2001. Future minimum lease payments under these leases as of December 31, 1996 are:

<TABLE>

<S>	<C>
1997.....	\$ 739,627
1998.....	764,056
1999.....	886,201
2000.....	886,201
2001.....	295,399

Total minimum lease payments.....	\$ 3,571,484
	=====

</TABLE>

Rent expense totaled approximately \$76,000 and \$610,000 for the years ended December 31, 1995 and 1996, respectively, and \$257,000 and \$826,000 for the six months ended June 30, 1996 and 1997, respectively.

In April 1996, the Company entered into operating lease agreements for additional corporate office space, with the lease term extending through April 2001. These leases can be terminated beginning October 1998 with nine months' advance written notice and contain options for two five-year renewals.

(b) Royalties

The Company has arrangements with several Internet content providers

whereby it is committed to pay a percentage of certain advertising revenues generated from its Web sites. As of December 31, 1996 and June 30, 1997, royalties under these arrangements have not been significant.

(4) INCOME TAXES

The expected U.S. federal income tax benefit determined by applying the statutory U.S. federal income tax rate of 34% to pretax loss for the period from February 9, 1994 (inception) to December 31, 1994 and the years ended December 31, 1995 and 1996 differs from the U.S. federal income tax benefit in the consolidated financial statements due primarily to the increase in the valuation allowance for deferred tax assets.

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REALNETWORKS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

The tax effects of temporary differences and tax loss and credit carryforwards that give rise to significant portions of federal deferred tax assets are comprised of the following:

<TABLE>

<CAPTION>

	DECEMBER 31,		JUNE 30,
	1995	1996	1997
			(UNAUDITED)
<S>	<C>	<C>	<C>
Deferred tax assets:			
Net operating loss carryforwards.....	\$ 216,000	\$ 918,000	\$ 2,641,000
Deferred revenue.....	112,000	530,000	635,000
Allowances for doubtful accounts and sales returns.....	44,000	130,000	196,000
Start-up costs capitalized for tax purposes.....	84,000	70,000	53,000
Research and experimentation credit carryforwards.....	7,000	102,000	102,000
Other.....	30,000	78,000	269,000
	-----	-----	-----
Gross deferred tax assets.....	493,000	1,828,000	3,896,000
Less valuation allowance.....	493,000	1,828,000	3,896,000
	-----	-----	-----
Net deferred tax assets.....	\$ --	\$ --	\$ --
	=====	=====	=====

</TABLE>

The valuation allowance for deferred tax assets increased \$493,000, \$1,335,000, and \$2,068,000 for the years ended December 31, 1995 and 1996 and the six months ended June 30, 1997, respectively.

At December 31, 1996 and June 30, 1997, the Company had available net operating loss carryforwards of approximately \$2,700,000 and \$7,800,000, respectively, expiring in 2010 through 2012 available to offset future U.S. federal taxable income, if any. In addition, the Company has research and experimentation tax credit carryforwards of approximately \$102,000, expiring in 2010 and 2011, which are available to offset future income taxes, if any.

The utilization of tax net operating loss carryforwards may be limited under Internal Revenue Code Section 382 due to ownership changes that occurred during the year ended December 31, 1996 or changes in ownership that may occur

if the Company raises additional equity.

(5) 401(k) RETIREMENT SAVINGS PLAN

The Company has a 401(k) Retirement Savings Plan that covers all employees who have met certain employment requirements. Employees can contribute a portion of their salary to the maximum allowed by the federal tax guidelines.

(6) BANK LINE OF CREDIT AND TERM LOAN AND NOTE PAYABLE

At December 31, 1996, and June 30, 1997, the Company had available a \$1,000,000 domestic bank line of credit and a \$1,500,000 bank term loan. The line of credit and term loan bear interest at the prime rate plus 0.75% and 1.0% per annum, respectively. There were no borrowings outstanding under the line of credit or the term loan as of December 31, 1996 and June 30, 1997.

At June 30, 1997, the Company had outstanding a note payable to one of its joint venture partners. The note is denominated in Japanese yen, bears interest at a rate not to exceed the Japanese Short Term Prime Rate (1.75% at June 30, 1997) and is secured by the Company's shares in the joint venture. Interest on the note is payable monthly and the principal is due in May 2000. The principal amount of the

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

note is 115,200,000 Japanese yen (\$991,268 at June 30, 1997), and the Company may, under certain circumstances, tender its shares in the joint venture as repayment of the note.

(7) SHAREHOLDERS' EQUITY

(a) Preferred Stock

The Company has authorized and issued convertible preferred stock and redeemable, convertible preferred stock as follows:

<TABLE>

<CAPTION>

		ISSUED AND OUTSTANDING SHARES			
		DECEMBER 31,		JUNE 30,	
		1995	1996	1997	
					(UNAUDITED)
SERIES	AUTHORIZED SHARES				
<S>	<C>	<C>	<C>	<C>	<C>
Convertible preferred.....	A	13,713,439	13,713,439	13,713,439	13,713,439
Redeemable, convertible preferred.....	B	3,059,701	3,059,701	3,059,701	3,059,701
Redeemable, convertible preferred.....	C	3,004,305	2,904,305	2,904,305	2,904,305
Redeemable, convertible preferred.....	D	3,280,300	--	2,381,010	2,381,010

</TABLE>

The following table summarizes activity of the Company's redeemable, convertible preferred stock for the years ended December 31, 1995 and 1996, and the six months ended June 30, 1997:

<TABLE>
<CAPTION>

DESCRIPTION	PRICE PER SHARE	SHARES	AMOUNT
<S>	<C>	<C>	<C>
Balances at December 31, 1994.....		--	\$ --
Sale of Series B preferred stock, net of issuance costs of \$40,000.....	\$0.6700	2,686,567	1,760,000
Sale of Series C preferred stock, net of issuance costs of \$57,784.....	1.9634	2,904,305	5,644,528
Exercise of warrants for Series B preferred stock.....	0.6700	373,134	250,000
Balances at December 31, 1995.....		5,964,006	7,654,528
Sale of Series D preferred stock, net of issuance costs and warrant value of \$889,186 and \$1,579,000, respectively.....	7.5300	2,381,010	15,467,966
Accretion of redemption value.....		--	31,000
Balances at December 31, 1996.....		8,345,016	23,153,494
Issuance costs related to sale of Series D preferred stock (unaudited).....		--	(22,807)
Accretion of redemption value (unaudited).....		--	133,780
Balances at June 30, 1997 (unaudited).....		8,345,016	\$23,264,467
		=====	=====

</TABLE>

The rights, preferences and restrictions of the Series A, B, C and D preferred stock are as follows:

- Each of the Series B, C and D preferred stock are redeemable by the holder, on, or at any time after, December 31, 2002 with the written consent of at least two-thirds of the respective outstanding Series B, C and D shareholders. The stated redemption price at date of issuance was \$0.67, \$1.9634 and \$7.53 per share for the Series B, C and D preferred stock, respectively, and is to be adjusted for inflation from the issuance date to the redemption date. Redemption payments would be made in three equal installments commencing on the initial redemption request date, and each year thereafter, for a period of two years. The Company accounts for the difference

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

between the carrying amount of redeemable preferred stock and the redemption amount by increasing the carrying amount for periodic accretion against accumulated deficit using the interest method, so that the carrying amount will equal the redemption amount at the redemption date.

- Each share of Series A, B, C and D preferred stock is convertible at the option of the holder at any time into one share of Series A common stock, subject to certain antidilution provisions. The holders of Series A preferred stock have the right, under certain circumstances, to convert one share of Series A preferred stock to one share of Series D common stock.
- Conversion of all Series A, B, C and D preferred stock is automatic upon the earlier of the closing of a public offering of the Company's common

- Series A, B, C and D preferred stock have a liquidation preference of \$0.0729, \$0.67, \$1.9634 and \$11.295 per share, respectively, plus all declared but unpaid dividends, if any. No dividends have been declared through December 31, 1996 and June 30, 1997.
- Series A, B, C and D preferred stock have the same voting rights as Series A common stock based upon the number of shares of Series A common stock into which they are convertible; however, Series A, B, C and D preferred stock have preferential treatment over all common stock with respect to any payment of dividends when and if declared by the board of directors and any distributions of assets upon liquidation.

(b) Common Stock

<TABLE>
<CAPTION>

At January 1, 1995, 10,000 shares of common stock were issued and outstanding. In April 1995, these 10,000 shares of common stock were exchanged for 13,713,439 shares of Series A preferred stock and one share of Series A common stock.

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REALNETWORKS, INC.
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Series D common stock shall have the right to elect one member of the board of directors, the "Policy Director." Such director shall have the authority to adopt or change editorial policies relating to the Company's Internet Web site

publishing.

(c) Stock Warrants

In connection with the sale of Series B preferred stock, the Company issued a warrant to purchase 373,134 additional shares of Series B preferred stock at an exercise price of \$0.67 per share. No separate value was assigned to the warrant as the value was not significant at the date of issuance. This warrant was exercised in 1995.

In connection with the sale of Series C preferred stock, the Company issued warrants to purchase up to 100,000 additional shares of Series C preferred stock at an exercise price of \$1.9634 per share, and warrants to purchase up to 183,755 shares of Series B common stock at an exercise price of \$0.20 per share. No separate value has been assigned to the warrants as the values were not significant at the date of issuance. These warrants vest on the earlier of January 26, 1997 or, if certain conditions are met, upon the closing of an IPO of the Company's common stock. These warrants expire on the earlier of the closing of an IPO by the Company with aggregate proceeds of not less than \$10,000,000 and at not less than \$4.00 per share or October 26, 2000. No warrants to purchase Series C preferred stock or Series B common stock have been exercised as of December 31, 1996 and June 30, 1997.

In connection with the sale of Series D preferred stock, the Company issued warrants to purchase up to 714,303 additional shares of Series D preferred stock at an exercise price of \$9.4125 per share. The value of the warrants, \$1,579,000, was recorded as additional paid-in capital. These warrants are exercisable at December 31, 1996, and expire on November 27, 1998. Upon a merger or consolidation in which the Company is not the survivor, the warrants are canceled and all rights granted shall terminate. If an event causing conversion of the Company's Series D preferred stock shall have occurred prior to the exercise of the warrants, then all warrants shall be exercisable for the number of shares of common stock of the Company into which the Series D preferred stock not purchased upon any prior exercise of the warrants would have been so converted.

(d) Stock Option Plans

Under the Company's 1995 Stock Option Plan (1995 Plan), 3,600,000 shares of common stock are reserved for the issuance of stock options. Options generally vest over a period of one to five years from the date of grant, expire 20 years from the date of grant and terminate, to the extent not exercised, three months after the termination of employment. In 1996, the Company adopted the 1996 Stock Option Plan (1996 Plan). A total of 3,000,000 shares of common stock were reserved for issuance of stock options under the 1996 Plan as of December 31, 1996. In January 1997, the Company reserved an additional 2,800,000 shares of common stock for issuance under the 1996 Plan. The terms of the 1996 Plan are substantially similar to the terms of the 1995 Plan.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

A summary of stock option activity under the 1995 Plan and the 1996 Plan is as follows:

<TABLE>

<CAPTION>

OUTSTANDING OPTIONS

SHARES

WEIGHTED

	AVAILABLE FOR GRANT	NUMBER OF SHARES	AVERAGE EXERCISE PRICE
<S>	<C>	<C>	<C>
Balances at December 31, 1994.....	--	--	\$ --
Plan introduction.....	3,600,000	--	--
Options granted.....	(3,313,214)	3,313,214	0.07
Options exercised.....	--	(30,750)	0.07
Options canceled.....	450,000	(450,000)	0.07
Balances at December 31, 1995.....	736,786	2,832,464	0.07
Plan introduction.....	3,000,000	--	--
Options granted.....	(3,766,364)	3,766,364	0.34
Options exercised.....	--	(498,543)	0.09
Options canceled.....	765,250	(765,250)	0.10
Balances at December 31, 1996.....	735,672	5,335,035	0.27
Plan amendment (unaudited).....	2,800,000	--	--
Options granted (unaudited).....	(1,581,430)	1,581,430	1.94
Options exercised (unaudited).....	--	(213,029)	0.19
Options canceled (unaudited).....	366,950	(366,950)	0.39
Balances at June 30, 1997 (unaudited).....	2,321,192	6,336,486	\$ 0.67

</TABLE>

The Company applies APB Opinion No. 25 in accounting for the 1995 Plan and the 1996 Plan, and no compensation cost has been recognized for its employee stock options in the consolidated financial statements. Had the Company determined compensation cost of employee stock options based on the fair value at the grant date for its stock options under SFAS No. 123, the Company's net loss would have been increased to the pro forma amounts indicated below:

<TABLE>

<CAPTION>

	DECEMBER 31,	
	1995	1996
<S>	<C>	<C>
Net loss:		
As reported.....	\$(1,501,302)	\$(3,789,245)
Pro forma.....	(1,510,513)	(3,865,415)
Net loss per share:		
As reported.....		\$
Pro forma.....		

</TABLE>

The full impact of calculating compensation cost for stock options under SFAS No. 123 is not reflected in the pro forma net loss and net loss per share amounts presented above because compensation cost is recognized over the options' vesting period. The Company has not calculated pro forma net loss per share because information regarding the pricing of the shares of Common Stock under the contemplated IPO has not yet been determined.

The per share weighted-average fair value of stock options granted during 1995 and 1996 was \$.01 and \$.07, respectively, on the date of grant using the minimum value method with the following weighted average assumptions: 1995 -- expected dividend yield of 0%, risk-free interest rate of 5.9%, and an expected life of 3.5 years; 1996 -- expected dividend yield of 0%, risk-free interest rate of 6.1%, and an expected life of 4.5 years.

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REALNETWORKS, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

The following table summarizes information about stock options outstanding under the 1995 Plan and the 1996 Plan at December 31, 1996:

<TABLE>

<CAPTION>

EXERCISE PRICES	OPTIONS OUTSTANDING			OPTIONS EXERCISABLE	
	NUMBER OUTSTANDING	WEIGHTED- AVERAGE REMAINING CONTRACTUAL LIFE	WEIGHTED- AVERAGE EXERCISE PRICE	NUMBER EXERCISABLE	WEIGHTED- AVERAGE EXERCISE PRICE
<S>	<C>	<C>	<C>	<C>	<C>
\$ 0.07	1,786,695	18.33 years	\$0.07	493,845	\$0.07
0.20	2,825,995	19.25 years	0.20	58,543	0.20
0.85	322,000	19.66 years	0.85	3,750	0.85
1.00	400,345	19.82 years	1.00	5,045	1.00
	5,335,035	18.96 years	\$0.27	561,183	\$0.09

</TABLE>

(8) SUBSEQUENT EVENTS (UNAUDITED)

In July 1997, the Company amended its articles of incorporation to designate 7,047,679 shares of common stock as Series E common stock, designate 7,047,679 shares of preferred stock as Series E preferred stock, and reduce the number of shares designated as Series D preferred stock to 3,095,313.

In June 1997, the Company entered into a strategic agreement with Microsoft Corporation (Microsoft) pursuant to which the Company granted Microsoft a nonexclusive license to certain substantial elements of the source code of the Company's RealAudio/RealVideo Version 4.0 technology, including its basic RealPlayer and substantial elements of its EasyStart Server products, and related Company trademarks. Under the agreement, Microsoft may sublicense its rights to the RealAudio/RealVideo Version 4.0 technology to third parties under certain conditions. The agreement also provides for substantial refunds to Microsoft under prescribed circumstances that are solely within the Company's control. The amount of these refunds diminishes over time. The Company may not assign its obligations under the agreement without Microsoft's consent. Microsoft is obligated to distribute the Company's RealPlayer Version 4.0 for a defined term as long as the Company's player supports certain Microsoft architectures. The Company also agreed to work with Microsoft and several other companies to author and promote the Active Streaming Format as a standard file format for streaming media. The agreement also requires the Company to provide Microsoft with engineering consultation services, certain error corrections, and certain technical support over a defined term. In July 1997, the Company delivered the specified source code in exchange for a license fee of \$30,000,000. The Company will recognize revenue, commencing with delivery of the source code, over the three-year term of its ongoing obligations.

In connection with the agreement, Microsoft purchased a minority interest in the Company in the form of 3,338,374 shares of Series E preferred stock at a price of \$8.99 per share. The Series E preferred stock is redeemable, at the option of the holder, on or at any time after December 31, 2002 at a redemption price of \$8.99 per share and also has a liquidation preference of \$8.99 per share plus any declared but unpaid dividends. Each share of Series E preferred stock is also convertible at the option of the holder at any time into either one share of Series A common stock or one share of Series E nonvoting common

stock. Conversion of Series E preferred stock is automatic upon either the closing of a public offering of the Company's common stock at a purchase price of not less than \$13.554 per share with aggregate proceeds of not less than \$20,000,000, or the affirmative vote or written consent of the holders of at least two-thirds of the then outstanding shares of Series D preferred stock. The conversion rate is subject to certain antidilution provisions. In connection with the offering, the Company also issued warrants to purchase up to 3,709,305 shares of Series E preferred stock at an exercise price of \$13.48

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REALNETWORKS, INC.
AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)

per share. The warrants are exercisable at any time through January 21, 2000 and will terminate automatically upon either completion of an IPO by the Company, or completion of a merger in which the Company is not a survivor.

In September 1997, the Company amended its articles of incorporation as follows:

- increased the number of authorized shares of common stock and preferred stock to 300,000,000 and 60,000,000, respectively;
- established par value of \$0.001 per share for both common stock and preferred stock;
- changed the designation of series of common stock to:

<TABLE>
<CAPTION>

SERIES	COMMON STOCK
-----	-----
<S>	<C>
A.....	207,047,679
B.....	30,000,000
C.....	30,000,000
D.....	1
E.....	7,047,679

</TABLE>

- provided an alternative automatic conversion provision for all series of preferred stock such that conversion is automatic on the closing of a public offering of the Company's common stock with aggregate proceeds of not less than \$20,000,000, provided that holders of at least two-thirds of the then outstanding Series D preferred stock have consented to such conversion;
- provided that on the closing of an offering as described above, the designations of Series A through D common stock terminate and Series A through D common stock convert into one class of common stock, with each share entitled to one vote;
- provided that on the closing of an offering as described above, the designation of Series E common stock terminates and Series E common stock converts into either common stock, with each share entitled to one vote, or Special Common Stock, with no voting rights except as required by applicable law; shares of Special Common Stock convert into shares of common stock solely with the prior written approval of the Company's Board of Directors; and

- created, upon the closing of an offering as described above, a Strategic Transactions Committee of the Board of Directors, consisting of three members of the Board of Directors; without the prior approval of this committee, the Board of Directors is prohibited from (i) adopting a plan of merger; (ii) authorizing sales of (A) assets representing more than 50% of the Company's assets, or (B) any asset on which the long-term business strategy of the Company is substantially dependent; or (iii) authorizing the voluntary dissolution of the Company.

In September 1997, the Company adopted the 1998 Employee Stock Purchase Plan which will become effective January 1, 1998. The Company has reserved 1,000,000 shares of common stock for issuance under the plan.

In September 1997, the Company adopted the Amended and Restated 1996 Stock Option Plan which provides for the grant of incentive and nonqualified options to purchase up to an aggregate of 9,692,736 shares of common stock to employees, officers, directors, consultants and independent contractors of the Company. The amount of shares reserved can be increased up to 11,233,209 after taking into account 1,540,473 shares subject to options outstanding under the 1995 Plan to the extent such options terminate without having been exercised in full.

In September 1997, the Company terminated its line of credit and bank term loan.

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UNDERWRITING

Subject to the terms and conditions of the Underwriting Agreement, the Company has agreed to sell to each of the Underwriters named below, and each of such Underwriters, for whom Goldman, Sachs & Co., Montgomery Securities and Robertson, Stephens & Company are acting as representatives, has severally agreed to purchase from the Company, the respective number of shares of Common Stock set forth opposite its name below:

<TABLE>

<CAPTION>

UNDERWRITER	NUMBER OF SHARES OF COMMON STOCK
<S>	<C>
Goldman, Sachs & Co.....	
Montgomery Securities.....	
Robertson, Stephens & Company.....	
Total.....	----- =====

</TABLE>

Under the terms and conditions of the Underwriting Agreement, the Underwriters are committed to take and pay for all of the shares offered hereby, if any are taken.

The Underwriters propose to offer the shares of Common Stock in part directly to the public at the initial public offering price set forth on the cover page of this Prospectus and in part to certain securities dealers at such price less a concession of \$ per share. The Underwriters may allow, and such dealers may reallow, a concession not in excess of \$ per share to certain brokers and dealers. After the shares of Common Stock are released for sale to the public, the offering price and other selling terms may from time to time be varied by the representatives.

The Company has granted the Underwriters an option exercisable for 30 days after the date of this Prospectus to purchase up to an aggregate of additional shares of Common Stock to cover over-allotments, if any. If the Underwriters exercise their over-allotment option, the Underwriters have severally agreed, subject to certain conditions, to purchase approximately the same percentage thereof that the number of shares to be purchased by each of them, as shown in the foregoing table, bears to the _____ shares of Common Stock offered.

As of the date of this Prospectus, The Goldman Sachs Group, L.P., an affiliate of Goldman, Sachs & Co., beneficially owns 66,401 shares, and a warrant to purchase 19,920 shares, of Series D Preferred Stock. These shares and the warrant were purchased on November 27, 1996 in reliance on the exemption from registration set forth in Section 4(2) of the Securities Act relating to sales by an issuer not involving a public offering.

The Company has agreed that, during the period beginning from the date of this Prospectus and continuing to and including the date 180 days after the date of this Prospectus, it will not offer, sell, contract to sell or otherwise dispose of any securities of the Company (other than pursuant to employee stock option plans existing, or on the conversion or exchange of convertible or exchangeable securities outstanding, on the date of this Prospectus) which are substantially similar to the Common Stock or which are convertible into or exchangeable for securities which are substantially similar to the Common Stock without the prior written consent of the representatives, except for the shares of Common Stock offered in connection with the offering.

In addition, the officers, directors and certain persons who prior to closing of the offering hold shares of capital stock of the Company (including but not limited to all holders of 1% or more of the Company's capital stock) have agreed that they will not offer, sell or otherwise dispose of any shares of Common Stock owned of record or beneficially as of the date of the Prospectus, including securities convertible into or exercisable or exchangeable for shares of Common Stock as of said date, as well as any shares of

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Common Stock later acquired by reason of the conversion, exercise or exchange of such securities, or enter into any swap or other transaction with respect to the shares that would transfer the economic consequences of ownership of the Common Stock to another person, for a period of 180 days following the date of this Prospectus, except that persons other than officers, directors and holders of 1% or more of the capital stock of the Company each will be free to sell or otherwise dispose of up to 5,000 shares of Common Stock to the extent permissible under Rule 144 or Rule 701.

At the request of the Company, the Underwriters have reserved up to _____ shares of Common Stock for sale, at the initial public offering price, to employees of the Company and to certain distributors. The number of shares of Common Stock available for sale to the general public in the public offering will be reduced to the extent such persons purchase such reserved shares.

The representatives of the Underwriters have informed the Company that they do not expect sales to accounts over which the Underwriters exercise discretionary authority to exceed 5% of the total number of shares of Common Stock offered by them.

Prior to this offering, there has been no public market for the shares. The initial public offering price will be negotiated among the Company and the representatives. Among the factors to be considered in determining the initial public offering price of the Common Stock, in addition to prevailing market conditions, will be the Company's historical performance, estimates of the

business potential and earnings prospects of the Company, an assessment of the Company's management and the consideration of the above factors in relation to market valuation of companies in related businesses.

In connection with the offering, the Underwriters may purchase and sell the Common Stock in the open market. These transactions may include over-allotment and stabilizing transactions and purchases to cover syndicate short positions created by the Underwriters in connection with the offering. Stabilizing transactions consist of certain bids or purchases for the purpose of preventing or retarding a decline in the market price of the Common Stock; and syndicate short positions created by the Underwriters involve the sale by the Underwriters of a greater number of shares of Common Stock than they are required to purchase from the Company in the offering. The Underwriters also may impose a penalty bid, whereby selling concessions allowed to syndicate members or other broker-dealers in respect of the securities sold in the offering for their account may be reclaimed by the syndicate if such shares of Common Stock are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the Common Stock which may be higher than the price that might otherwise prevail in the open market; and these activities, if commenced, may be discontinued at any time. These transactions may be effected on the Nasdaq National Market in the over-the-counter market or otherwise.

The Common Stock will be available for quotation on the Nasdaq National Market under the symbol "RNWK." The Company has agreed to indemnify the several Underwriters against certain liabilities, including liabilities under the Securities Act.

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[SCREEN-SHOTS OF
WEB PAGES SUPERIMPOSED
OVER COMPANY LOGO]

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NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS PROSPECTUS, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED. THIS PROSPECTUS DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OTHER THAN THE SECURITIES TO WHICH IT RELATES OR AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY SUCH SECURITIES IN ANY CIRCUMSTANCES IN WHICH SUCH OFFER OR SOLICITATION IS UNLAWFUL. NEITHER THE DELIVERY OF THIS PROSPECTUS NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY SINCE THE DATE HEREOF OR THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AS OF ANY TIME SUBSEQUENT TO ITS DATE.

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THROUGH AND INCLUDING , 1997 (THE
25TH DAY AFTER THE DATE OF THIS PROSPECTUS), ALL
DEALERS EFFECTING TRANSACTIONS IN THE COMMON
STOCK, WHETHER OR NOT PARTICIPATING IN THIS
DISTRIBUTION, MAY BE REQUIRED TO DELIVER A
PROSPECTUS. THIS IS IN ADDITION TO THE OBLIGATION
OF DEALERS TO DELIVER A PROSPECTUS WHEN ACTING AS
UNDERWRITERS AND WITH RESPECT TO THEIR UNSOLD
ALLOTMENTS OR SUBSCRIPTIONS.

=====

</TABLE>

=====

SHARES

REALNETWORKS, INC.
(FORMERLY "PROGRESSIVE NETWORKS, INC.")

COMMON STOCK
(PAR VALUE \$.001 PER SHARE)
[REALNETWORKS LOGO]
GOLDMAN, SACHS & CO.
MONTGOMERY SECURITIES
ROBERTSON, STEPHENS & COMPANY

REPRESENTATIVES OF THE UNDERWRITERS

=====

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION*

<TABLE>

<S>	<C>
Securities and Exchange Commission Registration Fee.....	\$ 10,455
NASD Filing Fee.....	3,950
Nasdaq National Market Listing Fee.....	50,000
Legal Fees and Expenses.....	**
Accountants' Fees and Expenses.....	225,000
Blue Sky Filing and Counsel Fees and Expenses.....	5,000
Printing and Engraving Expenses.....	150,000
Transfer Agent and Registrar Fees.....	10,000
Directors' and Officers' Liability Insurance.....	200,000
Miscellaneous Expenses.....	**

Total..... \$ **
=====

</TABLE>

* All expenses other than the Securities and Exchange Commission Registration Fee, the NASD Filing Fee and the Nasdaq National Market Fee are estimated.

** To be provided by amendment.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Sections 23B.08.500 through 23B.08.600 of the Washington Business Corporation Act (the "Washington Act") authorize a court to award, or a corporation's board of directors to grant, indemnification to directors and officers on terms sufficiently broad to permit indemnification under certain circumstances for liabilities arising under the Securities Act of 1933, as amended (the "Securities Act"). Article VI, Section 6.4, of the Registrant's Amended and Restated Articles of Incorporation (Exhibit 3.1 hereto) and Article X of the Registrant's Restated Bylaws (Exhibit 3.2 hereto) provide for indemnification of the Registrant's directors, officers, employees and agents to the maximum extent permitted by Washington law. The Registrant has entered into agreements with all officers and directors to indemnify them against certain liabilities arising out of their service as officers and directors, as applicable, and to advance expenses to defend claims subject to indemnification. The directors and officers of the Registrant also may be indemnified against liability they may incur for serving in that capacity pursuant to a liability insurance policy maintained by the Registrant for such purpose.

Section 23B.08.320 of the Washington Act authorizes a corporation to limit a director's liability to the corporation or its shareholders for monetary damages for acts or omissions as a director, except in certain circumstances involving intentional misconduct, self-dealing or illegal corporate loans or distributions, or any transaction from which the director personally receives a benefit in money, property or services to which the director is not legally entitled. Article VI, Section 6.5, of the Registrant's Amended and Restated Articles of Incorporation contains provisions implementing, to the fullest extent permitted by Washington law, such limitations on a director's liability to the Registrant and its shareholders.

Reference is also made to the Form of Underwriting Agreement to be filed as Exhibit 1.1 to this Registration Statement for certain provisions regarding the indemnification of officers and directors of the Registrant by the Underwriters.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

Since September 1, 1994, the Registrant has issued and sold unregistered securities as follows:

(1) An aggregate of 2,686,567 shares of Series B Preferred Stock issued in April 1995 to investors. The aggregate consideration received for such shares was \$1,800,000.

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(2) An aggregate of 2,600 shares of Series B Common Stock issued in September 1995 to 26 employees in exchange for services, and 100 shares of Series C Common Stock issued in September 1995 to one individual in exchange for services.

(3) An aggregate of 2,904,305 shares of Series C Preferred Stock issued in October 1995 to investors. The aggregate consideration received

for such shares was \$5,702,312.

(4) An aggregate of 3,497 shares of Series C Common Stock issued in October 1995 to one individual in exchange for services.

(5) An aggregate of 2,381,010 shares of Series D Preferred Stock issued in November 1996 to investors. The aggregate consideration received for such shares was \$17,929,005.

(6) An aggregate of 1,000 shares of Series C Common Stock issued in March 1997 to one individual in exchange for services.

(7) An aggregate of 3,338,374 shares of Series E Preferred Stock issued in July 1997 to one investor. The aggregate consideration received for such shares was \$30,000,000.

(8) An aggregate of 1,531,594 shares of Series B Common Stock and Series C Common Stock issued to employees and consultants upon the exercise of options. The aggregate consideration received for such shares was \$187,914.

(9) An aggregate of 373,134 shares of Series B Preferred Stock issued to an investor upon the exercise of warrants. The aggregate consideration received for such shares was \$250,000.

No underwriters were engaged in connection with these issuances and sales, which were made in reliance upon the exemption from registration set forth in Section 4(2) of the Securities Act, relating to sales by an issuer not involving a public offering.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(A) EXHIBITS

<TABLE>

<CAPTION>

NUMBER	DESCRIPTION
<S>	<C>
1.1*	Form of Underwriting Agreement
3.1	Amended and Restated Articles of Incorporation filed September 19, 1997
3.2	Articles of Amendment to the Amended and Restated Articles of Incorporation filed September 25, 1997
3.3	Form of Amended and Restated Articles of Incorporation
3.4	Bylaws
4.1*	Specimen Stock Certificate
5.1*	Opinion of Graham & James LLP/Riddell Williams P.S.
10.1	RealNetworks, Inc. 1995 Stock Option Plan
10.2	RealNetworks, Inc. Amended and Restated 1996 Stock Option Plan
10.3	Form of Stock Option Agreement
10.4	1998 Employee Stock Purchase Plan
10.5	Form of Warrant to Purchase Series D Preferred Stock
10.6	Warrant to Purchase Series E Preferred Stock dated July 21, 1997 between the Registrant and Microsoft Corporation
10.7	Lease Agreement dated March 4, 1996 by and between the Registrant as Lessee and Wright Runstad Properties L.P. as Lessor

</TABLE>

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<TABLE>

<CAPTION>

NUMBER	DESCRIPTION
-----	-----

<S>	<C>
10.8	Sublease Agreement dated March, 1996 by and between the Registrant as Sublessee and Legent Corporation as Sublessor
10.9	Antenna Site License Agreement dated August 12, 1997 by and between the Registrant and Wright Runstad & Company
10.10**	Agreement between Microsoft Corporation and the Registrant on Media Streaming Technology dated June 17, 1997
10.11	Offer letter dated February 16, 1996 between the Registrant and Bruce Jacobsen
10.12	Offer letter dated May 2, 1995 between the Registrant and James Wells
10.13	Offer letter dated May 24, 1994 between the Registrant and Andrew Sharpless
10.14	Form of Director and Officer Indemnification Agreement
10.15	Limited Proxy and Voting Agreement dated July 21, 1997 by and between the Registrant and Microsoft Corporation
10.16	Shareholders' Buy-Sell Agreement dated March 31, 1995 by and among the Registrant, Robert Glaser and certain shareholders of the Registrant
10.17	Voting Agreement dated September 25, 1997 by and among the Registrant, Robert Glaser, Accel IV L.P., Mitchell Kapor and Bruce Jacobsen
10.18	Agreement dated September 26, 1997 by and between the Registrant and Robert Glaser
10.19	Second Amended and Restated Investors' Rights Agreement dated July 21, 1997 by and among the Registrant and certain shareholders of the Registrant
11.1*	Statement re: Computation of Pro Forma Net Loss Per Share
21.1	Subsidiaries of the Registrant
23.1	Consent of Graham & James LLP/Riddell Williams P.S. (included in its opinion to be filed as Exhibit 5.1 hereto)
23.2	Consent of KPMG Peat Marwick LLP
24.1	Power of Attorney (included on signature page)
27.1	Financial Data Schedule

</TABLE>

- - - - -

* To be filed by amendment.

** Confidential treatment requested.

(b) FINANCIAL STATEMENT SCHEDULE

Schedule II -- Valuation and Qualifying Accounts

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ITEM 17. UNDERTAKINGS

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 foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission 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, 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.

The undersigned Registrant hereby undertakes to provide to the Underwriters, at the closing specified in the Underwriting Agreement, certificates in such denominations and registered in such names as required by the Underwriters to permit prompt delivery to each purchaser.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be a part of this Registration Statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus 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.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Seattle, State of Washington, on September 26, 1997.

REALNETWORKS, INC.

By: /s/ ROBERT GLASER

Robert Glaser
Chief Executive Officer

POWER OF ATTORNEY

Each person whose individual signature appears below hereby constitutes and appoints Robert Glaser and Bruce Jacobsen, and each of them, as his true and lawful attorney-in-fact, with full power of substitution, to execute in the name and on behalf of such person, individually and in each capacity stated below, and to file, any and all amendments to this Registration Statement, including any and all post-effective amendments, and any related registration statement that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated below:

<TABLE>

<CAPTION>

SIGNATURE	TITLE	DATE
-----	-----	-----
<C>	<S>	<C>
/s/ ROBERT GLASER	Chairman of the Board,	September 26, 1997
-----	Chief Executive	
Robert Glaser	Officer, Secretary and	
	Treasurer (Principal	
	Executive Officer)	
/s/ BRUCE JACOBSEN	President, Chief	September 26, 1997
-----	Operating Officer and	
Bruce Jacobsen	Director	

/s/ MARK KLEBANOFF ----- Mark Klebanoff	Chief Financial Officer (Principal Financial and Accounting Officer)	September 26, 1997
/s/ JIM BREYER ----- James Breyer	Director	September 25, 1997
/s/ MITCHELL KAPOR ----- Mitchell Kapor	Director	September 22, 1997

</TABLE>

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SCHEDULE II -- VALUATION AND QUALIFYING ACCOUNTS

REALNETWORKS, INC. AND SUBSIDIARIES
 PERIOD FROM FEBRUARY 9, 1994 (INCEPTION) TO DECEMBER 31, 1994
 AND THE YEARS ENDED DECEMBER 31, 1995 AND 1996

<TABLE>

<CAPTION>

DESCRIPTION	BALANCE AT BEGINNING OF PERIOD	CHARGED TO COSTS AND EXPENSES	COSTS AND DEDUCTIONS(1)	BALANCE AT END OF PERIOD
-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>
Year ended December 31, 1996:				
Valuation accounts deducted from assets:				
Allowance for doubtful accounts receivable and sales returns.....	\$ 129,869	\$ 563,046	\$(309,565)	\$ 383,350
Valuation allowance for deferred tax assets.....	493,000	1,335,000	--	1,828,000
	=====	=====	=====	=====
Year ended December 31, 1995:				
Valuation accounts deducted from assets:				
Allowance for doubtful accounts receivable and sales returns.....	--	129,869	--	129,869
Valuation allowance for deferred tax assets.....	--	493,000	--	493,000
	=====	=====	=====	=====
Period from February 9, 1994 (inception) to December 31, 1994:				
Valuation accounts deducted from assets:				
Allowance for doubtful accounts receivable and sales returns.....	--	--	--	--
Valuation allowance for deferred tax assets.....	--	--	--	--
	=====	=====	=====	=====

</TABLE>

(1) Represents amounts written off.

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EXHIBIT INDEX

<TABLE> <CAPTION> EXHIBIT		
NUMBER	DESCRIPTION	

<S>	<C>	<C>
1.1*	Form of Underwriting Agreement.....	
3.1	Amended and Restated Articles of Incorporation filed September 19, 1997.....	
3.2	Articles of Amendment to the Amended and Restated Articles of Incorporation filed September 25, 1997.....	
3.3	Form of Amended and Restated Articles of Incorporation.....	
3.4	Bylaws.....	
4.1*	Specimen Stock Certificate.....	
5.1*	Opinion of Graham & James LLP/Riddell Williams P.S.....	
10.1	RealNetworks, Inc. 1995 Stock Option Plan.....	
10.2	RealNetworks, Inc. Amended and Restated 1996 Stock Option Plan.....	
10.3	Form of Stock Option Agreement.....	
10.4	1998 Employee Stock Purchase Plan.....	
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10.6	Warrant to Purchase Series E Preferred Stock dated July 21, 1997 between the Registrant and Microsoft Corporation.....	
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10.8	Sublease Agreement dated March, 1996 by and between the Registrant as Sublessee and Legent Corporation as Sublessor.....	
10.9	Antenna Site License Agreement dated August 12, 1997 by and between the Registrant and Wright Runstad & Company.....	
10.10**	Agreement between Microsoft Corporation and the Registrant on Media Streaming Technology dated June 17, 1997.....	
10.11	Offer letter dated February 16, 1996 between the Registrant and Bruce Jacobsen.....	
10.12	Offer letter dated May 2, 1995 between the Registrant and James Wells.....	
10.13	Offer letter dated May 24, 1994 between the Registrant and Andrew Sharpless.....	
10.14	Form of Director and Officer Indemnification Agreement.....	
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10.18	Agreement dated September 26, 1997 by and between the Registrant and Robert Glaser.....	
10.19	Second Amended and Restated Investors' Rights Agreement dated July 21, 1997 by and among the Registrant and certain shareholders of the Registrant.....	
11.1*	Statement re: Computation of Pro Forma Net Loss Per Share.....	
21.1	Subsidiaries of the Registrant.....	
23.1	Consent of Graham & James LLP/Riddell Williams P.S. (included in its opinion to be filed as Exhibit 5.1 hereto).....	
23.2	Consent of KPMG Peat Marwick LLP.....	
24.1	Power of Attorney (included on signature page).....	
27.1	Financial Data Schedule.....	

</TABLE>

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* To be filed by amendment.

** Confidential treatment requested.
</TEXT>

</DOCUMENT>
<DOCUMENT>
<TYPE>EX-3.1
<SEQUENCE>2
<DESCRIPTION>AMEND. & REST. ART. OF INC. FILED SEPT. 19, 1997
<TEXT>

<PAGE> 1

EXHIBIT 3.1

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
PROGRESSIVE NETWORKS, INC.

Progressive Networks, Inc., a Washington corporation, by its President, hereby submits the following Amended and Restated Articles of Incorporation of said Corporation pursuant to the provisions of RCW 23B.10.070, and resolutions duly adopted by the Board of Directors on July 25, 1997. These Amended and Restated Articles of Incorporation were duly approved by the shareholders in accordance with the provisions of RCW 23B.10.030 and RCW 23B.10.040, and supersede the original Articles of Incorporation and all amendments and prior restatements thereto as of the date of their adoption.

ARTICLE I
NAME

The name of this corporation is Progressive Networks, Inc.

ARTICLE II
DURATION

This Corporation is organized under the Washington Business Corporation Act (the "Act") and shall have perpetual existence.

ARTICLE III
PURPOSE AND POWERS

The purpose and powers of this Corporation are as follows: (a) to engage in any lawful business; (b) to engage in any and all activities that, in the judgment of the Board of Directors, may at any time be incidental or conducive to the attainment of the foregoing purpose; and (c) to exercise any and all powers that a corporation formed under the Act, or any amendment thereto or substitute therefor, is entitled at the time to exercise.

ARTICLE IV
CAPITAL STOCK

4.1 AUTHORIZED CAPITAL. The aggregate number of shares of capital stock which this Corporation shall be authorized to issue shall be Three Hundred Sixty Million (360,000,000), divided into two classes as follows: Three Hundred Million (300,000,000) shares of common stock (the "Common Stock"), and Sixty Million (60,000,000) shares of preferred stock (the "Preferred Stock").

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4.2 ISSUANCE OF COMMON STOCK IN SERIES.

4.2.1 AUTHORITY VESTED IN BOARD OF DIRECTORS. The Common Stock may be divided into and issued in series from time to time. Authority is vested in the Board of Directors, subject to the limitations and procedures prescribed by law, to divide any part or all of such Common Stock into any number of series, to fix and determine the relative rights and preferences of the shares of any series to be established, and to amend the rights and preferences of the shares of any series that has been established but is wholly unissued.

4.2.2 AMENDMENT TO SERIES DECREASING SHARES. Within any limits stated in these Articles of Incorporation or in the resolution of the Board of Directors establishing a series, the Board of Directors, after the issuance of shares of a series, may amend the resolution establishing the series to decrease (but not below the number of shares of such series then outstanding) the number of shares of that series, and the number of shares constituting the decrease shall thereafter constitute authorized but undesignated shares.

4.2.3 AUTHORITY LIMITED TO UNISSUED SHARES. The authority herein granted to the Board of Directors to determine the relative rights and preferences of the Common Stock shall be limited to unissued shares, and no power shall exist to alter or change the rights and preferences of any shares that have been issued.

4.3 DESIGNATION OF SERIES A COMMON STOCK, SERIES B COMMON STOCK, SERIES C COMMON STOCK, SERIES D COMMON STOCK AND SERIES E COMMON STOCK.

The following series of Common Stock are hereby designated, and each such series shall have the following rights, preferences and limitations:

4.3.1 DESIGNATION. Two Hundred Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (207,047,679) shares of Common Stock shall be designated and known as "Series A Common Stock"; Thirty Million (30,000,000) shares of Common Stock shall be designated and known as "Series B Common Stock"; Thirty Million (30,000,000) shares of Common Stock shall be designated and known as "Series C Common Stock"; one (1) share shall be designated and known as "Series D Common Stock" and Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (7,047,679) shares of Common Stock shall be designated and known as "Series E Common Stock." Except as otherwise provided in these Articles of Incorporation, all shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock shall be identical and shall entitle the holders thereof to the same rights and privileges. The designations of the Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock in this Article are expressly subject to the provisions of Section 4.3.6, Section 4.3.7, and Section 4.3.8.

4.3.2 ISSUANCE. Shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock may be issued, upon authorization by the Board of Directors, to such persons and entities, and for such consideration permitted by the Act, as the Board of Directors shall determine; provided, that shares of Series B Common Stock shall be issued only to persons or entities who, at the time of issuance, are either (a) employees of the Corporation, or (b) directors, or affiliates of directors, of the Corporation. For purposes of this section, an "affiliate" shall be a person or

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entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a director; and provided further, that shares of Series D Common Stock shall be issued only in compliance with Section 4.3.7.

4.3.3 VOTING RIGHTS. Except as otherwise required by law and except as otherwise provided in these Articles of Incorporation, on all matters submitted to the Corporation's shareholders, each share of Series A Common Stock shall entitle the holder to fifteen (15) votes, each share of Series B Common Stock shall entitle the holder to fifteen (15) votes, each share of Series D Common Stock shall entitle the holder to fifteen (15) votes, each share of Series C Common Stock shall entitle the holder to one (1) vote, and each share of Series E Common Stock shall not be entitled to vote, except as required by law, in which case it shall entitle the holder to one (1) vote. Except with regard to those matters required by law to be voted on by one or more voting groups and except as otherwise provided in these Articles of Incorporation, all shares of Series A Common Stock, Series B Common Stock, Series C Common Stock and Series D Common Stock shall vote and be counted together and not separately as a voting group upon all matters submitted to a vote of shareholders. Where the Series E Common Stock is entitled to voting rights by law, all shares of Series E Common Stock shall vote and be counted together with the Series A Common Stock, the Series B Common Stock, the Series C Common Stock and the Series D Common Stock and not separately as a voting group, except as required by law.

4.3.4 DIVIDENDS.

(a) IN CASH OR SECURITIES. Subject to any preferential rights granted for any series of Common Stock or Preferred Stock, the holders of Series A Common Stock, the holders of Series B Common Stock, the holders of Series C Common Stock, the holders of the Series D Common Stock and the holders of Series E Common Stock shall be entitled to receive dividends equally, share for share, if, when and as declared by the Board of Directors out of funds of this Corporation legally available for that purpose; provided, that if such dividends are declared, they will be payable at the same rate on each other series of Common Stock and payable in Common Stock of the series with respect to which it is declared or in Common Stock of one or more newly designated series with substantially similar rights to the series with respect to which it is declared, as determined by the Board of Directors in its sole discretion.

(b) SUBDIVISIONS AND COMBINATIONS OF SHARES. Any increase or decrease in the number of shares of any series of Common Stock resulting from a subdivision or combination of shares or other capital reclassification shall not be permitted unless parallel action is taken with respect to each other series of Common Stock, so that the number of shares of each series of Common Stock outstanding shall be increased or decreased proportionately.

4.3.5 AUTOMATIC CONVERSION OF SERIES B COMMON STOCK.

(a) CONVERSION EVENT/CONVERSION DATE FOR EMPLOYEE HOLDERS. Each share of Series B Common Stock held by a holder who was an employee at the time of issuance shall automatically convert into one (1) share of Series C Common Stock upon the termination of the holder's employment with the Corporation for any reason, including but not limited to death, disability, retirement, resignation or involuntary termination by the Corporation. In addition, if any such holder, while an employee, makes or attempts to make any transfer of shares of Series B Common Stock to any person or entity, whether voluntary or involuntary, each such

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share that the holder has transferred or attempted to transfer shall automatically convert into one (1) share of Series C Common Stock simultaneously with such transfer or attempted transfer. If it is necessary for any reason to determine whether the holder's employment has terminated or the time thereof, or whether the holder has made or attempted to make any transfer of any shares of Series B Common Stock or the time thereof, the Board of Directors shall make such determination and it shall be binding on the holder and any other person having any interest therein.

(b) CONVERSION EVENT/CONVERSION DATE FOR DIRECTOR OR AFFILIATE HOLDERS. Each share of Series B Common Stock held by a holder who was a director or an affiliate of a director (as defined above) at the time of issuance shall automatically convert into one (1) share of Series C Common Stock upon the termination of the holder's status as a director or an affiliate of a director for any reason, including but not limited to death, resignation or removal by the shareholders. In addition, if any such holder, while a director or an affiliate of a director, makes or attempts to make any transfer of shares of Series B Common Stock, whether voluntary or involuntary, each such share that the holder has transferred or attempted to transfer shall automatically convert into one (1) share of Series C Common Stock simultaneously with such transfer or attempted transfer. If it is necessary for any reason to determine whether the holder has made or attempted to make any transfer of any shares of Series B Common Stock or the time thereof, the Board of Directors shall make such determination and it shall be binding on the holder and any other person having any interest therein.

(c) STATUS OF CERTIFICATES. If one or more shares of Series B Common Stock are so converted, the certificate(s) representing such share or shares shall, by virtue of the conversion and without any action on the part of the holder, thereafter represent, to the extent of the number of shares so converted, the corresponding number of shares of Series C Common Stock, and the share or shares of Series B Common Stock previously represented by such certificate(s) shall be canceled and revert to the status of authorized but unissued share(s) of Series B Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate or certificates to represent the shares of Series C Common Stock (and, if applicable, any remaining shares of Series B Common Stock) represented by the surrendered certificate.

(d) RESERVATION AND ISSUANCE OF SERIES C COMMON STOCK. The Corporation shall reserve at all times, for so long as any shares of Series B Common Stock remain outstanding, free from preemptive rights, out of its authorized but unissued shares of Series C Common Stock, solely for the purpose of effecting the conversion of the shares of Series B Common Stock, sufficient shares of Series C Common Stock to provide for the conversion of all outstanding shares of Series B Common Stock. All shares of Series C Common Stock issued upon conversion of the shares of Series B Common Stock will be duly and validly issued, fully paid and nonassessable to the same extent as the shares of Series B Common Stock from which they were converted.

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4.3.6 TERMINATION OF DESIGNATION OF SERIES A COMMON STOCK, SERIES B COMMON STOCK AND SERIES C COMMON STOCK. Upon the earlier of:

(a) the written election delivered to the

Corporation at any time by the holders of a majority of: (i) the then outstanding shares of Series A Preferred Stock, or (ii) the then outstanding shares of Series A Common Stock issued upon the conversion of Series A Preferred as provided in Article V; or

(b) the closing of a Public Offering (as defined in Section 5.4(b)), provided: (i) immediately following the closing of the Public Offering, the persons who held shares of Series A Preferred prior to the Public Offering, or prior to the conversion of the Series A Preferred into Common Stock as provided in Article V, hold more than fifty percent (50%) of all of the outstanding shares of the Corporation, assuming the issuance and exercise of all options under the Corporation's 1995 Stock Option Plan, 1996 Stock Option Plan or any other stock option, employee stock bonus or restricted stock plan designated and approved by the Board of Directors, and (ii) in the opinion of the underwriters, delivered to the Corporation prior to the closing of the Public Offering, the existence of multiple classes of Common Stock will lower the price in the public offering by more than twenty-five percent (25%);

the designation of the Series A Common Stock, Series B Common Stock and Series C Common Stock as separate series of Common Stock having the respective rights, preferences and limitations set forth in this Section 4.3, and the authority of the Board of Directors under Section 4.2 to divide the Common Stock into series and to fix and determine the relative rights and preferences therefor, shall automatically terminate. Effective immediately upon such termination (A) the number of authorized shares of Common Stock of the Corporation shall be increased by the number of authorized shares of Series A Common Stock, Series B Common Stock, and Series C Common Stock, without any distinctions between any of such shares (except as provided in Section 4.3.7); (B) each share of Series A Common Stock, Series B Common Stock and Series C Common Stock then outstanding shall thereafter constitute one (1) share of Common Stock, the holder of which shall be entitled to one (1) vote upon all matters submitted to a vote of shareholders; and (C) each certificate representing shares of Series A Common Stock, Series B Common Stock or Series C Common Stock that were outstanding immediately prior to the termination shall, by virtue of the termination and without any action on the part of the holder, thereafter represent the corresponding number of shares of Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate to represent the shares of Common Stock represented by the surrendered certificate.

4.3.7 SERIES D COMMON STOCK. Notwithstanding anything in Section 4.3.6 to the contrary, one (1) share of Common Stock shall remain designated a share of Series D Common Stock, and, as provided in Section 5.4(a), the holders of Series A Preferred shall have the nontransferable right to convert one (1) share of Series A Preferred into one (1) share of Series D Common Stock provided the Corporation has received, in connection with a Public Offering (as defined in Section 5.4(b)), an opinion of a recognized investment banking firm that the existence of this class of stock will not impair the value of the Series A Common Stock. Upon the transfer of that one (1) share of Series D Common Stock, the one (1) share of Series D Common Stock shall automatically convert into one (1) share of Series A Common Stock or Conversion Stock (as defined in Section 5.4(a)). The one (1) share of Series D Common Stock,

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which shall be issued as described in Section 5.4(a), shall have the right (in addition to its right to vote with the Common Stock) to elect one (1) member of the Board of Directors of the Corporation (the "Policy Director") who shall have the rights and authority set forth in Section 7.1.

4.3.8 TERMINATION OF DESIGNATION OF SERIES E COMMON STOCK.

If a holder of Series E Preferred elects to convert such shares into shares of Series A Common Stock, then, at any time following such conversion, the Board of Directors may amend the resolution establishing the Series E Common Stock to decrease (but not below the number of Series E Preferred then outstanding) the number of shares of Series E Common Stock, and the number of shares constituting the decrease shall thereafter constitute authorized but undesignated shares of Common Stock. In addition, if all of the Series E Preferred are converted into shares of Series A Common Stock, the designation of the Series E Common Stock as a separate series of Common Stock shall automatically terminate. Effective immediately upon such termination, the number of authorized, but undesignated shares of Common Stock of the Corporation shall be increased by the number of authorized shares of Series E Common Stock.

4.4 ISSUANCE OF PREFERRED STOCK IN SERIES.

4.4.1 AUTHORITY VESTED IN BOARD OF DIRECTORS. The

Preferred Stock may be divided into and issued in series from time to time. Authority is vested in the Board of Directors, subject to the limitations and procedures set forth in these Articles of Incorporation or prescribed by law, to divide any part or all of such Preferred Stock into any number of series, to fix and determine the relative rights and preferences of the shares of any series to be established, and to amend the rights and preferences of the shares of any series that has been established but is wholly unissued.

4.4.2 DESIGNATION OF SERIES A PREFERRED STOCK, SERIES B PREFERRED STOCK, SERIES C PREFERRED STOCK, SERIES D PREFERRED STOCK AND SERIES E PREFERRED STOCK.

The following series of Preferred Stock are hereby designated, and each such series shall have the following rights, preferences and limitations:

4.4.3 DESIGNATION. Thirteen Million Seven Hundred Thirteen Thousand Four Hundred Thirty Nine (13,713,439) shares of Preferred Stock shall be designated and known as "Series A Preferred Stock" or "Series A Preferred"; Three Million Fifty-Nine Thousand Seven Hundred One (3,059,701) shares of Preferred Stock shall be designated and known as "Series B Preferred Stock" or "Series B Preferred"; Three Million Four Thousand Three Hundred Five (3,004,305) shares of Preferred Stock shall be designated and known as "Series C Preferred Stock" or "Series C Preferred"; Three Million Ninety-Five Thousand Three Hundred Thirteen (3,095,313) shares of Preferred Stock shall be designated and known as "Series D Preferred Stock" or "Series D Preferred"; and Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (7,047,679) shares of Preferred Stock shall be designated as "Series E Preferred Stock" or "Series E Preferred." Except as otherwise provided in these Articles of Incorporation, all shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock shall be identical and shall entitle the holders thereof to the same rights and privileges.

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4.4.4 AMENDMENT TO SERIES DECREASING SHARES. Within any

limits stated in these Articles of Incorporation or in the resolution of the Board of Directors establishing a series, the Board of Directors, after the issuance of shares of a series, may amend the resolution establishing the series to decrease (but not below the number of shares of such series then outstanding or reserved for issuance pursuant to the exercise of any outstanding warrants) the number of shares of that series, and the number of

shares constituting the decrease shall thereafter constitute authorized but undesignated shares.

4.4.5 AUTHORITY LIMITED TO UNISSUED SHARES. The authority herein granted to the Board of Directors to determine the relative rights and preferences of the Preferred Stock shall be limited to unissued shares, and no power shall exist to alter or change the rights and preferences of any shares that have been issued.

4.5 ISSUANCE OF CERTIFICATES. The Board of Directors shall have the authority to issue shares of the capital stock of this Corporation and the certificates therefor subject to such transfer restrictions and other limitations as it may deem necessary to promote compliance with applicable federal and state securities laws, and to regulate the transfer thereof in such manner as may be calculated to promote such compliance or to further any other reasonable purpose.

4.6 NO CUMULATIVE RIGHTS. Shareholders of this Corporation shall not have the right to cumulate votes for the election of directors.

4.7 NO PREEMPTIVE RIGHTS. No shareholder of this Corporation shall have, solely by reason of being a shareholder, any preemptive or preferential right or subscription right to any stock of this Corporation or to any obligations convertible into stock of this Corporation, or to any warrant or option for the purchase thereof, except to the extent provided by written agreement with this Corporation.

4.8 QUORUM FOR MEETING OF SHAREHOLDERS. A quorum shall exist at any meeting of shareholders if a majority of the votes entitled to be cast is represented in person or by proxy. In the case of any meeting of shareholders that is adjourned more than once because of the failure of a quorum to attend, those who attend the third convening of such meeting, although less than a quorum, shall nevertheless constitute a quorum for the purpose of electing directors, provided that the percentage of shares represented at the third convening of such meeting shall not be less than one-third of the shares entitled to vote.

4.9 CONTRACTS WITH INTERESTED SHAREHOLDERS. Subject to the limitations set forth in RCW 23B.19.040, to the extent applicable:

4.9.1 The Corporation may enter into contracts and otherwise transact business as vendor, purchaser, lender, borrower, or otherwise with its shareholders and with corporations, associations, firms, and entities in which they are or may be or become interested as directors, officers, shareholders, members, or otherwise.

4.9.2 Any such contract or transaction shall not be affected or invalidated or give rise to liability by reason of the shareholder's having an interest in the contract or transaction.

4.10 SHAREHOLDER VOTING REQUIREMENTS. Subject to the requirements of RCW 23B.08.730, and 23B.19.040, any contract, transaction, or act of the Corporation or of

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any director or officer of the Corporation that shall be authorized, approved, or ratified by a majority of the votes entitled to be cast at a meeting at which a quorum is present shall, insofar as permitted by law, be as valid and as binding as though ratified by every shareholder of the Corporation.

4.11 EXECUTION OF CONSENT OF SHAREHOLDERS BY LESS THAN UNANIMOUS CONSENT. To the extent that the Act may at any time be amended to authorize the taking of action by shareholders without a meeting by less than unanimous written consent of all shareholders entitled to vote on the action, the taking of such action by the shareholders of the Corporation shall be permitted. Before the date on which the action becomes effective, notice of the taking of such action shall be given to each shareholder of record, in writing, describing with reasonable clarity and specifying the general nature of the action approved, stating the effective date and time of the approved action, and accompanied by the same material that, under the Act, would have been required to be sent to nonconsenting or nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted for shareholder action. Such notice shall be given as follows: (i) if mailed, by deposit in the U.S. mail at least seventy-two (72) hours prior to the specified effective time of such action, with first-class postage thereon prepaid, correctly addressed to each shareholder of record at the shareholder's address as it appears on the current record of shareholders of the Corporation; or (ii) if delivered by personal delivery, by courier service, by wire or wireless equipment, by telegraphic or other facsimile transmission, or by any other electronic means which transmits a facsimile of such communication correctly addressed to each shareholder of record at the shareholder's physical address, electronic mail address, or facsimile number, as it appears on the current record of shareholders of the corporation, at least twenty-four (24) hours prior to the specified effective time of such action.

ARTICLE V
ADDITIONAL TERMS OF CAPITAL STOCK

In addition to the relative rights, preferences, privileges and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof as set forth in Article IV, the relative rights, preferences, privileges and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof are as follows:

5.1 DIVIDENDS. No dividends or other distributions shall be made with respect to the Common Stock, other than dividends payable solely in Common Stock, unless at the same time an equivalent dividend with respect to the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred has been paid or set apart or such equivalent dividend has been waived by the affirmative vote or written consent of the holders of not less than Sixty-Six and Two-Thirds Percent (66-2/3%) of the outstanding shares of each of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred. Any declared but unpaid dividends on the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be paid upon the conversion of such shares into Common Stock either (at the option of the Corporation) by payment of cash or by the issuance of additional shares of Common Stock based upon the fair market value of the Common Stock at the time of conversion, as determined by the Corporation's Board of Directors.

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5.2 LIQUIDATION PREFERENCES. In the event of any liquidation, dissolution, or winding up of the Corporation, either voluntary or involuntary, distributions to the shareholders of the Corporation shall be made in the following manner:

(a) The holders of each of the Series D Preferred and the Series E Preferred shall be entitled to receive, prior and in preference to any

distribution of any of the assets or surplus funds of the Corporation to the holders of the Series A Preferred, the Series B Preferred, the Series C Preferred or the Common Stock by reason of their ownership of such stock, an amount equal to the greater of: (1) \$11.295 per share, in the case of Series D Preferred, and \$8.99 per share, in the case of Series E Preferred, adjusted for any combinations, consolidations, subdivisions, or stock dividends with respect to such shares and, in addition, an amount equal to all declared but unpaid dividends on such shares; or (2) the amount per share the holder would have received if he/she/it had converted his/her/its shares into Common Stock as provided in these Articles of Incorporation, provided, that the holders of Series D Preferred and the Series E Preferred shall receive such amounts simultaneously with the receipt by the holders of Common Stock of the amounts to which they are entitled, as described in Section 5.2(c). If the assets and funds thus distributed among the holders of the Series D Preferred and Series E Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Corporation legally available for distribution shall be distributed, first, pro rata among the holders of the Series E Preferred in proportion to the full preferential amount each such holder is otherwise entitled to receive under clause (1) above, and among the holders of the Series D Preferred in proportion to Sixty-Six and Two-Thirds Percent (66-2/3%) of the full preferential amount each such holder is otherwise entitled to receive under clause (1) above, and, second, among the holders of the Series D Preferred in proportion to the remaining full preferential amount each such holder is otherwise entitled to receive under clause (1) above.

(b) After payment has thus been made to the holders of each of the Series D Preferred and the Series E Preferred of the full amounts to which they shall be entitled as aforesaid, the holders of each of the Series A Preferred, the Series B Preferred and the Series C Preferred shall be entitled to receive prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount equal to the greater of: (1) \$0.0729 per share, in the case of Series A Preferred, \$0.67 per share, in the case of Series B Preferred, and \$1.9634 per share, in the case of Series C Preferred, adjusted for any combinations, consolidations, subdivisions, or stock dividends with respect to such shares and, in addition, an amount equal to all declared but unpaid dividends on such shares; or (2) the amount per share the holder would have received if he/she/it had converted his/her/its shares into Common Stock as provided in these Articles of Incorporation, provided, that the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred shall receive such amounts simultaneously with the receipt by the holders of Common Stock of the amounts to which they are entitled, as described in Section 5.2(c). If the assets and funds thus distributed among the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred in proportion to the full preferential amount each such holder is otherwise entitled to receive under clause (1) above.

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(c) After payment has thus been made to the holders of each of the Series A Preferred, the Series B Preferred, the Series C Preferred, the Series D Preferred and the Series E Preferred of the full amounts to which they shall be entitled as aforesaid, the holders of the Common Stock shall be entitled to receive ratably on a per-share basis all the remaining assets.

(d) For purposes of this Section 5.2, a merger or

consolidation of the Corporation with or into any other corporation or corporations, or the merger of any other corporation or corporations into the Corporation, in which the shareholders of the Corporation receive distributions in cash or securities of another corporation or corporations as a result of such consolidation or merger, or a sale of all or substantially all of the assets of the Corporation, shall be treated as a liquidation, dissolution or winding up of the Corporation unless the Corporation's stockholders immediately prior to such an event hold, immediately after such event, at least 50% of the general voting power of the surviving or acquiring entity by virtue of their ownership of the Corporation's equity securities.

5.3 VOTING RIGHTS. Except as otherwise required by law or by Section 5.6, the holder of each share of Common Stock issued and outstanding shall have the votes set forth in Section 4.3.3, and the holder of each share of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred shall be entitled to the number of votes equal to the number of votes entitled to be cast by the number of shares of Common Stock into which such share of Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred could be converted at the record date for determination of the shareholders entitled to vote on such matters, such votes to be counted together with all other shares of the Corporation having general voting power and not separately as a class. Fractional votes by the holders of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred shall not, however, be permitted and any fractional voting right shall (after aggregating all shares into which shares of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred held by each holder could be converted) be rounded to the nearest whole number. Except as otherwise required by law, in which case the holder of each share of Series E Preferred shall be entitled to one (1) vote, the holders of Series E Preferred shall not be entitled to vote. Where the Series E Preferred is entitled to voting rights by law, all shares of Series E Preferred shall vote and be counted together with the Series A Preferred, the Series B Preferred, the Series C Preferred and Series D Preferred and not separately as a voting group, except as otherwise required by law. Holders of Common Stock and Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation.

5.4 CONVERSION. The holders of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall have conversion rights as follows (the "Conversion Rights"):

(a) RIGHT TO CONVERT. Each share of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share (including immediately prior to any liquidation, dissolution or winding up of the Corporation as set forth in Section 5.2 above) at the office of the Corporation or any transfer agent for each of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (whichever is appropriate), into such number of fully paid and nonassessable shares of Series A Common

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Stock, or if, pursuant to Section 4.3.6, the Articles of Incorporation as amended from time to time do not, at the time of conversion, provide for Series A Common Stock, into shares of Common Stock, or if applicable pursuant to Section 5.4(i), into shares of Series E Common Stock, (such Series A Common Stock, Series E Common Stock or Common Stock, as the case may be, the "Conversion Stock"), as is determined by dividing \$8.99, in the case of the Series E Preferred, \$7.53, in the case of the Series D Preferred, \$1.9634, in

the case of the Series C Preferred, \$0.67, in the case of the Series B Preferred, and \$0.0729, in the case of the Series A Preferred, by the Conversion Price (determined as hereinafter provided) for such series in effect at the time of the conversion (the "Conversion Rate"). The price at which shares of Conversion Stock shall be deliverable upon conversion (the "Conversion Price") shall initially be \$8.99, in the case of the Series E Preferred, \$7.53, in the case of the Series D Preferred, \$1.9634, in the case of the Series C Preferred, \$0.67, in the case of the Series B Preferred, and \$0.0729, in the case of the Series A Preferred. Such initial Conversion Price shall be subject to adjustment as hereinafter provided. Notwithstanding anything in this Section 5.4(a) to the contrary, in the event of a Public Offering (as defined in Section 5.4(b)), the holders of the Series A Preferred (including for this purpose any shares of Conversion Stock issued upon conversion of the Series A Preferred prior to a Public Offering) will have the non-transferable right to convert one (1) such share, unless otherwise provided in Section 4.3.7, into one (1) share of Series D Common Stock with the rights provided in Section 4.3.7.

(b) AUTOMATIC CONVERSION. Each share of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall automatically be converted into shares of the appropriate Conversion Stock at the then effective Conversion Price upon the earlier to occur of: (x) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Corporation to the public at a price of at least \$13.554 per share (as adjusted to reflect subsequent stock dividends, stock splits and recapitalizations) with aggregate proceeds of not less than \$20,000,000 (prior to deduction of underwriter commissions and offering expenses) (a "Public Offering"); or (y) the affirmative vote or written consent of the holders of not less than Sixty-Six and Two/Thirds Percent (66-2/3%) of the then outstanding shares of Series D Preferred.

(c) MECHANICS OF CONVERSION. No fractional shares of Conversion Stock shall be issued upon conversion of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Conversion Price. Before any holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred shall be entitled to convert the same into full shares of Conversion Stock and to receive certificates therefor, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (whichever is appropriate), and shall give written notice to the Corporation at such office that such holder elects to convert the same; provided, however, that in the event of an automatic conversion pursuant to Section 5.4(b), the outstanding shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the

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Corporation or its transfer agent, and provided further, that the Corporation shall not be obligated to issue certificates evidencing the shares of Conversion Stock issuable upon such automatic conversion unless the certificates evidencing such shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred are either delivered to the Corporation or its transfer agent as provided above, or the

holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. The Corporation shall, as soon as practicable after delivery of such certificate, or such agreement of indemnification in the case of a lost certificate, issue and deliver at such office to such holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred, a certificate or certificates for the number of shares of Conversion Stock to which such holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Conversion Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred to be converted, or in the case of automatic conversion under Section 5.4(b), on the date of closing of the Public Offering, and the person or persons entitled to receive the shares of Conversion Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Conversion Stock on such date.

(d) ADJUSTMENTS TO CONVERSION PRICE FOR DILUTIVE ISSUES.

(i) SPECIAL DEFINITIONS. For purposes of this Section 5.4(d), the following definitions shall apply:

(1) "OPTIONS" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities.

(2) "ORIGINAL ISSUE DATE" shall mean the date on which the first share of Series E Preferred was first issued.

(3) "CONVERTIBLE SECURITIES" shall mean any evidence of indebtedness, shares of capital stock (other than the Common Stock) or other securities convertible into or exchangeable for Common Stock.

(4) "ADDITIONAL SHARES OF COMMON STOCK" shall mean all shares of Common Stock issued (or, pursuant to Section 5.4(d)(ii), deemed to be issued) by the Corporation after the Original Issue Date, other than:

(A) shares of Common Stock issued or issuable at any time upon conversion of the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred authorized herein;

(B) shares of Common Stock issued or issuable at any time to officers, directors, and employees of, and consultants to, the Corporation pursuant to the Corporation's 1995 Stock Option Plan, 1996 Stock Option Plan or any other stock option, restricted stock plan or employee stock bonus program or grant designated and approved by the

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Board of Directors by unanimous vote if there are three or fewer directors then serving or, if there are greater than three directors then serving, by a two-thirds majority vote thereof (provided that any shares repurchased by the Corporation from employees, officers, directors and consultants pursuant to the terms of stock repurchase agreements approved by the Board of Directors shall not, unless reissued, be counted as issued for purposes of this calculation) other than shares issued to Rob Glaser, the Corporation's Founder, without the

written consent of the holders of a majority of the Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred (provided, for purposes of calculating the majority for purposes of this clause (B), the shares of Series E Preferred to be issued upon exercise, if ever, of the Series E Preferred Stock Purchase Warrant issued pursuant to the Series E Preferred Stock Purchase Agreement dated July 21, 1997, shall not be deemed to be outstanding, regardless of whether such Series E Preferred Stock Purchase Warrant has been exercised);

(C) shares of Common Stock issued or issuable at any time as a dividend or distribution on Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred or any other event for which adjustment is made pursuant to Section 5.4(e)(i) hereof;

(D) shares of Common Stock issued upon conversion of Series B Common Stock to Series C Common Stock pursuant to Section 4.3.5 of these Articles;

(E) shares of Common Stock issued upon exercise of the Series B Common Stock Warrants which were issued pursuant to the Series C Preferred Stock Purchase Agreement by and among the Corporation and certain purchasers dated October 26, 1995; and

(F) shares of Common Stock issued or issuable at any time by way of dividend or other distribution on shares of Common Stock (x) excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (A), (B), (C), (D), (E), or this clause (F) or (y) on shares of Common Stock so excluded under Subsection (x).

(ii) DEEMED ISSUANCE OF ADDITIONAL SHARES OF COMMON STOCK.

(1) OPTIONS AND CONVERTIBLE SECURITIES.
In the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall, except as otherwise provided in Section 5.4(d)(i)(4), be deemed to be Additional Shares of Common Stock issued as of the time of such issuance, provided that, with respect to a particular series of Preferred Stock, Additional Shares of Common Stock shall not be deemed to have been issued unless the consideration per share (determined pursuant to Section 5.4(d)(iv) hereof) of such Additional Shares of Common Stock would be less than the Conversion Price in effect for such series on the date of and immediately prior to such issuance, and, provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued (notwithstanding the foregoing):

(A) no further adjustment in the Conversion Price for such series shall be made upon the subsequent issuance of Convertible Securities or shares of Common

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Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) if such Options or Convertible

Securities by their terms provide, with the passage of time or otherwise, except as provided in this Section 5.4(d), for any increase or decrease in the consideration payable to the Corporation, or in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof (a "Change Event"), the Conversion Price for any series of Preferred Stock recomputed upon the original issuance thereof, and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, again be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities; provided, however, that anything to the contrary notwithstanding, if the Change Event is triggered or caused by a Dilutive Issue (as defined in Section 5.4(d)(iii)), this Section 5.4(d)(ii)(B) shall be inapplicable and no adjustment shall be made to any Conversion Price as a result of the Change Event;

(C) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price computed upon the original issuance thereof, and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if,

(I) in the case of Convertible Securities or Options for Common Stock, only the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities were issued at the time of the issuance of such Convertible Securities or Options and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such Options or Convertible Securities, whether or not exercised, converted, or exchanged, plus the consideration actually received by the Corporation upon such exercise, conversion or exchange, and

(II) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

(D) no readjustment pursuant to clause (B) or (C) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price on the original adjustment date, or (ii) the Conversion Price that would have resulted from any other issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date; and

(E) in the case of any options which expire by their terms not more than 90 days after the date of issuance thereof, no adjustment of the Conversion Price shall be made until all such Options have either expired or been exercised.

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In the event that a record date is established for the purpose of determining the holders of the Corporation's securities who shall be entitled to receive Options or Convertible Securities as a dividend or a distribution, the Options or Convertible Securities to be so distributed or issued shall, for purposes of this Section 5.4(d), be deemed to have been issued as of such record date (provided that the Conversion Price so computed shall be recomputed

if such Options or Convertible Securities are not so distributed or issued).

(2) STOCK DIVIDENDS. In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend on the Common Stock payable in Common Stock, then and in any such event, Additional Shares of Common Stock shall be deemed to have been issued immediately after the close of business on the record date for the determination of holders of any class of securities entitled to receive such dividend; provided, however, that if such record date is fixed and such dividend is not fully paid, the only Additional Shares of Common Stock deemed to have been issued will be the number of shares of Common Stock actually issued in such dividend, and such shares will be deemed to have been issued as of the close of business on such record date, and the Conversion Price shall be recomputed accordingly.

(iii) ADJUSTMENT OF CONVERSION PRICE UPON ISSUANCE OF ADDITIONAL SHARES OF COMMON STOCK.

(1) If at any time or from time to time after the Original Issue Date this Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 5.4(d)(ii)) without consideration or for a consideration (as determined in Section 5.4(d)(iv)) per share issued or deemed to have been issued under Section 5.4(d)(ii), less than: (I) in the case of the Series A Preferred, the Conversion Price for the Series A Preferred in effect on the date of and immediately prior to such issuance, (II) in the case of the Series B Preferred, the Conversion Price for the Series B Preferred in effect on the date of and immediately prior to such issuance, (III) in the case of the Series C Preferred, the Conversion Price for the Series C Preferred in effect on the date of and immediately prior to such issuance, (IV) in the case of the Series D Preferred, the Conversion Price for the Series D Preferred in effect on the date of and immediately prior to such issuance, or (V) in the case of the Series E Preferred, the Conversion Price for the Series E Preferred in effect on the date of and immediately prior to such issuance, then and in such event (a "Dilutive Issue"), any one or all of such Conversion Prices shall be reduced, concurrently with such issuance, to a price determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance on a fully diluted basis (including for such purpose Convertible Securities the conversion rights of which, are then exercisable but excluding all Options) plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance on a fully-diluted basis (including for such purpose Convertible Securities the conversion rights of which, are then exercisable but excluding all Options) plus the number of such Additional Shares of Common Stock so issued.

(2) In addition to any adjustments to the Conversion Price for the Series E Preferred made pursuant to Section 5.4(d)(iii)(1), if this Corporation sells shares of

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Common Stock to the public in a public offering pursuant to Section 5.4(b)(y) at a price per share less than \$8.99, (as adjusted to reflect subsequent stock dividends, stock splits and recapitalizations), the Conversion Price for the Series E Preferred in effect on the date of and immediately prior to such public offering, shall be reduced, immediately prior to but contingent upon the effectiveness of the public offering, to \$7.53 (as adjusted to reflect

subsequent stock dividends, stock splits and recapitalizations).

(iv) DETERMINATION OF CONSIDERATION. For purposes of this Section 5.4(d), the consideration received by the Corporation for the issuance of any Additional Shares of Common Stock shall be computed as follows:

(1) CASH AND PROPERTY: Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issuance, as determined in good faith by the Corporation's Board of Directors; and

(C) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as determined in good faith by the Corporation's Board of Directors.

(2) OPTIONS AND CONVERTIBLE SECURITIES. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 5.4(d)(ii)(1), relating to Options and Convertible Securities, shall be determined by dividing: (x) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities; by (y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(3) STOCK DIVIDENDS. Any Additional Shares of Common Stock relating to stock dividends shall be deemed to have been issued for no consideration.

(e) ADDITIONAL ADJUSTMENTS TO CONVERSION PRICE.

(i) ADJUSTMENTS FOR SUBDIVISIONS, COMBINATIONS OR CONSOLIDATION OF COMMON STOCK. In the event the outstanding shares of Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) shall be subdivided, by stock split,

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or otherwise (but other than by stock dividend, which is addressed in Section 5.4(d)(ii)(2) of these Articles of Incorporation), into a greater number of shares of Common Stock, the Conversion Price for each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common

Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, the Conversion Price for each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.

(ii) ADJUSTMENTS FOR OTHER DISTRIBUTIONS. In the event the Corporation at any time or from time to time makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, any distribution payable in securities of the Corporation other than shares of Common Stock and other than as otherwise adjusted in this Section 5.4, then and in each such event provision shall be made so that the holders of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall receive upon conversion thereof, in addition to the number of shares of Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) receivable thereupon, the amount of securities of the Corporation which they would have received had their Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred been converted into Common Stock on the date of such event and had then thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 5.4 with respect to the rights of the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred.

(iii) ADJUSTMENTS FOR RECLASSIFICATION, EXCHANGE AND SUBSTITUTION. If the Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) issuable upon conversion of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the terms of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall, concurrently with the effectiveness of such reorganization or reclassification, be modified such that the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred, as the case may be, shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred immediately before that change.

(f) NO IMPAIRMENT. Except as provided in Section 5.6, the Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying

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out of all the provisions of this Section 5.4 and in the taking of all such actions as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred against impairment.

(g) CERTIFICATE AS TO ADJUSTMENTS. Upon the occurrence

of each adjustment or readjustment of the Conversion Price for the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred pursuant to this Section 5.4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price in effect at the time for such series, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of such series of Preferred Stock.

(h) NOTICES OF RECORD DATE. In the event that this Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to offer for subscription, pro rata to the holders of any class or series of its stock, any additional shares of stock of any class or series or any other similar rights;

(iii) to effect any reclassification or recapitalization of its Common Stock outstanding which results in a change in the Common Stock; or

(iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all its property or business, or to liquidate, dissolve or wind up; then, in connection with each such event;

this Corporation shall send to the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred:

(1) at least twenty (20) days prior written notice of (x) the record date for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or (y) the record date at which the rights to vote on the matters referred to in (iii) and (iv) above will be determined; and

(2) in the case of the matters referred to in (iii) and (iv) above, at least twenty (20) days prior written notice of the date when the same shall take place and specifying the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon the occurrence of such event or the record date for the determination of such holders if such record date is earlier.

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Each such written notice shall (x) be delivered personally; (y) given by certified or registered mail, postage prepaid; or (z) to the extent receipt is confirmed, by telecopy, telefax or other electronic transmission service; addressed to the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred at the address for each

such holder as shown on the books of this Corporation.

(i) ELECTION UPON CONVERSION OF SERIES E PREFERRED STOCK.

In the event that a holder of Series E Preferred elects to convert its shares of Series E Preferred pursuant to Section 5.4(a) or there occurs an event requiring automatic conversion of the Series E Preferred pursuant to Section 5.4(b), such holder may elect to convert all of such shares into Series E Common Stock with the rights provided in these Articles of Incorporation.

5.5 REDEMPTION.

(a) NO CALL. The Corporation shall not have the right to call for redemption all or any part of the Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred.

(b) OPTION TO REQUIRE REDEMPTION. On or at any time after December 31, 2002, within sixty (60) days after the receipt by the Corporation of the written request (a "Redemption Notice") by one or more holders of shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (the "Requesting Holders"), together with the written approval of the holders of not less than two-thirds of the Series B Preferred then outstanding if any shares of Series B Preferred are to be redeemed, and with the written approval of not less than two-thirds of the Series C Preferred then outstanding if any shares of Series C Preferred are to be redeemed, and with the written approval of not less than two-thirds of the Series D Preferred then outstanding if any shares of Series D Preferred are to be redeemed, and with the written approval of not less than two-thirds of the Series E Preferred then outstanding if any shares of Series E Preferred are to be redeemed (each series for which such approval is granted being hereinafter referred to as an "Approved Series"), the Corporation shall, to the extent it may lawfully do so, redeem the number of whole shares of each Approved Series most nearly equal to one-third of the shares specified in the Redemption Notice by paying therefor in cash the Series B Redemption Price, Series C Redemption Price, Series D Redemption Price, or Series E Redemption Price (each as defined below), as appropriate. The date of this payment shall be referred to as an "Initial Redemption Date." The remaining shares of each Approved Series specified in the Redemption Notice shall be redeemed in two (2) additional equal installments (or, if such number of shares is not evenly divisible by two, then the first such installment shall be rounded to the nearest whole number of shares) on an annual basis in a similar manner, beginning one (1) year from the Initial Redemption Date, with all remaining shares of each Approved Series specified in the Redemption Notice being purchased on the second anniversary of the Initial Redemption Date (the "Initial Redemption Date" and each of the two following redemption dates shall be referred to as a "Redemption Date"). The Corporation shall effect any redemption pursuant to this Section 5.5 on a pro rata basis according to the aggregate amounts which would be received upon redemption by each Requesting Holder.

(c) REDEMPTION PRICE. The redemption price to be paid by the Corporation shall be \$0.67 per share, in the case of the Series B Preferred (as adjusted to reflect subsequent stock

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dividends, stock splits or recapitalizations), \$1.9634, in the case of the Series C Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations), \$7.53 in the case of the Series D Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations) and \$8.99, in the case of the Series E Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations) (in each case, the "Issue Price"), in each case plus: (i)

all declared but unpaid dividends thereon as of the Initial Redemption Date, and (ii) an amount per share equal to the percentage increase (if any) in the Implicit Price Deflator for Gross Domestic Product, as published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, or any successor thereto (1987 = 100), from the date of the original issuance of the share to the date of the Corporation's receipt of the Redemption Notice multiplied by the applicable Issue Price (such totals are referred to as the "Series B Redemption Price," the "Series C Redemption Price," the "Series D Redemption Price," and the "Series E Redemption Price," respectively).

(d) NOTICE OF REDEMPTION. Within ten (10) days of the Corporation's receipt of a Redemption Notice and the related written approval of the holders of two-thirds of the then outstanding shares of each Approved Series, the Corporation shall deliver (by (i) personal delivery; (ii) certified or registered mail, postage prepaid; or (iii) to the extent receipt is confirmed, by telecopy, telefax or other electronic transmission service) written notice to each holder of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred who did not approve the Redemption Notice, at the address of such holder last shown on the records of the Corporation for the purpose of notice or, if no such address appears or is given, at the place where the principal executive office of the Corporation is located, identifying each Requesting Holder and specifying the number of shares to be redeemed by such holder. If, within ten (10) days of receiving such notice, the holders of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred who did not approve the Redemption Notice give written notice to the Corporation of their wish to have any of their shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred redeemed simultaneously with the redemption of the Requesting Holders, such holders shall become Requesting Holders for purposes of such redemption.

(e) SURRENDER OF CERTIFICATES. On the Initial Redemption Date, each Requesting Holder shall surrender to the Corporation the certificate or certificates representing the number of shares of Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred specified in the Redemption Notice or pursuant to Section 5.5(d). Simultaneously, the Corporation shall pay one-third of the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price (as applicable) of such shares to be redeemed on that date to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be canceled. In the event that less than all the shares represented by any such certificate are to be redeemed pursuant to the Redemption Notice, a new certificate shall be issued representing the shares not subject to redemption and delivered to the Requesting Holder. In the event that less than all the shares represented by any such certificate have been redeemed on a Redemption Date, a new certificate shall be issued representing the shares not redeemed and such certificate shall be retained by the Corporation for cancellation on the next Redemption Date(s).

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(f) STATUS OF SHARES SPECIFIED IN THE REDEMPTION NOTICE. From and after the Initial Redemption Date, unless there has been a default in payment of the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price, all rights of the Requesting Holders with respect to the shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred specified in the Redemption Notice (except the right to receive the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be

outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of such shares on any Redemption Date are insufficient to redeem the total number of shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred to be redeemed on such date, those funds which are legally available shall be used to redeem the maximum possible number of such shares, and the shares of Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred not redeemed shall be deemed to be outstanding and shall be entitled to all the rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such shares, such funds will immediately be used to redeem the balance of the shares that the Corporation has become obligated to redeem on any Redemption Date but that it has not redeemed.

(g) PARTIAL REVOCATION OF REDEMPTION NOTICE.

Notwithstanding any provision in this Section 5.5 to the contrary, if, after the Initial Redemption Date, while a Requesting Holder has not yet received in full the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price, as applicable, for all shares specified in his/her/its Redemption Notice (the shares for which the applicable redemption price has not been received shall be referred to as the "Shares Being Redeemed"), the Corporation enters into any transaction described in Section 5.2(d) in which the Requesting Holder would have received an amount per share, in cash or securities of another corporation or corporations, greater than the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price, as applicable, for the Shares Being Redeemed had the shares not been the subject of the Redemption Notice, the Corporation shall notify the Requesting Holder in writing of such transaction, in accordance with Section 5.4(h), as if his/her/its rights with respect to the Shares Being Redeemed had not terminated in accordance with Section 5.5, and if, within seven (7) days of receipt of such notice, the Requesting Holder delivers written notice to the Corporation of his/her/its election to convert the Shares Being Redeemed into Common Stock, such shares shall be converted to Common Stock in accordance with Section 5.4 and simultaneously the Requesting Holder's right to receive the applicable redemption price for the Shares Being Redeemed shall terminate.

5.6 COVENANTS.

(a) SERIES A PREFERRED, SERIES B PREFERRED, SERIES C PREFERRED AND SERIES D PREFERRED. In addition to any other rights provided by law, this Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than a majority of the outstanding shares of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred, voting as a single voting group:

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(i) amend or repeal any provision of, or add any provision to, the Corporation's Articles of Incorporation if such action would alter or change the preferences, rights, or privileges of the Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred;

(ii) increase or decrease the authorized number of shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Common Stock;

(iii) authorize, create or issue any shares of (A) Preferred Stock or securities convertible into Common Stock equal or senior to the Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred as to dividends, conversion rights, redemption rights or liquidation

preference or (B) Common Stock equal or senior to the Series D Preferred as to redemption rights or liquidation preference or senior to the Series D Preferred as to dividends or voting rights (other than shares issuable upon exercise of the Series C Preferred Stock Warrants issued pursuant to the Series C Preferred Stock Purchase Agreement dated October 25, 1995 or the Series D Preferred Stock Purchase Warrants issued pursuant to the Series D Preferred Stock Purchase Agreement dated November 19, 1996);

(iv) merge or consolidate with one or more other corporations if, after such merger or consolidation, the stockholders of the Corporation would hold stock representing less than a majority of the voting power of the outstanding stock of the surviving corporation; or

(v) declare or pay any dividend on the Common Stock.

(b) SERIES D PREFERRED. In addition to any other rights provided by law, this Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than Sixty-Six and Two/Thirds Percent (66-2/3%) of the outstanding shares of Series D Preferred:

(i) amend or repeal any provision of, or add any provision to, the Corporation's Articles of Incorporation if such action would adversely alter or change the preferences, rights, or privileges of the Series D Preferred;

(ii) increase the authorized number of shares of Series D Preferred;

(iii) authorize, create or issue any shares of (A) Preferred Stock or securities convertible into Common Stock equal or senior to the Series D Preferred as to dividends, conversion rights, redemption rights or liquidation preference or (B) Common Stock equal or senior to the Series D Preferred as to redemption rights or liquidation preference or senior to the Series D Preferred as to dividends or voting rights (other than shares issuable upon exercise of the Series C Preferred Stock Warrants issued pursuant to the Series C Preferred Stock Purchase Agreement dated October 25, 1995 or the Series D Preferred Stock Purchase Warrants issued pursuant to the Series D Preferred Stock Purchase Agreement dated November 19, 1996); or

(iv) declare or pay any dividend.

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ARTICLE VI DIRECTORS

6.1 NUMBER OF DIRECTORS. The number of directors of the Corporation shall be fixed as provided in the Bylaws and may be changed from time to time by amending the Bylaws.

6.2 AUTHORITY OF BOARD OF DIRECTORS TO AMEND BYLAWS. Subject to the limitation(s) of RCW 23B.10.210, and subject to the power of the shareholders of the Corporation to change or repeal the Bylaws, the Board of Directors is expressly authorized to make, amend, or repeal the Bylaws of the Corporation unless the shareholders in amending or repealing a particular bylaw provide expressly that the Board of Directors may not amend or repeal that bylaw.

6.3 CONTRACTS WITH INTERESTED DIRECTORS. Subject to the

limitations set forth in RCW 23B.08.700 through 23B.08.730:

6.3.1 The Corporation may enter into contracts and otherwise transact business as vendor, purchaser, lender, borrower, or otherwise with its directors and with corporations, associations, firms, and entities in which they are or may be or become interested as directors, officers, shareholders, members, or otherwise.

6.3.2 Any such contract or transaction shall not be affected or invalidated or give rise to liability by reason of the director's having an interest in the contract or transaction.

6.4 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS.

6.4.1 The capitalized terms in this Section 6.4 shall have the meanings set forth in RCW 23B.08.500.

6.4.2 The Corporation shall indemnify and hold harmless each individual who is or was serving as a Director or officer of the Corporation or who, while serving as a Director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against any and all Liability incurred with respect to any Proceeding to which the individual is or is threatened to be made a Party because of such service, and shall make advances of reasonable Expenses with respect to such Proceeding, to the fullest extent permitted by law, without regard to the limitations in RCW 23B.08.510 through 23B.08.550; provided that no such indemnity shall indemnify any Director or officer from or on account of (1) acts or omissions of the Director or officer finally adjudged to be intentional misconduct or a knowing violation of law; (2) conduct of the Director or officer finally adjudged to be in violation of RCW 23B.08.310; or (3) any transaction with respect to which it was finally adjudged that such Director or officer personally received a benefit in money, property, or services to which the Director or officer was not legally entitled.

6.4.3 The Corporation may purchase and maintain insurance on behalf of an individual who is or was a Director, officer, employee, or agent of the Corporation or, who, while a Director, officer, employee, or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other

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enterprise against Liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a Director, officer, employee, or agent, whether or not the Corporation would have power to indemnify the individual against such Liability under RCW 23B.08.510 or 23B.08.520.

6.4.4 If, after the effective date of this Section 6.4, the Act is amended to authorize further indemnification of Directors or officers, then Directors and officers of the Corporation shall be indemnified to the fullest extent permitted by the Act as so amended.

6.4.5 To the extent permitted by law, the rights to indemnification and advance of reasonable Expenses conferred in this Section 6.4 shall not be exclusive of any other right which any individual may have or hereafter acquire under any statute, provision of the Bylaws, agreement, vote

of shareholders or disinterested Directors, or otherwise. The right to indemnification conferred in this Section 6.4 shall be a contract right upon which each Director or officer shall be presumed to have relied in determining to serve or to continue to serve as such. Any amendment to or repeal of this Section 6.4 shall not adversely affect any right or protection of a Director or officer of the Corporation for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal.

6.4.6 If any provision of this Section 6.4 or any application thereof shall be invalid, unenforceable, or contrary to applicable law, the remainder of this Section 6.4, and the application of such provisions to individuals or circumstances other than those as to which it is held invalid, unenforceable, or contrary to applicable law, shall not be affected thereby.

6.5 LIMITATION OF DIRECTORS' LIABILITY. To the fullest extent permitted by the Act, as it exists on the date hereof or may hereafter be amended, a director of this Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for conduct as a director. Any amendment to or repeal of this Section 6.5 shall not adversely affect a director of this Corporation with respect to any conduct of such director occurring prior to such amendment or repeal.

ARTICLE VII OTHER MATTERS

7.1 DELEGATION OF DUTIES OF DIRECTORS. The power and authority of the Board of Directors of the Corporation to adopt or change the editorial policies of the Corporation shall vest solely in the Policy Director, when such director is elected to and serving on the Board of Directors of the Corporation.

7.2 AMENDMENTS TO ARTICLES OF INCORPORATION. Except as otherwise provided in these Articles of Incorporation, as amended from time to time, the Corporation reserves the right to amend, alter, change, or repeal any provisions contained in these Articles of Incorporation in any manner now or hereafter prescribed or permitted by statute. All rights of shareholders of the Corporation are subject to this reservation. A shareholder of the Corporation does not have a vested property right resulting from any provision of these Articles of Incorporation.

7.3 CORRECTION OF CLERICAL ERRORS. The Corporation shall have authority to correct clerical errors in any documents filed with the Secretary of State of Washington, including these

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Articles of Incorporation or any amendments hereto, without the necessity of special shareholder approval of such corrections.

Executed this 19th day of September, 1997.

/s/ Bruce Jacobsen

Its: Bruce Jacobsen, President

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EXHIBIT 3.2

ARTICLES OF AMENDMENT
TO THE
AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
PROGRESSIVE NETWORKS, INC.

Pursuant to RCW 23B.10.060 of the Washington Business Corporation Act, the undersigned corporation hereby submits the following amendment to the corporation's Amended and Restated Articles of Incorporation.

1. The name of the corporation is Progressive Networks, Inc.
2. The text of the amendment to Article I as adopted is as follows:

The name of this corporation is RealNetworks, Inc.
3. The date of adoption of such amendment was September 24, 1997.
4. The amendment was adopted by the Board of Directors without shareholder action pursuant to the provisions of RCW 23B.10.020, and shareholder action was not required.
5. These Articles of Amendment will be effective upon filing with the Secretary of State of the State of Washington.

DATED: September 26, 1997.

PROGRESSIVE NETWORKS, INC.

By /s/ Bruce Jacobsen

Bruce Jacobsen, President

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EXHIBIT 3.3

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
REALNETWORKS, INC.

RealNetworks, Inc., a Washington corporation, by its Chief Executive Officer, hereby submits the following Amended and Restated Articles of Incorporation of said Corporation pursuant to the provisions of RCW 23B.10.070, and resolutions duly adopted by the Board of Directors on September 24, 1997. These Amended and Restated Articles of Incorporation were duly approved by the shareholders in accordance with the provisions of RCW 23B.10.030 and RCW 23B.10.040, and supersede the original Articles of Incorporation and all amendments and prior restatements thereto as of the date of their adoption.

ARTICLE I

NAME

The name of this Corporation is RealNetworks, Inc.

ARTICLE II

DURATION

This Corporation is organized under the Washington Business Corporation Act (the "Act") and shall have perpetual existence.

ARTICLE III

PURPOSE AND POWERS

The purpose and powers of this Corporation are as follows: (a) to engage in any lawful business; (b) to engage in any and all activities that, in the judgment of the Board of Directors, may at any time be incidental or conducive to the attainment of the foregoing purpose; and (c) to exercise any and all powers that a corporation formed under the Act, or any amendment thereto or substitute therefor, is entitled at the time to exercise.

ARTICLE IV

CAPITAL STOCK

4.1 AUTHORIZED CAPITAL. The aggregate number of shares of capital stock which this Corporation shall be authorized to issue shall be Three Hundred Sixty Million (360,000,000), divided into two classes as follows: Three Hundred Million (300,000,000) shares of common stock, \$.001 par value per share (the "Common Stock"), and Sixty Million (60,000,000) shares of preferred stock, \$.001 par value per share (the "Preferred Stock").

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4.2 ISSUANCE OF COMMON STOCK IN SERIES.

4.2.1 AUTHORITY VESTED IN BOARD OF DIRECTORS. The Common Stock may be divided into and issued in series from time to time. Authority is vested in the Board of Directors, subject to the limitations and procedures prescribed by law, to divide any part or all of such Common Stock into any number of series, to fix and determine the relative rights and preferences of the shares of any series to be established, and to amend the rights and preferences of the shares of any series that has been established but is wholly unissued.

4.2.2 AMENDMENT TO SERIES DECREASING SHARES. Within any limits stated in these Articles of Incorporation or in the resolution of the Board of Directors establishing a series, the Board of Directors, after the issuance of shares of a series, may amend the resolution establishing the series to decrease (but not below the number of shares of such series then outstanding) the number of shares of that series, and the number of shares constituting the decrease shall thereafter constitute authorized but undesignated shares.

4.2.3 AUTHORITY LIMITED TO UNISSUED SHARES. The authority herein granted to the Board of Directors to determine the relative rights and preferences of the Common Stock shall be limited to unissued shares, and no power shall exist to alter or change the rights and preferences of any shares that have been issued.

4.3 DESIGNATION OF SERIES A COMMON STOCK, SERIES B COMMON STOCK, SERIES C COMMON STOCK, SERIES D COMMON STOCK AND SERIES E COMMON STOCK.

The following series of Common Stock are hereby designated, and each such series shall have the following rights, preferences and limitations:

4.3.1 DESIGNATION. Two Hundred Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (207,047,679) shares of Common Stock shall be designated and known as "Series A Common Stock"; Thirty Million (30,000,000) shares of Common Stock shall be designated and known as "Series B Common Stock"; Thirty Million (30,000,000) shares of Common Stock shall be designated and known as "Series C Common Stock"; one (1) share shall be designated and known as "Series D Common Stock" and Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (7,047,679) shares of Common Stock shall be designated and known as "Series E Common Stock." Except as otherwise provided in these Articles of Incorporation, all shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock shall be identical and shall entitle the holders thereof to the same rights and privileges. The designations of the Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock in this Article are expressly subject to the provisions of Section 4.3.6, Section 4.3.7, Section 4.3.8 and 4.3.9.

4.3.2 ISSUANCE. Shares of Series A Common Stock, Series B Common Stock, Series C Common Stock, Series D Common Stock and Series E Common Stock may be issued, upon authorization by the Board of Directors, to such persons and entities, and for such consideration permitted by the Act, as the Board of Directors shall determine; provided, that shares of Series B Common Stock shall

be issued only to persons or entities who, at the time of issuance, are either (a) employees of the Corporation, or (b) directors, or affiliates of directors, of the Corporation. For purposes of this section, an "affiliate" shall be a person or entity that directly, or indirectly through one or more intermediaries, controls, or is controlled

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by, or is under common control with, a director; and provided further, that shares of Series D Common Stock shall be issued only in compliance with Section 4.3.7.

4.3.3 VOTING RIGHTS. Except as otherwise required by law and except as otherwise provided in these Articles of Incorporation, on all matters submitted to the Corporation's shareholders, each share of Series A Common Stock shall entitle the holder to fifteen (15) votes, each share of Series B Common Stock shall entitle the holder to fifteen (15) votes, each share of Series D Common Stock shall entitle the holder to fifteen (15) votes, each share of Series C Common Stock shall entitle the holder to one (1) vote, and each share of Series E Common Stock shall not be entitled to vote, except as required by law, in which case it shall entitle the holder to one (1) vote. Except with regard to those matters required by law to be voted on by one or more voting groups and except as otherwise provided in these Articles of Incorporation, all shares of Series A Common Stock, Series B Common Stock, Series C Common Stock and Series D Common Stock shall vote and be counted together and not separately as a voting group upon all matters submitted to a vote of shareholders. Where the Series E Common Stock is entitled to voting rights by law, all shares of Series E Common Stock shall vote and be counted together with the Series A Common Stock, the Series B Common Stock, the Series C Common Stock and the Series D Common Stock and not separately as a voting group, except as required by law.

4.3.4 DIVIDENDS.

(a) IN CASH OR SECURITIES. Subject to any preferential rights granted for any series of Common Stock or Preferred Stock, the holders of Series A Common Stock, the holders of Series B Common Stock, the holders of Series C Common Stock, the holders of the Series D Common Stock and the holders of Series E Common Stock shall be entitled to receive dividends equally, share for share, if, when and as declared by the Board of Directors out of funds of this Corporation legally available for that purpose; provided, that if such dividends are declared, they will be payable at the same rate on each other series of Common Stock and payable in Common Stock of the series with respect to which it is declared or in Common Stock of one or more newly designated series with substantially similar rights to the series with respect to which it is declared, as determined by the Board of Directors in its sole discretion.

(b) SUBDIVISIONS AND COMBINATIONS OF SHARES. Any increase or decrease in the number of shares of any series of Common Stock resulting from a subdivision or combination of shares or other capital reclassification shall not be permitted unless parallel action is taken with respect to each other series of Common Stock, so that the number of shares of each series of Common Stock outstanding shall be increased or decreased proportionately.

4.3.5 AUTOMATIC CONVERSION OF SERIES B COMMON STOCK.

(a) CONVERSION EVENT/CONVERSION DATE FOR EMPLOYEE HOLDERS. Each share of Series B Common Stock held by a holder who was an employee at the time of issuance shall automatically convert into one (1) share of Series C Common Stock upon the termination of the holder's employment with the Corporation for any reason, including but not limited to death, disability, retirement, resignation or involuntary termination by the Corporation. In

addition, if any such holder, while an employee, makes or attempts to make any transfer of shares of Series B Common Stock to any person or entity, whether voluntary or involuntary, each such share that the holder has transferred or attempted to transfer shall automatically convert into one (1) share of Series C Common Stock simultaneously with such transfer or attempted transfer.

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If it is necessary for any reason to determine whether the holder's employment has terminated or the time thereof, or whether the holder has made or attempted to make any transfer of any shares of Series B Common Stock or the time thereof, the Board of Directors shall make such determination and it shall be binding on the holder and any other person having any interest therein.

(b) CONVERSION EVENT/CONVERSION DATE FOR DIRECTOR OR AFFILIATE HOLDERS. Each share of Series B Common Stock held by a holder who was a director or an affiliate of a director (as defined above) at the time of issuance shall automatically convert into one (1) share of Series C Common Stock upon the termination of the holder's status as a director or an affiliate of a director for any reason, including but not limited to death, resignation or removal by the shareholders. In addition, if any such holder, while a director or an affiliate of a director, makes or attempts to make any transfer of shares of Series B Common Stock, whether voluntary or involuntary, each such share that the holder has transferred or attempted to transfer shall automatically convert into one (1) share of Series C Common Stock simultaneously with such transfer or attempted transfer. If it is necessary for any reason to determine whether the holder has made or attempted to make any transfer of any shares of Series B Common Stock or the time thereof, the Board of Directors shall make such determination and it shall be binding on the holder and any other person having any interest therein.

(c) STATUS OF CERTIFICATES. If one or more shares of Series B Common Stock are so converted, the certificate(s) representing such share or shares shall, by virtue of the conversion and without any action on the part of the holder, thereafter represent, to the extent of the number of shares so converted, the corresponding number of shares of Series C Common Stock, and the share or shares of Series B Common Stock previously represented by such certificate(s) shall be canceled and revert to the status of authorized but unissued share(s) of Series B Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate or certificates to represent the shares of Series C Common Stock (and, if applicable, any remaining shares of Series B Common Stock) represented by the surrendered certificate.

(d) RESERVATION AND ISSUANCE OF SERIES C COMMON STOCK. The Corporation shall reserve at all times, for so long as any shares of Series B Common Stock remain outstanding, free from preemptive rights, out of its authorized but unissued shares of Series C Common Stock, solely for the purpose of effecting the conversion of the shares of Series B Common Stock, sufficient shares of Series C Common Stock to provide for the conversion of all outstanding shares of Series B Common Stock. All shares of Series C Common Stock issued upon conversion of the shares of Series B Common Stock will be duly and validly issued, fully paid and nonassessable to the same extent as the shares of Series B Common Stock from which they were converted.

4.3.6 TERMINATION OF DESIGNATION OF SERIES A COMMON STOCK, SERIES B COMMON STOCK AND SERIES C COMMON STOCK. Upon the earlier of the following events (a "Designated Event"):

(a) the written election delivered to the Corporation at any time by the holders of a majority of: (i) the then outstanding shares of Series A Preferred Stock, or (ii) the then outstanding shares of Series A Common Stock

issued upon the conversion of Series A Preferred as provided in Article V; or

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(b) the closing of a Public Offering (as defined in Section 5.4(b)), provided: (i) immediately following the closing of the Public Offering, the persons who held shares of Series A Preferred prior to the Public Offering, or prior to the conversion of the Series A Preferred into Common Stock as provided in Article V, hold more than fifty percent (50%) of all of the outstanding shares of the Corporation, assuming the issuance and exercise of all options under the Corporation's 1995 Stock Option Plan, 1996 Stock Option Plan or any other stock option, employee stock bonus or restricted stock plan designated and approved by the Board of Directors, (ii) in the opinion of the underwriters, delivered to the Corporation prior to the closing of the Public Offering, the existence of multiple classes of Common Stock will lower the price in the Public Offering by more than twenty-five percent (25%), and (iii) the Public Offering does not constitute a Qualified Public Offering (as defined in Section 4.3.9);

the designation of the Series A Common Stock, Series B Common Stock and Series C Common Stock as separate series of Common Stock having the respective rights, preferences and limitations set forth in this Section 4.3, and the authority of the Board of Directors under Section 4.2 to divide the Common Stock into series and to fix and determine the relative rights and preferences therefor, shall automatically terminate. Effective immediately upon such termination (A) the number of authorized but undesignated shares of Common Stock of the Corporation shall be increased by the number of authorized shares of Series A Common Stock, Series B Common Stock, and Series C Common Stock, without any distinctions between any of such shares (except as provided in Section 4.3.7); (B) each share of Series A Common Stock, Series B Common Stock and Series C Common Stock then outstanding shall thereafter constitute one (1) share of Common Stock, the holder of which shall be entitled to one (1) vote upon all matters submitted to a vote of shareholders; and (C) each certificate representing shares of Series A Common Stock, Series B Common Stock or Series C Common Stock that were outstanding immediately prior to the termination shall, by virtue of the termination and without any action on the part of the holder, thereafter represent the corresponding number of shares of Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate to represent the shares of Common Stock represented by the surrendered certificate.

4.3.7 SERIES D COMMON STOCK. Following a Designated Event, notwithstanding anything in Section 4.3.6 to the contrary, one (1) share of Common Stock shall remain designated a share of Series D Common Stock, and, as provided in Section 5.4(a), the holders of Series A Preferred shall have the nontransferable right to convert one (1) share of Series A Preferred into one (1) share of Series D Common Stock provided the Corporation has received, in connection with the Designated Event, an opinion of a recognized investment banking firm that the existence of this class of stock will not impair the value of the Series A Common Stock. Upon the transfer of that one (1) share of Series D Common Stock, the one (1) share of Series D Common Stock shall automatically convert into one (1) share of Series A Common Stock or Conversion Stock (as defined in Section 5.4(a)). The one (1) share of Series D Common Stock, which shall be issued as described in Section 5.4(a), shall have the right (in addition to its right to vote with the Common Stock) to elect one (1) member of the Board of Directors of the Corporation (the "Policy Director") who shall have the rights and authority to adopt or change the editorial policies of the Corporation.

4.3.8 TERMINATION OF DESIGNATION OF SERIES E COMMON STOCK. If a holder of Series E Preferred elects to convert such shares into shares of Series A Common Stock, then, at any time following such conversion, the Board of

Directors may amend the

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resolution establishing the Series E Common Stock to decrease (but not below the number of Series E Preferred then outstanding) the number of shares of Series E Common Stock, and the number of shares constituting the decrease shall thereafter constitute authorized but undesignated shares of Common Stock. In addition, if all of the Series E Preferred are converted into shares of Series A Common Stock, the designation of the Series E Common Stock as a separate series of Common Stock shall automatically terminate. Effective immediately upon such termination, the number of authorized but undesignated shares of Common Stock of the Corporation shall be increased by the number of authorized shares of Series E Common Stock.

4.3.9 QUALIFIED PUBLIC OFFERING. The provisions of this Section 4.3.9 shall apply in the event of the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), covering the offer and sale of Common Stock for the account of the Corporation to the public with aggregate proceeds to the Corporation of not less than \$20,000,000 (prior to deduction of underwriter commissions and offering expenses), provided, the holders of not less than Sixty-Six and Two-Thirds Percent (662/3%) of the then outstanding shares of Series D Preferred, by affirmative vote or written consent, have consented to such offering ("Qualified Public Offering").

(a) TERMINATION OF DESIGNATION OF SERIES A COMMON STOCK, SERIES B COMMON STOCK, SERIES C COMMON STOCK AND SERIES D COMMON STOCK. Effective upon closing of a Qualified Public Offering, the designation of the Series A Common Stock, Series B Common Stock, Series C Common Stock and Series D Common Stock as separate series of Common Stock having the respective rights, preferences and limitations set forth in this Section 4.3, and the authority of the Board of Directors under Section 4.2 to divide the Common Stock into series and to fix and determine the relative rights and preferences therefor, shall automatically terminate. Effective immediately upon such termination (i) the number of authorized but undesignated shares of Common Stock of the Corporation shall be increased by the number of authorized shares of Series A Common Stock, Series B Common Stock, Series C Common Stock and Series D Common Stock without any distinctions between any of such shares; (ii) each share of Series A Common Stock, Series B Common Stock, Series C Common Stock and Series D Common Stock then outstanding shall thereafter constitute one (1) share of Common Stock, the holder of which shall be entitled to one (1) vote upon all matters submitted to a vote of shareholders; and (iii) each certificate representing shares of Series A Common Stock, Series B Common Stock, Series C Common Stock or Series D Common Stock that were outstanding immediately prior to the termination shall, by virtue of the termination and without any action on the part of the holder, thereafter represent the corresponding number of shares of Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate to represent the shares of Common Stock represented by the surrendered certificate.

(b) DESIGNATION OF SPECIAL COMMON STOCK; RECLASSIFICATION OF SERIES E COMMON STOCK. Effective upon closing of a Qualified Public Offering (i) the designation of the Seven Million Forty-Seven Thousand Six Hundred Seventy-Nine (7,047,679) shares of Series E Common Stock shall automatically terminate and be replaced by the designation of a new series of Common Stock to be known as "Special Common Stock," consisting of the same number of shares, which series shall have the rights described in this Section 4.3.9, and (ii) each share of Series E Common Stock then outstanding shall automatically be reclassified as one (1) share of Special Common Stock; and (iii) each certificate representing shares of Series E

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Common Stock that were outstanding immediately prior to the reclassification shall, by virtue of the reclassification and without any action on the part of the holder, thereafter represent the corresponding number of shares of Special Common Stock. Upon surrender of any such certificate to the Corporation, the Corporation shall issue and deliver to the person entitled thereto a new certificate to represent the shares of Special Common Stock represented by the surrendered certificate.

(c) CONVERSION SUBJECT TO PRIOR APPROVAL OF BOARD OF DIRECTORS. At any time after the closing of a Qualified Public Offering, at the option of the holder except as provided in this Section 4.3.9, the holder of such shares may request, only upon delivery to the Corporation of a written conversion request, that the shares be converted into an equal number of shares of Common Stock (with the same rights and preferences as shares of Common Stock); provided, however, that such optional conversion can only occur with the prior written consent of the Board of Directors, which consent may be withheld in the sole discretion of the Board of Directors.

(d) VOTING RIGHTS. Each share of Common Stock shall be entitled to one (1) vote on all matters submitted to the shareholders of the Corporation and each share of Special Common Stock shall not be entitled to vote, except as required by law, in which case each share of Special Common Stock shall be entitled to one (1) vote.

(e) RANKING. The rights and preferences of the Common Stock and the Special Common Stock shall be in all respects identical, except as otherwise required by law or expressly provided in these Articles of Incorporation.

4.4 ISSUANCE OF PREFERRED STOCK IN SERIES.

4.4.1 Authority Vested in Board of Directors. The Preferred Stock may be divided into and issued in series from time to time. Authority is vested in the Board of Directors, subject to the limitations and procedures set forth in these Articles of Incorporation or prescribed by law, to divide any part or all of such Preferred Stock into any number of series, to fix and determine the relative rights and preferences of the shares of any series to be established, and to amend the rights and preferences of the shares of any series that has been established but is wholly unissued.

4.4.2 DESIGNATION OF SERIES A PREFERRED STOCK, SERIES B PREFERRED STOCK, SERIES C PREFERRED STOCK, SERIES D PREFERRED STOCK AND SERIES E PREFERRED STOCK.

The following series of Preferred Stock are hereby designated, and each such series shall have the following rights, preferences and limitations:

4.4.3 DESIGNATION. Thirteen Million Seven Hundred Thirteen Thousand Four Hundred Thirty Nine (13,713,439) shares of Preferred Stock shall be designated and known as "Series A Preferred Stock" or "Series A Preferred"; Three Million Fifty-Nine Thousand Seven Hundred One (3,059,701) shares of Preferred Stock shall be designated and known as "Series B Preferred Stock" or "Series B Preferred"; Three Million Four Thousand Three Hundred Five (3,004,305) shares of Preferred Stock shall be designated and known as "Series C Preferred Stock" or "Series C Preferred"; Three Million Ninety-Five Thousand Three Hundred Thirteen (3,095,313) shares of Preferred Stock shall be designated and known as "Series D Preferred Stock" or "Series D Preferred"; and Seven Million Forty-Seven Thousand Six

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Hundred Seventy-Nine (7,047,679) shares of Preferred Stock shall be designated as "Series E Preferred Stock" or "Series E Preferred." Except as otherwise provided in these Articles of Incorporation, all shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock shall be identical and shall entitle the holders thereof to the same rights and privileges.

4.4.4 AMENDMENT TO SERIES DECREASING SHARES. Within any limits stated in these Articles of Incorporation or in the resolution of the Board of Directors establishing a series, the Board of Directors, after the issuance of shares of a series, may amend the resolution establishing the series to decrease (but not below the number of shares of such series then outstanding or reserved for issuance pursuant to the exercise of any outstanding warrants) the number of shares of that series, and the number of shares constituting the decrease shall thereafter constitute authorized but undesignated shares.

4.4.5 AUTHORITY LIMITED TO UNISSUED SHARES. The authority herein granted to the Board of Directors to determine the relative rights and preferences of the Preferred Stock shall be limited to unissued shares, and no power shall exist to alter or change the rights and preferences of any shares that have been issued.

4.5 ISSUANCE OF CERTIFICATES. The Board of Directors shall have the authority to issue shares of the capital stock of this Corporation and the certificates therefor subject to such transfer restrictions and other limitations as it may deem necessary to promote compliance with applicable federal and state securities laws, and to regulate the transfer thereof in such manner as may be calculated to promote such compliance or to further any other reasonable purpose.

4.6 NO CUMULATIVE RIGHTS. Shareholders of this Corporation shall not have the right to cumulate votes for the election of directors.

4.7 NO PREEMPTIVE RIGHTS. No shareholder of this Corporation shall have, solely by reason of being a shareholder, any preemptive or preferential right or subscription right to any stock of this Corporation or to any obligations convertible into stock of this Corporation, or to any warrant or option for the purchase thereof, except to the extent provided by written agreement with this Corporation.

4.8 QUORUM FOR MEETING OF SHAREHOLDERS. A quorum shall exist at any meeting of shareholders if a majority of the votes entitled to be cast is represented in person or by proxy. In the case of any meeting of shareholders that is adjourned more than once because of the failure of a quorum to attend, those who attend the third convening of such meeting, although less than a quorum, shall nevertheless constitute a quorum for the purpose of electing directors, provided that the percentage of shares represented at the third convening of such meeting shall not be less than one-third of the shares entitled to vote.

4.9 CONTRACTS WITH INTERESTED SHAREHOLDERS. Subject to the limitations set forth in RCW 23B.19.040, to the extent applicable:

4.9.1 The Corporation may enter into contracts and otherwise transact business as vendor, purchaser, lender, borrower, or otherwise with its shareholders and with corporations, associations, firms, and entities in which they are or may be or become interested as directors, officers, shareholders, members, or otherwise.

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4.9.2 Any such contract or transaction shall not be affected or invalidated or give rise to liability by reason of the shareholder's having an interest in the contract or transaction.

4.10 SHAREHOLDER VOTING REQUIREMENTS. Subject to the requirements of RCW 23B.08.730, and 23B.19.040, any contract, transaction, or act of the Corporation or of any director or officer of the Corporation that shall be authorized, approved, or ratified by a majority of the votes entitled to be cast at a meeting at which a quorum is present shall, insofar as permitted by law, be as valid and as binding as though ratified by every shareholder of the Corporation.

4.11 EXECUTION OF CONSENT OF SHAREHOLDERS BY LESS THAN UNANIMOUS CONSENT. To the extent permitted by the Act, the taking of action by shareholders without a meeting by less than unanimous written consent of all shareholders entitled to vote on the action shall be permitted. Before the date on which the action becomes effective, notice of the taking of such action shall be given to those shareholders entitled to vote on the action who have not consented in writing (and, if the Act would otherwise require that notice of a meeting of shareholders to consider the action be given to nonvoting shareholders, to all nonvoting shareholders), in writing, describing with reasonable clarity and specifying the general nature of the action taken or to be taken, stating the effective date and time of the action, and accompanied by the same material that, under the Act, would have been required to be sent to nonconsenting (or nonvoting) shareholders in a notice of meeting at which the action would have been submitted for shareholder action. Such notice shall be given as follows: (i) if mailed, by deposit in the U.S. mail at least seventy-two (72) hours prior to the specified effective time of such action, with first-class postage thereon prepaid, correctly addressed to each shareholder entitled thereto at the shareholder's address as it appears on the current record of shareholders of the Corporation; or (ii) if delivered by personal delivery, by courier service, by wire or wireless equipment, by telegraphic or other facsimile transmission, or by any other electronic means which transmits a facsimile of such communication correctly addressed to each shareholder entitled thereto at the shareholder's physical address, electronic mail address, or facsimile number, as it appears on the current record of shareholders of the Corporation, at least twenty-four (24) hours prior to the specified effective time of such action.

4.12 SPECIAL MEETINGS OF SHAREHOLDERS. Subsequent to the date of closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act covering the offer and sale of Common Stock for the account of the Corporation to the public, special meetings of the shareholders for any purpose or purposes may be called at any time only by a majority of the Board of Directors or the Chairman of the Board of Directors (if one be appointed) or the President or one or more shareholders holding not less than twenty-five percent (25%) of all the shares entitled to be cast on any issue proposed to be considered at that meeting.

4.13 MAJORITY VOTE REQUIRED. Unless otherwise provided in these Articles of Incorporation, subsequent to the date of closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act covering the offer and sale of Common Stock for the account of the Corporation to the public, pursuant to authority granted under Sections 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020 of the Act, the vote of shareholders of the Corporation required in order to approve amendments to the Articles of Incorporation, a plan of merger or share exchange, the sale, lease, exchange, or other

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disposition of all or substantially all of the property of the Corporation not in the usual and regular course of business, or dissolution of the Corporation shall be a majority of all of the votes entitled to be cast by each voting group entitled to vote thereon, regardless of whether or not the Corporation is a "public company," as that term is defined in Section 23B.01.400 of the Act.

ARTICLE V

ADDITIONAL TERMS OF CAPITAL STOCK

In addition to the relative rights, preferences, privileges and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof as set forth in Article IV, the relative rights, preferences, privileges and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof are as follows:

5.1 DIVIDENDS. No dividends or other distributions shall be made with respect to the Common Stock, other than dividends payable solely in Common Stock, unless at the same time an equivalent dividend with respect to the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred has been paid or set apart or such equivalent dividend has been waived by the affirmative vote or written consent of the holders of not less than Sixty-Six and Two-Thirds Percent (662/3%) of the outstanding shares of each of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred. Any declared but unpaid dividends on the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be paid upon the conversion of such shares into Common Stock either (at the option of the Corporation) by payment of cash or by the issuance of additional shares of Common Stock based upon the fair market value of the Common Stock at the time of conversion, as determined by the Corporation's Board of Directors.

5.2 LIQUIDATION PREFERENCES. In the event of any liquidation, dissolution, or winding up of the Corporation, either voluntary or involuntary, distributions to the shareholders of the Corporation shall be made in the following manner:

(a) The holders of each of the Series D Preferred and the Series E Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Series A Preferred, the Series B Preferred, the Series C Preferred or the Common Stock by reason of their ownership of such stock, an amount equal to the greater of: (1) \$11.295 per share, in the case of Series D Preferred, and \$8.99 per share, in the case of Series E Preferred, adjusted for any combinations, consolidations, subdivisions, or stock dividends with respect to such shares and, in addition, an amount equal to all declared but unpaid dividends on such shares; or (2) the amount per share the holder would have received if he/she/it had converted his/her/its shares into Common Stock as provided in these Articles of Incorporation, provided, that the holders of Series D Preferred and the Series E Preferred shall receive such amounts simultaneously with the receipt by the holders of Common Stock of the amounts to which they are entitled, as described in Section 5.2(c). If the assets and funds thus distributed among the holders of the Series D Preferred and Series E Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Corporation legally available for distribution shall be distributed, first, pro rata among the holders of the Series E Preferred in proportion to the full preferential amount each such holder is otherwise entitled to

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receive under clause (1) above, and among the holders of the Series D Preferred in proportion to Sixty-Six and Two-Thirds Percent (662/3%) of the full preferential amount each such holder is otherwise entitled to receive under clause (1) above, and, second, among the holders of the Series D Preferred in proportion to the remaining full preferential amount each such holder is otherwise entitled to receive under clause (1) above.

(b) After payment has thus been made to the holders of each of the Series D Preferred and the Series E Preferred of the full amounts to which they shall be entitled as aforesaid, the holders of each of the Series A Preferred, the Series B Preferred and the Series C Preferred shall be entitled to receive prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount equal to the greater of: (1) \$0.0729 per share, in the case of Series A Preferred, \$0.67 per share, in the case of Series B Preferred, and \$1.9634 per share, in the case of Series C Preferred, adjusted for any combinations, consolidations, subdivisions, or stock dividends with respect to such shares and, in addition, an amount equal to all declared but unpaid dividends on such shares; or (2) the amount per share the holder would have received if he/she/it had converted his/her/its shares into Common Stock as provided in these Articles of Incorporation, provided, that the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred shall receive such amounts simultaneously with the receipt by the holders of Common Stock of the amounts to which they are entitled, as described in Section 5.2(c). If the assets and funds thus distributed among the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred in proportion to the full preferential amount each such holder is otherwise entitled to receive under clause (1) above.

(c) After payment has thus been made to the holders of each of the Series A Preferred, the Series B Preferred, the Series C Preferred, the Series D Preferred and the Series E Preferred of the full amounts to which they shall be entitled as aforesaid, the holders of the Common Stock shall be entitled to receive ratably on a per-share basis all the remaining assets.

(d) For purposes of this Section 5.2, a merger or consolidation of the Corporation with or into any other corporation or corporations, or the merger of any other corporation or corporations into the Corporation, in which the shareholders of the Corporation receive distributions in cash or securities of another corporation or corporations as a result of such consolidation or merger, or a sale of all or substantially all of the assets of the Corporation, shall be treated as a liquidation, dissolution or winding up of the Corporation unless the Corporation's stockholders immediately prior to such an event hold, immediately after such event, at least 50% of the general voting power of the surviving or acquiring entity by virtue of their ownership of the Corporation's equity securities.

5.3 VOTING RIGHTS. Except as otherwise required by law or by Section 5.6, the holder of each share of Common Stock issued and outstanding shall have the votes set forth in Section 4.3.3, and the holder of each share of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred shall be entitled to the number of votes equal to the number of votes entitled to be cast by the number of shares of Common Stock into which such share of Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred could be converted at the record date for determination of the shareholders entitled to vote on such

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matters, such votes to be counted together with all other shares of the Corporation having general voting power and not separately as a class. Fractional votes by the holders of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred shall not, however, be permitted and any fractional voting right shall (after aggregating all shares into which shares of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred held by each holder could be converted) be rounded to the nearest whole number. Except as otherwise required by law, in which case the holder of each share of Series E Preferred shall be entitled to one (1) vote, the holders of Series E Preferred shall not be entitled to vote. Where the Series E Preferred is entitled to voting rights by law, all shares of Series E Preferred shall vote and be counted together with the Series A Preferred, the Series B Preferred, the Series C Preferred and Series D Preferred and not separately as a voting group, except as otherwise required by law. Holders of Common Stock and Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation.

5.4 CONVERSION. The holders of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall have conversion rights as follows (the "Conversion Rights"):

(a) RIGHT TO CONVERT. Each share of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share (including immediately prior to any liquidation, dissolution or winding up of the Corporation as set forth in Section 5.2 above) at the office of the Corporation or any transfer agent for each of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (whichever is appropriate), into such number of fully paid and nonassessable shares of Series A Common Stock, or if, pursuant to Section 4.3.6 or Section 4.3.9, the Articles of Incorporation as amended from time to time do not, at the time of conversion, provide for Series A Common Stock, into shares of Common Stock, or for the Series E Preferred, into shares of Series E Common Stock, or if, pursuant to Section 4.3.9, the Articles of Incorporation as amended from time to time do not, at the time of conversion, provide for Series E Common Stock, into shares of Special Common Stock (such Series A Common Stock, Series E Common Stock, Common Stock or Special Common Stock, as the case may be, the "Conversion Stock"), as is determined by dividing \$8.99, in the case of the Series E Preferred, \$7.53, in the case of the Series D Preferred, \$1.9634, in the case of the Series C Preferred, \$0.67, in the case of the Series B Preferred, and \$0.0729, in the case of the Series A Preferred, by the Conversion Price (determined as hereinafter provided) for such series in effect at the time of the conversion (the "Conversion Rate"). The price at which shares of Conversion Stock shall be deliverable upon conversion (the "Conversion Price") shall initially be \$8.99, in the case of the Series E Preferred, \$7.53, in the case of the Series D Preferred, \$1.9634, in the case of the Series C Preferred, \$0.67, in the case of the Series B Preferred, and \$0.0729, in the case of the Series A Preferred. Such initial Conversion Price shall be subject to adjustment as hereinafter provided. Notwithstanding anything in this Section 5.4(a) to the contrary, in the event of a Public Offering that is not a Qualified Public Offering, the holders of the Series A Preferred (including for this purpose any shares of Conversion Stock issued upon conversion of the Series A Preferred prior to a Public Offering) will have the non-transferable right to convert one (1) such share, unless otherwise provided in Section 4.3.7, into one (1) share of Series D Common Stock with the rights provided in Section 4.3.7.

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(b) AUTOMATIC CONVERSION. Each share of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall

automatically be converted into the number and class of fully paid and nonassessable shares of Conversion Stock into which such share would then convert upon voluntary conversion under Section 5.4(a), effective upon the closing of a firm commitment underwritten public offering (a "Public Offering") pursuant to an effective registration statement under the Securities Act covering the offer and sale of Common Stock for the account of the Corporation to the public, if either (x) the price to the public in the offering is at least \$13.554 per share (as adjusted to reflect subsequent stock dividends, stock splits, combinations and recapitalizations) and the aggregate proceeds of the offering are not less than \$20,000,000 (prior to deduction of underwriter commissions and offering expenses), or (y) the holders of not less than Sixty-Six and Two-Thirds Percent (662/3%) of the then outstanding shares of Series D Preferred, by affirmative vote or written consent, have consented to the automatic conversion.

(c) MECHANICS OF CONVERSION. No fractional shares of Conversion Stock shall be issued upon conversion of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Conversion Price. Before any holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred shall be entitled to convert the same into full shares of Conversion Stock and to receive certificates therefor, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (whichever is appropriate), and shall give written notice to the Corporation at such office that such holder elects to convert the same; provided, however, that in the event of an automatic conversion pursuant to Section 5.4(b), the outstanding shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent, and provided further, that the Corporation shall not be obligated to issue certificates evidencing the shares of Conversion Stock issuable upon such automatic conversion unless the certificates evidencing such shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred are either delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. The Corporation shall, as soon as practicable after delivery of such certificate, or such agreement of indemnification in the case of a lost certificate, issue and deliver at such office to such holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred, a certificate or certificates for the number of shares of Conversion Stock to which such holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Conversion Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred to be converted, or in the case of automatic conversion under Section 5.4(b), on the date of closing of the Public Offering, and the person or persons entitled to receive the shares of Conversion Stock issuable upon such conversion shall

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be treated for all purposes as the record holder or holders of such shares of Conversion Stock on such date.

(d) ADJUSTMENTS TO CONVERSION PRICE FOR DILUTIVE ISSUES.

(i) SPECIAL DEFINITIONS. For purposes of this Section 5.4(d), the following definitions shall apply:

(1) "OPTIONS" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities.

(2) "ORIGINAL ISSUE DATE" shall mean the date on which the first share of Series E Preferred was first issued.

(3) "CONVERTIBLE SECURITIES" shall mean any evidence of indebtedness, shares of capital stock (other than the Common Stock) or other securities convertible into or exchangeable for Common Stock.

(4) "ADDITIONAL SHARES OF COMMON STOCK" shall mean all shares of Common Stock issued (or, pursuant to Section 5.4(d)(ii), deemed to be issued) by the Corporation after the Original Issue Date, other than:

(A) shares of Common Stock issued or issuable at any time upon conversion of the shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred authorized herein;

(B) shares of Common Stock issued or issuable at any time to officers, directors, and employees of, and consultants to, the Corporation pursuant to the Corporation's 1995 Stock Option Plan, 1996 Stock Option Plan or any other stock option, restricted stock plan or employee stock bonus program or grant designated and approved by the Board of Directors by unanimous vote if there are three or fewer directors then serving or, if there are greater than three directors then serving, by a two-thirds majority vote thereof (provided that any shares repurchased by the Corporation from employees, officers, directors and consultants pursuant to the terms of stock repurchase agreements approved by the Board of Directors shall not, unless reissued, be counted as issued for purposes of this calculation) other than shares issued to Rob Glaser, the Corporation's Founder, without the written consent of the holders of a majority of the Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred (provided, for purposes of calculating the majority for purposes of this clause (B), the shares of Series E Preferred to be issued upon exercise, if ever, of the Series E Preferred Stock Purchase Warrant issued pursuant to the Series E Preferred Stock Purchase Agreement dated July 21, 1997, shall not be deemed to be outstanding, regardless of whether such Series E Preferred Stock Purchase Warrant has been exercised);

(C) shares of Common Stock issued or issuable at any time as a dividend or distribution on Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred or any other event for which adjustment is made pursuant to Section 5.4(e)(i) hereof;

(D) shares of Common Stock issued upon conversion of Series B Common Stock to Series C Common Stock pursuant to Section 4.3.5 of these Articles;

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(E) shares of Common Stock issued upon exercise of the Series B Common Stock Warrants which were issued pursuant to the Series C Preferred Stock Purchase Agreement by and among the Corporation and certain purchasers dated October 26, 1995; and

(F) shares of Common Stock issued or issuable at any time by way of dividend or other distribution on shares of Common Stock (x) excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (A), (B), (C), (D), (E), or this clause (F) or (y) on shares of Common Stock so excluded under Subsection (x).

(ii) DEEMED ISSUANCE OF ADDITIONAL SHARES OF COMMON STOCK.

(1) OPTIONS AND CONVERTIBLE SECURITIES. In the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall, except as otherwise provided in Section 5.4(d)(i)(4), be deemed to be Additional Shares of Common Stock issued as of the time of such issuance, provided that, with respect to a particular series of Preferred Stock, Additional Shares of Common Stock shall not be deemed to have been issued unless the consideration per share (determined pursuant to Section 5.4(d)(iv) hereof) of such Additional Shares of Common Stock would be less than the Conversion Price in effect for such series on the date of and immediately prior to such issuance, and, provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued (notwithstanding the foregoing):

(A) no further adjustment in the Conversion Price for such series shall be made upon the subsequent issuance of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, except as provided in this Section 5.4(d), for any increase or decrease in the consideration payable to the Corporation, or in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof (a "Change Event"), the Conversion Price for any series of Preferred Stock recomputed upon the original issuance thereof, and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, again be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities; provided, however, that anything to the contrary notwithstanding, if the Change Event is triggered or caused by a Dilutive Issue (as defined in Section 5.4(d)(iii)), this Section 5.4(d)(ii)(B) shall be inapplicable and no adjustment shall be made to any Conversion Price as a result of the Change Event;

(C) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price computed upon the original issuance thereof, and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if,

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(I) in the case of Convertible Securities or Options for Common Stock, only the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities were issued at the time of the issuance of such Convertible Securities or Options and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such Options or Convertible Securities, whether or not exercised, converted, or exchanged, plus the consideration actually received by the Corporation upon such

exercise, conversion or exchange, and

(II) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

(D) no readjustment pursuant to clause (B) or (C) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price on the original adjustment date, or (ii) the Conversion Price that would have resulted from any other issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date; and

(E) in the case of any options which expire by their terms not more than 90 days after the date of issuance thereof, no adjustment of the Conversion Price shall be made until all such Options have either expired or been exercised.

In the event that a record date is established for the purpose of determining the holders of the Corporation's securities who shall be entitled to receive Options or Convertible Securities as a dividend or a distribution, the Options or Convertible Securities to be so distributed or issued shall, for purposes of this Section 5.4(d), be deemed to have been issued as of such record date (provided that the Conversion Price so computed shall be recomputed if such Options or Convertible Securities are not so distributed or issued).

(2) STOCK DIVIDENDS. In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend on the Common Stock payable in Common Stock, then and in any such event, Additional Shares of Common Stock shall be deemed to have been issued immediately after the close of business on the record date for the determination of holders of any class of securities entitled to receive such dividend; provided, however, that if such record date is fixed and such dividend is not fully paid, the only Additional Shares of Common Stock deemed to have been issued will be the number of shares of Common Stock actually issued in such dividend, and such shares will be deemed to have been issued as of the close of business on such record date, and the Conversion Price shall be recomputed accordingly.

(iii) ADJUSTMENT OF CONVERSION PRICE UPON ISSUANCE OF ADDITIONAL SHARES OF COMMON STOCK.

(1) If at any time or from time to time after the Original Issue Date this Corporation shall issue Additional Shares of Common Stock (including Additional Shares of

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Common Stock deemed to be issued pursuant to Section 5.4(d)(ii)) without consideration or for a consideration (as determined in Section 5.4(d)(iv)) per share issued or deemed to have been issued under Section 5.4(d)(ii), less than: (I) in the case of the Series A Preferred, the Conversion Price for the Series A Preferred in effect on the date of and immediately prior to such issuance, (II) in the case of the Series B Preferred, the Conversion Price for the Series B Preferred in effect on the date of and immediately prior to such issuance, (III) in the case of the Series C Preferred, the Conversion Price for the Series C

Preferred in effect on the date of and immediately prior to such issuance, (IV) in the case of the Series D Preferred, the Conversion Price for the Series D Preferred in effect on the date of and immediately prior to such issuance, or (V) in the case of the Series E Preferred, the Conversion Price for the Series E Preferred in effect on the date of and immediately prior to such issuance, then and in such event (a "Dilutive Issue"), any one or all of such Conversion Prices shall be reduced, concurrently with such issuance, to a price determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance on a fully diluted basis (including for such purpose Convertible Securities the conversion rights of which, are then exercisable but excluding all Options) plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance on a fully-diluted basis (including for such purpose Convertible Securities the conversion rights of which, are then exercisable but excluding all Options) plus the number of such Additional Shares of Common Stock so issued.

(2) In addition to any adjustments to the Conversion Price for the Series E Preferred made pursuant to Section 5.4(d)(iii)(1), if this Corporation sells shares of Common Stock to the public in a Public Offering pursuant to Section 5.4(b)(y) at a price per share less than \$8.99, (as adjusted to reflect subsequent stock dividends, stock splits and recapitalizations), the Conversion Price for the Series E Preferred in effect on the date of and immediately prior to such Public Offering, shall be reduced, immediately prior to but contingent upon the effectiveness of the Public Offering, to \$7.53 (as adjusted to reflect subsequent stock dividends, stock splits and recapitalizations).

(iv) DETERMINATION OF CONSIDERATION. For purposes of this Section 5.4(d), the consideration received by the Corporation for the issuance of any Additional Shares of Common Stock shall be computed as follows:

(1) CASH AND PROPERTY: Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issuance, as determined in good faith by the Corporation's Board of Directors; and

(C) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as determined in good faith by the Corporation's Board of Directors.

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(2) OPTIONS AND CONVERTIBLE SECURITIES. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 5.4(d)(ii)(1), relating to Options and Convertible Securities, shall be determined by dividing: (x) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the

exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities; by (y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(3) STOCK DIVIDENDS. Any Additional Shares of Common Stock relating to stock dividends shall be deemed to have been issued for no consideration.

(e) ADDITIONAL ADJUSTMENTS TO CONVERSION PRICE.

(i) ADJUSTMENTS FOR SUBDIVISIONS, COMBINATIONS OR CONSOLIDATION OF COMMON STOCK. In the event the outstanding shares of Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) shall be subdivided, by stock split, or otherwise (but other than by stock dividend, which is addressed in Section 5.4(d)(ii)(2) of these Articles of Incorporation), into a greater number of shares of Common Stock, the Conversion Price for each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, the Conversion Price for each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.

(ii) ADJUSTMENTS FOR OTHER DISTRIBUTIONS. In the event the Corporation at any time or from time to time makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, any distribution payable in securities of the Corporation other than shares of Common Stock and other than as otherwise adjusted in this Section 5.4, then and in each such event provision shall be made so that the holders of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall receive upon conversion thereof, in addition to the number of shares of Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) receivable thereupon, the amount of securities of the Corporation which they would have received had their Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred been converted into Common Stock on the date of such event and had then thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 5.4 with respect to the rights of the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred.

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(iii) ADJUSTMENTS FOR RECLASSIFICATION, EXCHANGE AND SUBSTITUTION. If the Common Stock (whether Series A Common Stock, Series E Common Stock or Common Stock) issuable upon conversion of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the terms of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred shall, concurrently with the effectiveness of such reorganization or reclassification, be modified such that the Series A Preferred, Series B Preferred, Series C Preferred, Series D

Preferred and Series E Preferred, as the case may be, shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred immediately before that change.

(f) NO IMPAIRMENT. Except as provided in Section 5.6, the Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 5.4 and in the taking of all such actions as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred against impairment.

(g) CERTIFICATE AS TO ADJUSTMENTS. Upon the occurrence of each adjustment or readjustment of the Conversion Price for the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred pursuant to this Section 5.4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price in effect at the time for such series, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of such series of Preferred Stock.

(h) NOTICES OF RECORD DATE. In the event that this Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

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(ii) to offer for subscription, pro rata to the holders of any class or series of its stock, any additional shares of stock of any class or series or any other similar rights;

(iii) to effect any reclassification or recapitalization of its Common Stock outstanding which results in a change in the Common Stock; or

(iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all its property or business, or to liquidate, dissolve or wind up; then, in connection with each such event;

this Corporation shall send to the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred:

(1) at least twenty (20) days prior written notice of (x)

the record date for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or (y) the record date at which the rights to vote on the matters referred to in (iii) and (iv) above will be determined; and

(2) in the case of the matters referred to in (iii) and (iv) above, at least twenty (20) days prior written notice of the date when the same shall take place and specifying the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon the occurrence of such event or the record date for the determination of such holders if such record date is earlier.

Each such written notice shall (x) be delivered personally; (y) given by certified or registered mail, postage prepaid; or (z) to the extent receipt is confirmed, by telecopy, telefax or other electronic transmission service; addressed to the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred at the address for each such holder as shown on the books of this Corporation.

(i) ELECTION UPON CONVERSION OF SERIES E PREFERRED STOCK. In the event that a holder of Series E Preferred elects to convert its shares of Series E Preferred pursuant to Section 5.4(a) or there occurs an event requiring automatic conversion of the Series E Preferred pursuant to Section 5.4(b), such holder may elect to convert all of such shares into Series E Common Stock with the rights provided in these Articles of Incorporation.

5.5 REDEMPTION.

(a) NO CALL. The Corporation shall not have the right to call for redemption all or any part of the Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred.

(b) OPTION TO REQUIRE REDEMPTION. On or at any time after December 31, 2002, within sixty (60) days after the receipt by the Corporation of the written request (a "Redemption Notice") by one or more holders of shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred (the "Requesting Holders"), together with the written approval of the holders of not less than two-thirds of the Series B Preferred then outstanding if any shares of Series B Preferred are to be redeemed, and with the written approval of not less than two-thirds of the Series C Preferred then outstanding if any shares of Series C Preferred are to be redeemed, and with the written approval of not less than two-thirds

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of the Series D Preferred then outstanding if any shares of Series D Preferred are to be redeemed, and with the written approval of not less than two-thirds of the Series E Preferred then outstanding if any shares of Series E Preferred are to be redeemed (each series for which such approval is granted being hereinafter referred to as an "Approved Series"), the Corporation shall, to the extent it may lawfully do so, redeem the number of whole shares of each Approved Series most nearly equal to one-third of the shares specified in the Redemption Notice by paying therefor in cash the Series B Redemption Price, Series C Redemption Price, Series D Redemption Price, or Series E Redemption Price (each as defined below), as appropriate. The date of this payment shall be referred to as an "Initial Redemption Date." The remaining shares of each Approved Series specified in the Redemption Notice shall be redeemed in two (2) additional equal installments (or, if such number of shares is not evenly divisible by two, then the first such installment shall be rounded to the nearest whole number of shares) on an annual basis in a similar manner, beginning one (1) year from the Initial Redemption Date, with all remaining shares of each Approved Series specified in the Redemption Notice being purchased on the second anniversary of

the Initial Redemption Date (the "Initial Redemption Date" and each of the two following redemption dates shall be referred to as a "Redemption Date"). The Corporation shall effect any redemption pursuant to this Section 5.5 on a pro rata basis according to the aggregate amounts which would be received upon redemption by each Requesting Holder.

(c) REDEMPTION PRICE. The redemption price to be paid by the Corporation shall be \$0.67 per share, in the case of the Series B Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations), \$1.9634, in the case of the Series C Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations), \$7.53 in the case of the Series D Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations) and \$8.99, in the case of the Series E Preferred (as adjusted to reflect subsequent stock dividends, stock splits or recapitalizations) (in each case, the "Issue Price"), in each case plus: (i) all declared but unpaid dividends thereon as of the Initial Redemption Date, and (ii) an amount per share equal to the percentage increase (if any) in the Implicit Price Deflator for Gross Domestic Product, as published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, or any successor thereto (1987 = 100), from the date of the original issuance of the share to the date of the Corporation's receipt of the Redemption Notice multiplied by the applicable Issue Price (such totals are referred to as the "Series B Redemption Price," the "Series C Redemption Price," the "Series D Redemption Price," and the "Series E Redemption Price," respectively).

(d) NOTICE OF REDEMPTION. Within ten (10) days of the Corporation's receipt of a Redemption Notice and the related written approval of the holders of two-thirds of the then outstanding shares of each Approved Series, the Corporation shall deliver (by (i) personal delivery; (ii) certified or registered mail, postage prepaid; or (iii) to the extent receipt is confirmed, by telecopy, telefax or other electronic transmission service) written notice to each holder of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred who did not approve the Redemption Notice, at the address of such holder last shown on the records of the Corporation for the purpose of notice or, if no such address appears or is given, at the place where the principal executive office of the Corporation is located, identifying each Requesting Holder and specifying the number of shares to be redeemed by such holder. If, within ten (10) days of receiving such notice, the holders of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred who did not approve the Redemption Notice

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give written notice to the Corporation of their wish to have any of their shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred redeemed simultaneously with the redemption of the Requesting Holders, such holders shall become Requesting Holders for purposes of such redemption.

(e) SURRENDER OF CERTIFICATES. On the Initial Redemption Date, each Requesting Holder shall surrender to the Corporation the certificate or certificates representing the number of shares of Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred specified in the Redemption Notice or pursuant to Section 5.5(d). Simultaneously, the Corporation shall pay one-third of the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price (as applicable) of such shares to be redeemed on that date to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be canceled. In the event that less than all the shares represented by any such certificate are to be redeemed pursuant to the Redemption Notice, a new certificate shall be issued representing the shares not subject to redemption and delivered to the Requesting Holder. In the event that

less than all the shares represented by any such certificate have been redeemed on a Redemption Date, a new certificate shall be issued representing the shares not redeemed and such certificate shall be retained by the Corporation for cancellation on the next Redemption Date(s).

(f) STATUS OF SHARES SPECIFIED IN THE REDEMPTION NOTICE. From and after the Initial Redemption Date, unless there has been a default in payment of the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price, all rights of the Requesting Holders with respect to the shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred specified in the Redemption Notice (except the right to receive the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of such shares on any Redemption Date are insufficient to redeem the total number of shares of Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred to be redeemed on such date, those funds which are legally available shall be used to redeem the maximum possible number of such shares, and the shares of Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred not redeemed shall be deemed to be outstanding and shall be entitled to all the rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such shares, such funds will immediately be used to redeem the balance of the shares that the Corporation has become obligated to redeem on any Redemption Date but that it has not redeemed.

(g) PARTIAL REVOCATION OF REDEMPTION NOTICE. Notwithstanding any provision in this Section 5.5 to the contrary, if, after the Initial Redemption Date, while a Requesting Holder has not yet received in full the Series B Redemption Price, the Series C Redemption Price, the Series D Redemption Price or the Series E Redemption Price, as applicable, for all shares specified in his/her/its Redemption Notice (the shares for which the applicable redemption price has not been received shall be referred to as the "Shares Being Redeemed"), the Corporation enters into any transaction described in Section 5.2(d) in which the Requesting Holder would have received an amount per share, in cash or securities of another corporation or corporations, greater than the Series B Redemption Price, the Series C

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Redemption Price, the Series D Redemption Price or the Series E Redemption Price, as applicable, for the Shares Being Redeemed had the shares not been the subject of the Redemption Notice, the Corporation shall notify the Requesting Holder in writing of such transaction, in accordance with Section 5.4(h), as if his/her/its rights with respect to the Shares Being Redeemed had not terminated in accordance with Section 5.5, and if, within seven (7) days of receipt of such notice, the Requesting Holder delivers written notice to the Corporation of his/her/its election to convert the Shares Being Redeemed into Common Stock, such shares shall be converted to Common Stock in accordance with Section 5.4 and simultaneously the Requesting Holder's right to receive the applicable redemption price for the Shares Being Redeemed shall terminate.

5.6 COVENANTS.

(a) SERIES A PREFERRED, SERIES B PREFERRED, SERIES C PREFERRED AND SERIES D PREFERRED. In addition to any other rights provided by law, this Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than a majority of the outstanding shares of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred, voting as a single voting group:

(i) amend or repeal any provision of, or add any provision to, the Corporation's Articles of Incorporation if such action would alter or change the preferences, rights, or privileges of the Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred;

(ii) increase or decrease the authorized number of shares of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred or Common Stock;

(iii) authorize, create or issue any shares of (A) Preferred Stock or securities convertible into Common Stock equal or senior to the Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred as to dividends, conversion rights, redemption rights or liquidation preference or (B) Common Stock equal or senior to the Series D Preferred as to redemption rights or liquidation preference or senior to the Series D Preferred as to dividends or voting rights (other than shares issuable upon exercise of the Series C Preferred Stock Warrants issued pursuant to the Series C Preferred Stock Purchase Agreement dated October 25, 1995 or the Series D Preferred Stock Purchase Warrants issued pursuant to the Series D Preferred Stock Purchase Agreement dated November 19, 1996);

(iv) merge or consolidate with one or more other corporations if, after such merger or consolidation, the stockholders of the Corporation would hold stock representing less than a majority of the voting power of the outstanding stock of the surviving corporation; or

(v) declare or pay any dividend on the Common Stock.

(b) SERIES D PREFERRED. In addition to any other rights provided by law, this Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than Sixty-Six and Two-Thirds Percent (66 2/3%) of the outstanding shares of Series D Preferred:

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(i) amend or repeal any provision of, or add any provision to, the Corporation's Articles of Incorporation if such action would adversely alter or change the preferences, rights, or privileges of the Series D Preferred;

(ii) increase the authorized number of shares of Series D Preferred;

(iii) authorize, create or issue any shares of (A) Preferred Stock or securities convertible into Common Stock equal or senior to the Series D Preferred as to dividends, conversion rights, redemption rights or liquidation preference or (B) Common Stock equal or senior to the Series D Preferred as to redemption rights or liquidation preference or senior to the Series D Preferred as to dividends or voting rights (other than shares issuable upon exercise of the Series C Preferred Stock Warrants issued pursuant to the Series C Preferred Stock Purchase Agreement dated October 25, 1995 or the Series D Preferred Stock Purchase Warrants issued pursuant to the Series D Preferred Stock Purchase Agreement dated November 19, 1996); or

(iv) declare or pay any dividend.

ARTICLE VI

DIRECTORS

6.1 NUMBER OF DIRECTORS.

6.1.1 The number of directors of the Corporation shall be fixed as provided in the Bylaws and may be changed from time to time by amending the Bylaws.

6.1.2 When the Board of Directors shall consist of four or more members, the directors shall be divided into three classes: Class 1, Class 2 and Class 3. Such classes shall be as nearly equal in number of directors as possible. Except as provided in Section 6.1.4, each director shall serve for a term ending at the third annual meeting of shareholders following the director's election; provided, that the director or directors first elected to Class 1 shall serve for a term ending at the first annual meeting of shareholders following such election, the director or directors first elected to Class 2 shall serve for a term ending at the second annual meeting of shareholders following such election, and the director or directors first elected to Class 3 shall serve for a term ending at the third annual meeting of shareholders following such election.

6.1.3 At each annual meeting of shareholders, the directors nominated to succeed those whose terms then expire shall be identified as being of the same class as the directors they succeed unless, by reason of any intervening changes in the authorized number of directors, the Board of Directors shall designate one or more directorships whose terms then expire as directorships of another class in order more nearly to achieve equality in the number of directors in the respective classes. When the Board of Directors fills a vacancy resulting from the death, resignation or removal of a director, the director chosen to fill that vacancy shall be of the same class as the director he succeeds.

6.1.4 Notwithstanding the foregoing provisions of this Section 6.1, in all cases, including upon any change in the authorized number of directors, each director then continuing to serve as such will nevertheless continue as a director of the class of which he is a member until the expiration of his or her term or his or her earlier death, resignation or

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removal. Any vacancy in any class resulting from the death, resignation or removal of a director or an increase in the number of authorized directors may be filled by the directors in any manner permitted by the Act; provided, if the term of the director or directors in that class is not scheduled to expire at the next annual meeting of shareholders, the term of the director chosen to fill such vacancy shall continue only until the next annual meeting of shareholders at which a successor shall be chosen for a term to expire at the scheduled date for expiration of the term of the director or directors in that class.

6.1.5 If a Qualified Public Offering does not occur on or prior to January 31, 1998, then the provisions of Sections 6.1.2 through 6.1.4 shall automatically cease to apply, and each director then in office shall continue in office, without class designation, until the next annual meeting of shareholders or until his or her earlier death, resignation or removal.

6.2 REMOVAL.

6.2.1 Any director or the entire Board of Directors may be removed with or without cause by the holders of not less than a majority of the shares then entitled to vote at an election of directors; provided, that, following a Qualified Public Offering, no director may be removed without "cause," as defined below. Action to remove a director may be taken at any annual or special meeting of the shareholders of this Corporation, provided that notice of the proposed removal, which shall include a statement of the charges alleged against the director in the event of removal for cause, shall have been duly given to

the shareholders together with or as a part of the notice of the meeting.

6.2.2 Where a proposal to remove a director for cause is to be presented for shareholder consideration following a Qualified Public Offering, an opportunity shall be provided the director to present the director's defense to the shareholders in a statement to accompany or precede the notice of the meeting at which such proposal is to be presented. The director shall also be served with notice of the meeting at which such proposal is to be presented, together with a statement of the specific charges alleged against the director, and shall be given an opportunity to be present and to be heard at the meeting.

6.2.3 For purposes of this Section 6.2, "cause" for removal shall be limited to (a) action by a director involving willful malfeasance having a material adverse effect on the Corporation and (b) conviction of a director of a felony; provided, that action by a director shall not constitute "cause" if, in good faith, the director believed such action to be in or not opposed to the best interests of the Corporation, or if the director is entitled, under applicable law or the Articles of Incorporation or Bylaws of this Corporation, to be indemnified with respect to such action.

6.3 AUTHORITY OF BOARD OF DIRECTORS TO AMEND BYLAWS. Subject to the limitation(s) of RCW 23B.10.210, and subject to the power of the shareholders of the Corporation to change or repeal the Bylaws, the Board of Directors is expressly authorized to make, amend, or repeal the Bylaws of the Corporation unless the shareholders in amending or repealing a particular bylaw provide expressly that the Board of Directors may not amend or repeal that bylaw.

6.4 CONTRACTS WITH INTERESTED DIRECTORS. Subject to the limitations set forth in RCW 23B.08.700 through 23B.08.730:

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6.4.1 The Corporation may enter into contracts and otherwise transact business as vendor, purchaser, lender, borrower, or otherwise with its directors and with corporations, associations, firms, and entities in which they are or may be or become interested as directors, officers, shareholders, members, or otherwise.

6.4.2 Any such contract or transaction shall not be affected or invalidated or give rise to liability by reason of the director's having an interest in the contract or transaction.

6.5 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS.

6.5.1 The capitalized terms in this Section 6.5 shall have the meanings set forth in RCW 23B.08.500.

6.5.2 The Corporation shall indemnify and hold harmless each individual who is or was serving as a Director or officer of the Corporation or who, while serving as a Director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against any and all Liability incurred with respect to any Proceeding to which the individual is or is threatened to be made a Party because of such service, and shall make advances of reasonable Expenses with respect to such Proceeding, to the fullest extent permitted by law, without regard to the limitations in RCW 23B.08.510 through 23B.08.550; provided that no such indemnity shall indemnify any Director or officer from or on account of (1) acts or omissions of the Director or officer finally adjudged to be intentional misconduct or a knowing violation of law; (2) conduct of the Director or officer finally adjudged to be in violation of RCW 23B.08.310; or (3) any transaction with respect to which it

was finally adjudged that such Director or officer personally received a benefit in money, property, or services to which the Director or officer was not legally entitled.

6.5.3 The Corporation may purchase and maintain insurance on behalf of an individual who is or was a Director, officer, employee, or agent of the Corporation or, who, while a Director, officer, employee, or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise against Liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a Director, officer, employee, or agent, whether or not the Corporation would have power to indemnify the individual against such Liability under RCW 23B.08.510 or 23B.08.520.

6.5.4 If, after the effective date of this Section 6.5, the Act is amended to authorize further indemnification of Directors or officers, then Directors and officers of the Corporation shall be indemnified to the fullest extent permitted by the Act as so amended.

6.5.5 To the extent permitted by law, the rights to indemnification and advance of reasonable Expenses conferred in this Section 6.5 shall not be exclusive of any other right which any individual may have or hereafter acquire under any statute, provision of the Bylaws, agreement, vote of shareholders or disinterested Directors, or otherwise. The right to indemnification conferred in this Section 6.5 shall be a contract right upon which each Director or officer shall be presumed to have relied in determining to serve or to continue to serve as

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such. Any amendment to or repeal of this Section 6.5 shall not adversely affect any right or protection of a Director or officer of the Corporation for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal.

6.5.6 If any provision of this Section 6.5 or any application thereof shall be invalid, unenforceable, or contrary to applicable law, the remainder of this Section 6.5, and the application of such provisions to individuals or circumstances other than those as to which it is held invalid, unenforceable, or contrary to applicable law, shall not be affected thereby.

6.6 LIMITATION OF DIRECTORS' LIABILITY. To the fullest extent permitted by the Act, as it exists on the date hereof or may hereafter be amended, a director of this Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for conduct as a director. Any amendment to or repeal of this Section 6.6 shall not adversely affect a director of this Corporation with respect to any conduct of such director occurring prior to such amendment or repeal.

ARTICLE VII

OTHER MATTERS

7.1 CERTAIN CORPORATE GOVERNANCE MATTERS. At all times following the closing of a Qualified Public Offering, the following provisions will apply:

7.1.1 STRATEGIC TRANSACTIONS COMMITTEE.

(a) MEMBERS. There shall be a Strategic Transactions Committee (the "Committee") of the Board of Directors which shall consist of three (3)

directors. The members of the initial Committee shall be Robert Glaser, the Corporation's Founder, James Breyer and Mitchell Kapor. A member of the Committee shall automatically cease to be a member of the Committee upon the earlier of: (i) his or her death, resignation or removal as a director, or (ii) at the option of the Chairman of the Committee, his or her ceasing to hold or control, directly or indirectly, at least five percent (5%) of the outstanding shares of capital stock of the Corporation. Neither the Board of Directors nor the shareholders shall have any authority to remove any member of the Committee or to otherwise reconstitute the Committee or its membership.

(b) CHAIRMAN OF COMMITTEE. Mr. Glaser shall serve as Chairman of the Committee as long as he is a member of the Committee. At such time as Mr. Glaser is no longer a member of the Committee, the Committee shall select one of its members as Chairman.

(c) POWER OF COMMITTEE. Without the prior approval of the Committee, the Board of Directors of the Corporation shall not have the power and authority to: (i) adopt a plan of merger, (ii) authorize the sale, lease, exchange or mortgage of (A) assets representing more than fifty percent (50%) of the book value of the Corporation's assets prior to the transaction, or (B) any other asset or assets on which the long-term business strategy of the Corporation is substantially dependent, (iii) authorize the voluntary dissolution of the Corporation, or (iv) take any action that has the effect of clauses (i) through (iii) of this Section 7.1.1(c).

(d) MEETINGS AND NOTICE. The Committee shall meet from time to time on the call of its Chairman or of the other two members. Each meeting of the Committee shall be

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held at the date, time and place as may be designated in the notice of the meeting given by the person or persons authorized to call the meeting. Notice of the date, time and place of each meeting of the Committee shall be given to each member of the Committee in any manner permitted by the Act not less than one (1) day prior to the meeting; such notice need not state the purpose or purposes of the meeting. The Committee shall keep regular minutes of its meetings and proceedings.

(e) QUORUM. At any meeting of the Committee, presence of the Chairman and at least one other member thereof shall constitute a quorum. The act of at least two (2) members of the Committee at a meeting at which a quorum is present shall be the act of the Committee. All action of the Committee shall be taken at a meeting of the Committee or as otherwise provided or allowed by law.

(f) VACANCIES. Any vacancy on the Committee shall be filled by the remaining member or members of the Committee, regardless of whether or not a quorum. If two members of the Committee remain and they are unable to agree on an individual to fill the vacancy, the vacancy may be filled by the member who holds or controls, directly or indirectly, the larger percentage of the outstanding shares of capital stock of the Corporation.

(g) TERMINATION OF COMMITTEE. The Committee, by vote of the Chairman of the Committee and one additional member, may limit the powers of the Committee or may terminate the Committee. The existence and powers of the Committee shall terminate when the members in the aggregate cease to hold or control, directly or indirectly, at least ten percent (10%) of the outstanding shares of capital stock of the Corporation. The Board of Directors shall have and succeed to any and all power and authority of the Committee that have been limited or eliminated as a result of actions taken pursuant to this Section

7.1.1(g).

7.1.2 POLICY OMBUDSMAN. Mr. Glaser shall serve, or shall appoint another officer of the Corporation who shall serve, as the Corporation's Policy Ombudsman. The Policy Ombudsman shall have exclusive responsibility for adopting or changing the editorial policies of the Corporation as reflected on the Corporation's Web sites or in other communications or media where the Corporation has a significant editorial or media voice. The Policy Ombudsman may be removed only by the unanimous approval of all members of the Board of Directors. Upon the death, resignation or removal of Mr. Glaser as the Policy Ombudsman, the Chief Executive Officer or another officer of the Corporation appointed by the Chief Executive Officer, shall serve as his or her successor.

7.1.3 AUTHORITY FOR SECTION 7.1. The provisions of this Section 7.1 are intended to modify the authority of the Board of Directors in a manner permitted by RCW 23B.08.010(3) and shall be construed consistent with that provision of the Act. Except as otherwise provided in these Articles of Incorporation, as amended from time to time, the Committee shall have all of the powers and authority of a committee of the Board of Directors created pursuant to RCW 23B.08.250.

7.1.4 AMENDMENT OF SECTION 7.1. Notwithstanding any provision of these Articles of Incorporation or the Corporation's Bylaws, as either may be amended from time to time by the Board of Directors or the shareholders of the Corporation, this Section 7.1 cannot be amended without the approval of the holders of ninety percent (90%) of the shares entitled to be voted on such proposed amendment(s).

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7.2 AMENDMENTS TO ARTICLES OF INCORPORATION. Except as otherwise provided in these Articles of Incorporation, as amended from time to time, the Corporation reserves the right to amend, alter, change, or repeal any provisions contained in these Articles of Incorporation in any manner now or hereafter prescribed or permitted by statute. All rights of shareholders of the Corporation are subject to this reservation. A shareholder of the Corporation does not have a vested property right resulting from any provision of these Articles of Incorporation.

7.3 CORRECTION OF CLERICAL ERRORS. The Corporation shall have authority to correct clerical errors in any documents filed with the Secretary of State of Washington, including these Articles of Incorporation or any amendments hereto, without the necessity of special shareholder approval of such corrections.

Executed this ____ day of September, 1997.

Robert Glaser, Chief Executive Officer

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EXHIBIT 3.4

BYLAWS
OF
PROGRESSIVE NETWORKS, INC.

ADOPTED MARCH 31, 1995

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BYLAWS OF

PROGRESSIVE NETWORKS, INC.

These Bylaws are promulgated pursuant to the Washington Business Corporation Act, as set forth in Title 23B of the Revised Code of Washington (the "Act").

ARTICLE I
SHAREHOLDERS

1.1 Annual Meeting. The annual meeting of the shareholders of the corporation for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held each year within ninety (90) to one hundred eighty (180) days after the fiscal year end of the corporation at a date, time and location determined by resolution of the Board of Directors. At any time prior to the commencement of the annual meeting, the Board may postpone the annual meeting for a period of up to one hundred twenty

(120) days from the date fixed for such meeting in accordance with this Section 1.1.

1.2 Special Meetings. Special meetings of the shareholders for any purpose or purposes may be called at any time by the Board of Directors or by the Chairman of the Board (if one be appointed) or by the President or by one or more shareholders holding at least twenty-five percent (25%) of all the shares entitled to be cast on any issue proposed to be considered at that meeting, to be held at such time and place as the Board or the Chairman (if one be appointed) or the President may prescribe.

If a special meeting is called by any person or persons other than the Board of Directors or the Chairman of the Board (if one be appointed) or the President, then a written demand, describing with reasonable clarity the purpose or purposes for which the meeting is called and specifying the general nature of the business proposed to be transacted, shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the Secretary of the corporation. Upon receipt of such a demand, the Secretary shall cause notice of such meeting to be given, within thirty (30) days after the date the demand was delivered to the Secretary, to the shareholders entitled to vote, in accordance with the provisions of Section 1.3 of these Bylaws. Except as provided below, if the notice is not given by the Secretary within thirty (30) days after the date the demand was delivered to the Secretary, then the person or persons demanding the meeting may specify the time and place of the meeting and give notice thereof.

1.3 Notice of Meetings. Except as otherwise provided below, the Secretary, Assistant Secretary, or any transfer agent of the corporation shall give, in any manner permitted by law, not less than ten (10) nor more than sixty (60) days before the date of any

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meeting of shareholders, written notice stating the place, day, and time of the meeting to each shareholder of record entitled to vote at such meeting. If mailed, notice to a shareholder shall be effective when mailed, with first-class postage thereon prepaid, correctly addressed to each shareholder at the shareholder's address as it appears on the current record of shareholders of the corporation. Otherwise, written notice shall be effective at the earliest of the following: (a) when received, (b) five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid, and correctly addressed, or (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

1.3.1 Notice of Special Meeting. In the case of a special meeting, the written notice shall also state with reasonable clarity the purpose or purposes for which the meeting is called and the general nature of the business proposed to be transacted at the meeting. No business other than that within the purpose or purposes specified in the notice may be transacted at a special meeting.

1.3.2 Proposed Articles of Amendment, Merger, Exchange, Sale, Lease or Disposition. If the business to be conducted at any meeting includes any proposed amendment to the Articles of Incorporation or any proposed merger or exchange of shares, or any proposed sale, lease, exchange, or other disposition of all or substantially all of the property and assets (with or without the goodwill) of the corporation not in the usual or regular course of its business, then the written notice shall state that the purpose or one of the purposes is to consider the proposed amendment or plan of merger, exchange of shares, sale, lease, exchange, or other disposition, as the case may be,

shall describe the proposed action with reasonable clarity, and shall be accompanied by a copy of the proposed amendment or plan. Written notice of such meeting shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty (20) days before such meeting, in the manner provided in Section 1.3 above.

1.3.3 Proposed Dissolution. If the business to be conducted at any meeting includes the proposed voluntary dissolution of the corporation, then the written notice shall state that the purpose or one of the purposes is to consider the advisability thereof. Written notice of such meeting shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty (20) days before such meeting, in the manner provided in Section 1.3 above.

1.3.4 Declaration of Mailing. A declaration of the mailing or other means of giving any notice of any shareholders' meeting, executed by the Secretary, Assistant Secretary, or any transfer agent of the corporation giving the notice, shall be prima facie evidence of the giving of such notice.

1.3.5 Waiver of Notice. A shareholder may waive notice of any meeting at any time, either before or after such meeting. Except as provided below, the waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records. A shareholder's

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attendance at a meeting in person or by proxy waives objection to lack of notice or defective notice of the meeting unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting on the ground that the meeting is not lawfully called or convened. In the case of a special meeting, or an annual meeting at which fundamental corporate changes are considered, a shareholder waives objection to consideration of a particular matter that is not within the purpose or purposes described in the meeting notice unless the shareholder objects to considering the matter when it is presented.

1.4 Quorum; Vote Requirement. A quorum shall exist at any meeting of shareholders if a majority of the votes entitled to be cast is represented in person or by proxy. Once a share is represented for any purpose at a meeting other than solely to object to holding the meeting or transacting business at the meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting. Subject to the foregoing, the determination of the voting groups entitled to vote (as required by law), and the quorum and voting requirements applicable thereto, must be made separately for each matter being considered at a meeting. In the case of any meeting of shareholders that is adjourned more than once because of the failure of a quorum to attend, those who attend the third convening of such meeting, although less than a quorum, shall nevertheless constitute a quorum for the purpose of electing directors, provided that the percentage of shares represented at the third convening of such meeting shall not be less than one-third of the shares entitled to vote.

If a quorum exists, action on a matter (other than the election of directors) is approved by a voting group if the votes cast within the voting group favoring the action exceed the votes cast within the voting group opposing the action unless a greater number of affirmative votes is required by law or by the Articles of Incorporation.

1.5 Adjourned Meetings. An adjournment or adjournments of any

shareholders' meeting, whether by reason of the failure of a quorum to attend or otherwise, may be taken to such date, time, and place as the chairman of the meeting may determine without new notice being given if the date, time, and place are announced at the meeting at which the adjournment is taken. However, if the adjournment is for more than one hundred twenty (120) days from the date set for the original meeting, a new record date for the adjourned meeting shall be fixed and a new notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting, in accordance with the provisions of Section 1.3 of these Bylaws. At any adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. Any meeting at which directors are to be elected shall be adjourned only from day to day until such directors are elected.

1.6 Fixing Record Date. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders (or, subject to Section 1.5 above, any adjournment thereof), the Board of Directors may fix in advance a date as the record date for

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any such determination of shareholders, such date in any case to be not more than seventy (70) days prior to the meeting. If no such record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, then the day before the first notice is delivered to shareholders shall be the record date for such determination of shareholders. If no notice is given because all shareholders entitled to notice have waived notice, then the record date for the determination of shareholders entitled to notice of or to vote at a meeting shall be the date on which the last such waiver of notice was obtained. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except as provided in Section 1.5 of these Bylaws. If no notice is given because all shareholders entitled to notice have signed a consent as described in Section 1.9 below, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent.

1.7 Shareholders' List for Meeting. The corporation shall cause to be prepared an alphabetical list of the names of all of its shareholders on the record date who are entitled to notice of a shareholders' meeting or any adjournment thereof. The list must be arranged by voting group (and within each voting group by class or series of shares) and show the address of and the number of shares held by each shareholder. The shareholders' list must be available for inspection by any shareholder, beginning ten (10) days prior to the meeting and continuing through the meeting, at the principal office of the corporation or at a place identified in the meeting notice in the city where the meeting will be held. Such list shall be produced and kept open at the time and place of the meeting. During such ten-day period, and during the whole time of the meeting, the shareholders' list shall be subject to the inspection of any shareholder, or the shareholder's agent or attorney. In cases where the record date is fewer than ten (10) days prior to the meeting because notice has been waived by all shareholders, the Secretary shall keep such record available for a period from the date the first waiver of notice was delivered to the date of the meeting. Failure to comply with the requirements of this section shall not affect the validity of any action taken at the meeting.

1.8 Ratification. Subject to the requirements of RCW 23B.08.730, 23B.17.020, and 23B.19.040, any contract, transaction, or act of the corporation or of any director or officer of the corporation that shall be authorized, approved, or ratified by the affirmative vote of a majority of shares represented at a meeting at which a quorum is present shall, insofar as

permitted by law, be as valid and as binding as though ratified by every shareholder of the corporation.

1.9 Action by Shareholders Without a Meeting. Any action which may be or which is required by law to be taken at any meeting of shareholders may be taken, without a meeting or notice of a meeting, if one or more consents in writing, setting forth the action so taken, are signed by all of the shareholders entitled to vote or, in the place of any one or more of such shareholders, by a person holding a valid proxy to vote with respect to the subject matter thereof, and are delivered to the corporation for inclusion in the minutes or filing with the corporate records. If notice of the proposed action to be taken by unanimous

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consent of the voting shareholders is required by law to be given to nonvoting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least ten (10) days before the action is taken. The notice must contain or be accompanied by the same material that, by law, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to such shareholders for action. Action taken by unanimous written consent is effective when all consents are in possession of the corporation, unless the consent specifies a later effective date. Such consent shall have the same force and effect as a meeting vote of shareholders and may be described as such in any articles or other document filed with the Secretary of State of the State of Washington.

1.10 Telephonic Meetings. Shareholders may participate in a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

ARTICLE II BOARD OF DIRECTORS

2.1 Responsibility of Board of Directors. The business and affairs and property of the corporation shall be managed under the direction of a Board of Directors. A director shall discharge the duties of a director, including duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation. In discharging the duties of a director, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (a) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented; (b) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or (c) a committee of the Board of Directors of which the director is not a member, if the director reasonably believes the committee merits confidence. A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted above unwarranted. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct imposed by law upon directors. A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

2.2 Number of Directors; Qualification. The Board shall be composed of not less than one (1) and not more than seven (7) directors, the specific number to be set by resolution of the Board of Directors or the Shareholders. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires. If a greater or lesser number of directors than is specified in this section is

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elected by the shareholders, then election of that number shall automatically be deemed to constitute an amendment to these Bylaws. No director need be a shareholder of the corporation or a resident of Washington. Each director must be at least eighteen (18) years of age.

2.3 Election; Term of Office. At the first annual meeting of shareholders and at each annual meeting thereafter, the shareholders shall elect directors. Except in the case of death, resignation or removal, each director shall hold office until the next succeeding annual meeting or, in the case of staggered terms as permitted by RCW 23B.08.060, for the term for which she is elected, and in each case until her successor shall have been elected and qualified.

2.4 Vacancies. Except as otherwise provided by law, any vacancy occurring in the Board of Directors (whether caused by resignation, death, or otherwise) may be filled by the affirmative vote of a majority of the directors present at a meeting of the Board at which a quorum is present, or, if the directors in office constitute less than a quorum, by the affirmative vote of a majority of all of the directors in office. Notice shall be given to all of the remaining directors that such vacancy will be filled at the meeting. However, if the vacant office was held by a director elected by a voting group composed of less than all of the voting shareholders, then the Board of Directors shall not have the power to fill such vacancy. A director elected to fill any vacancy shall hold office until the next meeting of shareholders at which directors are elected, and until her successor shall have been elected and qualified.

2.5 Removal. One or more members of the Board of Directors (including the entire Board) may be removed, with or without cause, at a special meeting of shareholders called expressly for that purpose. A director (or the entire Board) may be removed if the number of votes cast in favor of removing such director (or the entire Board) exceeds the number of votes cast against removal; provided that, if a director (or the entire Board) has been elected by one or more voting groups, only those voting groups may participate in the vote as to removal. However, if the Articles of Incorporation grant shareholders the right to cumulate their votes in the election of directors, a director may not be removed if a number of votes sufficient to elect such director under cumulative voting (computed on the basis of the number of votes actually cast at the meeting on the question of removal) is cast against such director's removal.

2.6 Resignation. A director may resign at any time by delivering written notice to the Board of Directors, its Chairman, the President, or the Secretary. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

2.7 Annual Meeting. The first meeting of each newly elected Board of Directors shall be known as the annual meeting thereof and shall be held without notice immediately after the annual shareholders' meeting or any special shareholders' meeting at which a Board is elected. Such meeting shall be held at the same place as such shareholders' meeting unless some other place shall be specified by resolution of the shareholders.

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2.8 Regular Meetings. Regular meetings of the Board of Directors may be held at such place, day, and time as shall from time to time be fixed by resolution of the Board without notice other than the delivery of such resolution as provided in Section 2.10 below.

2.9 Special Meetings. Special meetings of the Board of Directors may be called by the President or the Chairman of the Board (if one be appointed) or any two or more directors, to be held at such place, day, and time as specified by the person or persons calling the meeting.

2.10 Notice of Meeting. Notice of the place, day, and time of any meeting of the Board of Directors for which notice is required shall be given, at least two (2) days preceding the day on which the meeting is to be held, by the Secretary or an Assistant Secretary, or by the person calling the meeting, in any manner permitted by law, including orally. Any oral notice given by personal communication over the telephone or otherwise may be communicated either to the director or to a person at the office of the director who, the person giving the notice has reason to believe, will promptly communicate it to the director. Notice shall be deemed to have been given on the earliest of (a) the day of actual receipt, (b) five (5) days after the day on which written notice is deposited in the United States mail, as evidenced by the postmark, with first-class postage prepaid, and correctly addressed, or (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

No notice of any regular meeting need be given if the place, day, and time thereof have been fixed by resolution of the Board of Directors and a copy of such resolution has been delivered to every director at least two (2) days or deposited in the United States mail, as evidenced by the postmark, with first-class postage prepaid, and correctly addressed at least five (5) days preceding the day of the first meeting held in pursuance thereof.

Notice of a meeting of the Board of Directors need not be given to any director if it is waived by the director in writing, whether before or after such meeting is held. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting unless required by law, the Articles of Incorporation, or these Bylaws.

A director's attendance at or participation in a meeting shall constitute a waiver of notice of such meeting except when a director attends or participates in a meeting for the express purpose of objecting on legal grounds prior to or at the beginning of the meeting (or promptly upon the director's arrival) to the holding of the meeting or the transaction of any business and does not thereafter vote for or assent to action taken at the meeting. Any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all of the directors have received valid notice thereof, are present without objecting, or waive notice thereof, or any combination thereof.

2.11 Quorum of Directors. Except in particular situations where a lesser number is expressly permitted by law, and unless a greater number is required by the Articles of

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Incorporation, a majority of the number of directors specified in or fixed in accordance with these Bylaws shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If the number of directors in office at any time is less than the number specified in or fixed in accordance with these Bylaws, then a quorum shall consist of a majority of the number of directors in office; provided that in no event shall a quorum consist of fewer than one-third of the number specified in or fixed in accordance with these Bylaws.

Directors at a meeting of the Board of Directors at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, provided such withdrawal does not reduce the number of directors attending the meeting below the level of a quorum.

A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting of the Board of Directors to another time and place. If the meeting is adjourned for more than forty-eight (48) hours, then notice of the time and place of the adjourned meeting shall be given before the adjourned meeting takes place, in the manner specified in Section 2.10 of these Bylaws, to the directors who were not present at the time of the adjournment.

2.12 Dissent by Directors. Any director who is present at any meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the director objects at the beginning of the meeting (or promptly upon the director's arrival) to the holding of, or the transaction of business at, the meeting; or unless the director's dissent or abstention shall be entered in the minutes of the meeting; or unless the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before the adjournment thereof or to the corporation within a reasonable time after the adjournment of the meeting. Such right to dissent or abstention shall not be available to any director who votes in favor of such action.

2.13 Action by Directors Without a Meeting. Any action required by law to be taken or which may be taken at a meeting of the Board of Directors may be taken without a meeting if one or more consents in writing, setting forth the action so taken, shall be signed either before or after the action so taken by all of the directors and delivered to the corporation for inclusion in the minutes or filing with the corporate records. Such consent shall have the same effect as a meeting vote. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a later effective date.

2.14 Telephonic Meetings. Except as may be otherwise restricted by the Articles of Incorporation, members of the Board of Directors may participate in a meeting of the Board by any means of communication by which all directors participating in the meeting may simultaneously hear each other during the meeting. Participation by such means shall constitute presence in person at a meeting.

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2.15 Compensation. By resolution of the Board of Directors, the directors may be paid their expenses, if any, and may be paid a fixed sum or a stated salary as a director, for attendance at each meeting of the Board. No such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

2.16 Committees. The Board of Directors, by resolution adopted by the greater of (a) a majority of all of the directors in office, or (b) the number of directors required by the Articles of Incorporation or these Bylaws to take action may from time to time create, and appoint individuals to, one or more committees, each of which must have at least two (2) members. If a committee is formed for the purpose of exercising functions of the Board, the committee must consist solely of directors. If the only function of a committee is to study and make recommendations for action by the full Board, the committee need not consist of directors. Members of a committee composed solely of directors, in fulfilling their standard of conduct, may rely upon Section 2.1 above. Committees of directors may exercise the authority of the Board of Directors to the extent specified by such resolution or in the Articles of Incorporation or these Bylaws. However, no committee shall:

(a) authorize or approve a distribution (as defined in RCW 23B.01.400) except according to a general formula or method prescribed by the Board of Directors;

(b) approve or propose to shareholders action that by law is required to be approved by shareholders;

(c) fill vacancies on the Board of Directors or on any of its committees;

(d) amend the Articles of Incorporation;

(e) adopt, amend, or repeal Bylaws;

(f) approve a plan of merger not requiring shareholder approval; or

(g) authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the Board of Directors may authorize a committee of directors (or a senior executive officer of the corporation) to do so within limits specifically prescribed by the Board of Directors.

Committees shall be governed by the same provisions as govern the meetings, actions without meetings, notice and waiver of notice, quorum and voting requirements, and standards of conduct of the Board of Directors. The Executive Committee (if one be established) shall meet periodically between meetings of the full Board. All committees shall keep regular minutes of their meetings and shall cause them to be recorded in books kept for that purpose at the office of the corporation.

ARTICLE III OFFICERS

3.1 Appointment. The officers of the corporation shall be appointed annually by the Board of Directors at its annual meeting held after the annual meeting of the shareholders. If the appointment of officers is not held at such meeting, such appointment shall be held as soon thereafter as a Board meeting conveniently may be held. Except in the case of death, resignation, or removal, each officer shall hold office until the next annual meeting of the Board and until her successor is appointed and qualified.

3.2 Qualification. None of the officers of the corporation need be a director, except as specified below. Any two or more of the corporate

offices may be held by the same person.

3.3 Officers Enumerated. Except as otherwise provided by resolution of the Board of Directors, the officers of the corporation and their respective powers and duties shall be as follows:

3.3.1 Chairman of the Board. The Chairman of the Board (if such an officer be appointed) shall be a director and shall perform such duties as shall be assigned to her by the Board of Directors and in any employment agreement. The Chairman shall preside at all meetings of the shareholders and at all meetings of the Board at which she is present. The Chairman may sign deeds, mortgages, bonds, contracts, and other instruments, except when the signing thereof has been expressly delegated by the Board or by these Bylaws to some other officer or agent of the corporation or is otherwise required by law to be signed by some other officer or in some other manner. If the President dies or becomes unable to act, the Chairman shall perform the duties of the President, except as may be limited by resolution of the Board of Directors, with all the powers of and subject to all the restrictions upon the President.

3.3.2 President. Subject to such supervisory powers as may be given by the Board of Directors to the Chairman of the Board (if such an officer be appointed), the President shall be the chief executive officer of the corporation unless some other officer is so designated by the Board and, subject to the control of the Board and the Executive Committee (if one be established), shall supervise and control all of the assets, business, and affairs of the corporation. The President may sign certificates for shares of the corporation, deeds, mortgages, bonds, contracts, and other instruments, except when the signing thereof has been expressly delegated by the Board or by these Bylaws to some other officer or agent of the corporation or is otherwise required by law to be signed by some other officer or in some other manner. The President shall vote the shares owned by the corporation in other corporations, domestic or foreign, unless otherwise prescribed by law or resolution of the Board. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time. In the absence of the Chairman of the Board, the President, if a director, shall preside over all meetings of the shareholders and over all meetings of the Board of Directors. The President shall have

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the authority to appoint one or more Assistant Secretaries and Assistant Treasurers, as she deems necessary.

3.3.3 Vice Presidents. If no Chairman of the Board has been appointed, in the absence or disability of the President, the Vice Presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a Vice President designated by the Board shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President; provided that no such Vice President shall assume the authority to preside as Chairman of meetings of the Board unless such Vice President is a member of the Board. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be respectively prescribed for them by the Board, these Bylaws, the President, or the Chairman of the Board (if one be appointed).

3.3.4 Secretary. The Secretary shall:

(a) have responsibility for preparing minutes of meetings of the shareholders and the Board of Directors and for authenticating records of the corporation;

(b) see that all notices are duly given in accordance with the provisions of Sections 1.3, 1.5, 2.8, and 2.10 of these Bylaws and as required by law;

(c) be custodian of the corporate records and seal of the corporation, if one be adopted;

(d) keep a register of the post office address of each shareholder and director;

(e) attest certificates for shares of the corporation;

(f) have general charge of the stock transfer books of the corporation;

(g) when required by law or authorized by resolution of the Board of Directors, sign with the President, or other officer authorized by the President or the Board, deeds, mortgages, bonds, contracts, and other instruments; and

(h) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or the Board of Directors.

In the absence of the Secretary, an Assistant Secretary may perform the duties of the Secretary.

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3.3.5 Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of her duties in such sum and with such surety or sureties as the Board shall determine. The Treasurer shall:

(a) have charge and custody of and be responsible for all funds and securities of the corporation;

(b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever and deposit all such moneys in the name of the corporation in banks, trust companies, or other depositories selected in accordance with the provisions of these Bylaws; and

(c) in general, perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or the Board of Directors.

In the absence of the Treasurer, an Assistant Treasurer may perform the duties of the Treasurer.

3.4 Delegation. In case of the absence or inability to act of any officer of the corporation and of each person herein authorized to act in her place, the Board of Directors may from time to time delegate the powers and duties of such officer to any other officer or other person whom it may select.

3.5 Resignation. Any officer may resign at any time by delivering notice to the corporation. Any such resignation shall take effect at the time the notice is delivered unless the notice specifies a later effective date. Unless otherwise specified therein, acceptance of such resignation by the

corporation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

3.6 Removal. Any officer or agent may be removed by the Board with or without cause. An officer empowered to appoint another officer or assistant officer also has the power to remove any officer she would have the power to appoint whenever in her judgment the best interests of the corporation would be served thereby. The removal of an officer or agent shall be without prejudice to the contract rights, if any, of the corporation or the person so removed. Appointment of an officer or agent shall not of itself create contract rights.

3.7 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, creation of a new office, or any other cause may be filled by the Board of Directors for the unexpired portion of the term or for a new term established by the Board.

3.8 Other Officers and Agents. One or more Vice Presidents and such other officers and assistant officers as may be deemed necessary or advisable may be appointed by

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the Board of Directors or, to the extent provided in Section 3.3.2 above, by the President. Such other officers and assistant officers shall hold office for such periods, have such authorities, and perform such duties as are provided in these Bylaws or as may be provided by resolution of the Board. Any officer may be assigned by the Board any additional title that the Board deems appropriate. The Board may delegate to any officer or agent the power to appoint any such assistant officers or agents and to prescribe their respective terms of office, authorities, and duties.

3.9 Compensation. Compensation, if any, for officers and other agents and employees of the corporation shall be determined by the Board of Directors, or by the President to the extent such authority may be delegated to her by the Board. No officer shall be prevented from receiving compensation in such capacity by reason of the fact that she is also a director of the corporation.

3.10 General Standards for Officers. Officers with discretionary authority shall discharge their duties under that authority in accordance with the same standards of conduct applicable to directors as specified in Section 2.1 above (except for subsection (c) thereof).

ARTICLE IV CONTRACTS, CHECKS AND DRAFTS

4.1 Contracts. The Board of Directors may authorize any officer or officers or agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances.

Subject to the limitations set forth in RCW 23B.08.700 through 23B.08.730, 23B.17.020, and 23B.19.040, to the extent applicable:

(a) The corporation may enter into contracts and otherwise transact business as vendor, purchaser, lender, borrower, or otherwise with its directors and shareholders and with corporations, associations, firms, and entities in which they are or may be or become interested as directors, officers, shareholders, members, or otherwise.

(b) Any such contract or transaction shall not be affected or invalidated or give rise to liability by reason of the director's or shareholder's having an interest in the contract or transaction.

4.2 Checks, Drafts, Etc. All checks, drafts, and other orders for the payment of money, notes, and other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers or agent or agents of the corporation and in such manner as may be determined from time to time by resolution of the Board of Directors.

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4.3 Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Treasurer, subject to the direction of the Board of Directors, may select.

ARTICLE V STOCK

5.1 Issuance of Shares. No shares of the corporation shall be issued unless authorized by the Board of Directors, which authorization shall include the maximum number of shares to be issued, the consideration to be received for each share, and, if the consideration is in a form other than cash, the determination of the value of the consideration.

5.2 Certificates of Stock. Certificates of stock shall be issued in numerical order, and each shareholder shall be entitled to a certificate signed by the President or a Vice President, attested to by the Secretary or an Assistant Secretary, and sealed with the corporate seal, if any. Every certificate of stock shall state:

- (a) The state of incorporation;
- (b) The name of the registered holder of the shares represented thereby;
- (c) The number and class of shares, and the designation of the series, if any, which such certificate represents;
- (d) If the corporation is authorized to issue different classes of shares or different series within a class, either a summary of (on the face or back of the certificate), or a statement that the corporation will furnish to any shareholder upon written request and without charge a summary of, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences and limitations determined for each series, and the authority of the Board of Directors to determine variations for future series; and
- (e) If the shares are subject to transfer or other restrictions under applicable securities laws or contracts with the corporation, either a complete description of or a reference to the existence and general nature of such restrictions on the face or back of the certificate.

5.3 Stock Records. The corporation or its agent shall maintain at the registered office or principal office of the corporation, or at the office of the transfer agent or registrar of the corporation, if one be designated by the Board of Directors, a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders in

alphabetical order by class of shares showing the number and class of shares

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held by each. The person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes.

5.4 Restrictions on Transfer. The Board of Directors shall have the authority to issue shares of the capital stock of this corporation and the certificates therefor subject to such transfer restrictions and other limitations as it may deem necessary to promote compliance with applicable federal and state securities laws, and to regulate the transfer thereof in such manner as may be calculated to promote such compliance or to further any other reasonable purpose. Except to the extent that the corporation has obtained an opinion of counsel acceptable to the corporation that transfer restrictions are not required under applicable securities laws, all certificates representing shares of the corporation shall bear the following legend (or a legend of substantially the same import) on the face of the certificate or on the reverse of the certificate if a reference to the legend is contained on the face:

NOTICE: RESTRICTIONS ON TRANSFER

The securities represented by this certificate have not been registered under the Securities Act of 1933, or any state securities laws, and may not be offered, sold, transferred, encumbered, or otherwise disposed of except upon satisfaction of certain conditions. Information concerning these restrictions may be obtained from the corporation or its legal counsel. Any offer or disposition of these securities without satisfaction of said conditions will be wrongful and will not entitle the transferee to register ownership of the securities with the corporation.

5.5 Transfers. Shares of stock may be transferred by delivery of the certificates therefor, accompanied by:

(a) an assignment in writing on the back of the certificate, or an assignment separate from certificate, or a written power of attorney to sell, assign, and transfer the same, signed by the record holder of the certificate; and

(b) such additional documents, instruments, and other items of evidence as may be reasonably necessary to satisfy the requirements of any transfer restrictions applicable to such shares, whether arising under applicable securities or other laws, or by contract, or otherwise.

Except as otherwise specifically provided in these Bylaws, no shares of stock shall be transferred on the books of the corporation until the outstanding certificate therefor has been surrendered to the corporation. All certificates surrendered to the corporation for transfer shall be canceled, and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled, except that, in case of a lost, destroyed, or mutilated certificate, a new one may be issued therefor upon such terms (including indemnity to the corporation) as the Board of Directors may prescribe.

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ARTICLE VI
RECORDS OF CORPORATE MEETINGS

The corporation shall keep, as permanent records, minutes of all meetings of its shareholders and Board of Directors, a record of all actions taken by the shareholders or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors exercising the authority of the Board of Directors on behalf of the corporation. The corporation shall keep at its principal office a copy of the minutes of all shareholders' meetings that have occurred, and records of all action taken by shareholders without a meeting, within the past three (3) years. Any person dealing with the corporation may rely upon a copy of any of the records of the proceedings, resolutions, or votes of the Board or shareholders when certified by the President or Secretary.

ARTICLE VII
FINANCIAL MATTERS

The corporation shall maintain appropriate accounting records at its principal office and shall prepare the annual financial statements required by RCW 23B.16.200. Except to the extent otherwise expressly determined by the Board of Directors or otherwise required by law, the accounting records of the corporation shall be kept and prepared in accordance with generally accepted accounting principles applied on a consistent basis from period to period. The fiscal year of the corporation shall be the calendar year unless otherwise expressly determined by the Board of Directors.

ARTICLE VIII
DISTRIBUTIONS

The Board of Directors may from time to time authorize, and the corporation may make, distributions (as defined in RCW 23B.01.400) to its shareholders to the extent permitted by RCW 23B.06.400, subject to any limitation in the Articles of Incorporation. A director who votes for or assents to a distribution made in violation of RCW 23B.06.400 is personally liable to the corporation for the amount of the distribution that exceeds that which could have been distributed without violating RCW 23B.06.400 if it is established that the director did not perform the director's duties in compliance with Section 2.1 above.

ARTICLE IX
CORPORATE SEAL

The Board of Directors may, but shall not be required to, adopt a corporate seal for the corporation in such form and with such inscription as the Board may determine. If such a corporate seal shall at any time be so adopted, the application of or the failure to apply such

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seal to any document or instrument shall have no effect upon the validity or invalidity of such document or instrument under otherwise applicable principles of law.

ARTICLE X
INDEMNIFICATION

As provided by Section 5.4 of the Articles of Incorporation:

10.1 Definitions. The capitalized terms in this Article X shall have the meanings set forth in RCW 23B.08.500.

10.2 Mandatory Indemnification. The Corporation shall indemnify and hold harmless each individual who is or was serving as a Director or officer of the Corporation or who, while serving as a Director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against any and all Liability incurred with respect to any Proceeding to which the individual is or is threatened to be made a Party because of such service, and shall make advances of reasonable Expenses with respect to such Proceeding, to the fullest extent permitted by law, without regard to the limitations in RCW 23B.08.510 through 23B.08.550; provided that no such indemnity shall indemnify any Director or officer from or on account of (a) acts or omissions of the Director or officer finally adjudged to be intentional misconduct or a knowing violation of law; (b) conduct of the Director or officer finally adjudged to be in violation of RCW 23B.08.310; or (c) any transaction with respect to which it was finally adjudged that such Director or officer personally received a benefit in money, property, or services to which the Director or officer was not legally entitled.

10.3 Insurance. The Corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the Corporation or, who, while a director, officer, employee, or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise against Liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, officer, employee, or agent, whether or not the Corporation would have power to indemnify the individual against such Liability under RCW 23B.08.510 or 23B.08.520.

10.4 Changes in Law. If, after the effective date of this Article X, the Act is amended to authorize further indemnification of Directors or officers, then Directors and officers of the Corporation shall be indemnified to the fullest extent permitted by the Act as so amended.

10.5 Exclusivity; Nature of Rights; Amendment. To the extent permitted by law, the rights to indemnification and advance of reasonable Expenses conferred in this Article X

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shall not be exclusive of any other right which any individual may have or hereafter acquire under any statute, provision of the Bylaws, agreement, vote of shareholders or disinterested directors, or otherwise. The right to indemnification conferred in this Article X shall be a contract right upon which each Director or officer shall be presumed to have relied in determining to serve or to continue to serve as such. Any amendment to or repeal of this Article X shall not adversely affect any right or protection of a Director or officer of the Corporation for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal.

ARTICLE XI MISCELLANY

11.1 Communications by Facsimile. Whenever these Bylaws require notice, consent, or other communication to be delivered for any purpose, transmission by phone, wire, or wireless equipment which transmits a facsimile of such communication shall constitute sufficient delivery for such purpose. Such communication shall be deemed to have been received by or in the possession of the addressee upon completion of the transmission.

11.2 Inspector of Elections. Before any annual meeting of shareholders, the Board of Directors may appoint an inspector of elections to act at the meeting and any adjournment thereof. If no inspector of elections is so appointed by the Board, then the chairman of the meeting may appoint an inspector of elections to act at the meeting. If any person appointed as inspector fails to appear or fails or refuses to act, then the chairman of the meeting may, and upon the request of any shareholder or a shareholder's proxy shall, appoint a person to fill that vacancy.

Such inspector of elections shall:

- (a) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and, with the advice of legal counsel to the corporation, the authenticity, validity, and effect of proxies pursuant to RCW 23B.07.220 and 23B.07.240 and any procedure adopted by the Board of Directors pursuant to RCW 23B.07.230;
- (b) receive votes, ballots, or consents;
- (c) hear and determine all challenges and questions in any way arising in connection with the right to vote;
- (d) count and tabulate all votes or consents;
- (e) determine the result; and

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- (f) do any other acts that may be proper to conduct the election or vote with fairness to all shareholders.

11.3 Rules of Order. The rules contained in the most recent edition of Robert's Rules of Order, Revised, shall govern all meetings of shareholders and directors where those rules are not inconsistent with the Articles of Incorporation or Bylaws, subject to the following:

- (a) The chairman of the meeting shall have absolute authority over matters of procedure, and there shall be no appeal from the ruling of the chairman. If the chairman in her absolute discretion deems it advisable to dispense with the rules of parliamentary procedure for any meeting or any part thereof, the chairman shall so state and shall clearly state the rules under which the meeting or appropriate part thereof shall be conducted.
- (b) If disorder should arise which prevents continuation of the legitimate business of the meeting, the chairman may quit the chair and announce the adjournment of the meeting; upon so doing, the meeting shall be deemed immediately adjourned, subject to being reconvened in accordance with Section 1.5 of these Bylaws, as the case may be.
- (c) The chairman may ask or require that anyone not a bona fide shareholder or proxy leave the meeting of shareholders.

(d) A resolution or motion at a meeting of shareholders shall be considered for vote only if proposed by a shareholder or duly authorized proxy and seconded by an individual who is a shareholder or duly authorized proxy other than the individual who proposed the resolution or motion.

11.4 Construction. Within these Bylaws, words of any gender shall be construed to include any other gender, and words in the singular or plural number shall be construed to include the plural or singular, respectively, unless the context otherwise requires.

11.5 Severability. If any provision of these Bylaws or any application thereof shall be invalid, unenforceable, or contrary to applicable law, the remainder of these Bylaws, and the application of such provisions to individuals or circumstances other than those as to which it is held invalid, unenforceable, or contrary to applicable law, shall not be affected thereby.

ARTICLE XII AMENDMENT OF BYLAWS

Subject to the requirements of RCW 23B.10.210 relating to supermajority quorum provisions for the Board of Directors, the Bylaws of the corporation may be amended or repealed, or new Bylaws may be adopted, by: (a) the shareholders, even though the Bylaws may also be amended or repealed, or new Bylaws may also be adopted, by the Board of

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Directors; or (b) subject to the power of the shareholders of the corporation to change or repeal the Bylaws, the Board of Directors, unless such power is reserved, by the Articles of Incorporation or by law, exclusively to the shareholders in whole or in part or unless the shareholders, in amending or repealing a particular bylaw, provide expressly that the Board of Directors may not amend or repeal that bylaw.

ARTICLE XIII AUTHENTICATION

The foregoing Bylaws were read, approved, and duly adopted by the Board of Directors of Progressive Networks, Inc. on the 31st day of March, 1995, and the President and Secretary of the corporation were empowered to authenticate such Bylaws by their signatures below.

/s/ Rob Glaser

Rob Glaser, President

/s/ Rob Glaser

Rob Glaser, Secretary

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Exhibit 10.1

PROGRESSIVE NETWORKS, INC.

1995 STOCK OPTION PLAN

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PROGRESSIVE NETWORKS, INC.

1995 STOCK OPTION PLAN

ARTICLE 1

PURPOSE AND EFFECTIVENESS

1.1 PURPOSE. The purpose of the 1995 Stock Option Plan (the "Plan") is to provide a method by which selected individuals rendering services to Progressive Networks, Inc., a Washington corporation (the "Company"), may be offered an opportunity to invest in capital stock of the Company, thereby increasing their personal interest in the growth and success of the Company. The Plan is also intended to aid in attracting persons of exceptional ability to become officers and employees of the Company.

1.2 EFFECTIVE DATE; SHAREHOLDER APPROVAL. The Plan shall be effective at the time specified in the resolutions of the Board adopting the Plan (the "Effective Date"). The Plan shall be subject to the requirement of RCW 21.20.310(10) that the Administrator of Securities of the Department of Financial Institutions of the State of Washington be provided with notification of the adoption of the Plan. No Option shall be granted hereunder until this notification requirement has been satisfied. The issuance of Incentive Stock Options shall be subject to approval of the Plan by holders of shares of Common Stock constituting at least a majority of the shares of Common Stock represented in person or by proxy at the meeting at which the approval is sought. If this shareholder approval requirement is not satisfied within twelve (12) months after the Effective Date, all Incentive Stock Options issued under the Plan shall automatically become Nonqualified Stock Options.

ARTICLE 2

DEFINITIONS

2.1 CERTAIN DEFINED TERMS. Capitalized terms not defined elsewhere in the Plan shall have the following meanings (whether used in the singular or plural):

"Administrative Committee" is defined in Section 3.1.

"Affiliate" of the Company means any corporation, partnership, or other business association that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Company.

"Approved Transaction" means (a) any merger, consolidation or binding share exchange pursuant to which shares of Common Stock are changed or converted into or exchanged for cash, securities or other property, other than any such transaction in which the persons who hold Common Stock immediately prior to the transaction have immediately following the transaction the same proportionate ownership of the common stock of, and the same voting power with respect to, the surviving corporation; (b) any merger, consolidation or binding share exchange in which the persons who hold Common Stock immediately prior to the transaction have immediately following the transaction less than a majority of the combined voting power of the outstanding capital stock of the Company ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors; (c) any liquidation or dissolution of the Company; and (d) any sale, lease, exchange or other transfer not in the

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ordinary course of business (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company.

"Board" means the Board of Directors of the Company.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Code shall include any successor section.

"Common Stock" means the Series B Common Stock or the Series C Common Stock of the Company.

"Company" means Progressive Networks, Inc., a Washington corporation.

"Control Purchase" means any transaction (or series of related transactions), consummated without the approval of the Board, in which (a) any person, corporation or other entity (including any "person" as defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act, but excluding the Company and any employee benefit plan sponsored by the Company) purchases any Common Stock (or securities convertible into Common Stock) for cash, securities or any other consideration pursuant to a tender offer or exchange offer; or (b) any person, corporation or other entity (including any "person" as defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act, but excluding the Company and any employee benefit plan sponsored by the Company) becomes the "beneficial owner" (as that term is defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the then outstanding securities of the Company ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors (calculated as provided in Rule 13d-3(d) under the Exchange Act in the case of rights to acquire the Company's securities).

"Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

"Disinterested Person" is defined in Section 3.2(b).

"Effective Date" is defined in Section 1.2.

"Eligible Person" is defined in Section 5.1.

"Equity Securities" has the meaning given that term in Rule 16a-1 promulgated under the Exchange Act, or any successor rule.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Exchange Act shall include any successor section.

"Fair Market Value" on any day means, if the Common Stock is publicly traded, the last sales price (or, if no last sales price is reported, the average of the high bid and low asked prices) for a share of Common Stock on that day (or, if that day is not a trading day, on the next preceding trading day), as reported by the principal exchange on which the Common Stock is listed, or, if the Common Stock is publicly traded but not listed on an exchange, as reported on NASDAQ, or, if such prices or quotations are not reported on NASDAQ, as reported by any

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other available source of prices or quotations selected by the Administrative Committee. If the Common Stock is not publicly traded, or if the Fair Market Value is not determinable by any of the foregoing means, the Fair Market Value on any day shall be determined in good faith by the Administrative Committee on the basis of such considerations as the Administrative Committee deems appropriate.

"Holder" means an Eligible Person who has received an Option under this Plan or, if rights continue under the Option following the death of the Eligible Person, the person who succeeds to those rights by will or by the laws of descent and distribution.

"Incentive Stock Option" means an Option that is an incentive stock option within the meaning of Section 422 of the Code.

"NASDAQ" means the National Association of Securities Dealers, Inc. Automated Quotation System.

"Nonqualified Stock Option" means an Option that is designated as a nonqualified stock option.

"Option" means an Incentive Stock Option or Nonqualified Stock Option.

"Option Agreement" is defined in Section 6.5.

"Plan" is defined in Section 1.1.

"Rule 16b-3" means Rule 16b-3 promulgated under the Exchange Act, as amended from time to time, or any successor rule thereto.

"10% Shareholder" means a person who owns (or is considered as owning within the meaning of Section 424 of the Code) stock possessing more than 10% of the total combined voting power of all classes of capital stock of the Company.

ARTICLE 3

ADMINISTRATION

3.1 ADMINISTRATIVE COMMITTEE. The Plan shall be administered by the Board unless the Board, either voluntarily or as required by Section 3.2 below, appoints a separate committee of the Board to administer the Plan (the Board, or such committee, if it is administering the Plan, will be referred to in the Plan as the "Administrative Committee"). The Administrative Committee shall select one of its members as its chairman and shall hold its meetings at such times and places as it shall deem advisable. A majority of its members shall constitute a quorum and all determinations shall be made by a majority of that quorum. Any determination reduced to writing and signed by all of the members of the Administrative Committee shall be fully as effective as if it had been made by a majority vote at a meeting duly called and held.

3.2 ADMINISTRATION FOLLOWING EXCHANGE ACT REGISTRATION. Notwithstanding the foregoing provisions of this Article 3, if the Company registers any class of any Equity Security pursuant to Section 12 of the Exchange Act, the Plan shall, from the effective date of the registration until six (6) months after the termination of the registration, be administered as follows:

(a) If at any time a member of the Board is not a Disinterested Person, then the Board shall appoint a committee, consisting of two or more of its members each of whom is a

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Disinterested Person, to administer this Plan in accordance with such terms and conditions not inconsistent with this Plan as the Board may prescribe. Once appointed, the committee shall continue to serve until otherwise directed by the Board. From time to time the Board may increase the size of the committee and appoint additional members, remove members (with or without cause) and appoint new members in their place, fill vacancies however caused, and/or remove all members of the committee and thereafter directly administer this Plan at any later time when all members of the Board are Disinterested Persons. At no time shall a person who is not a Disinterested Person serve on the committee appointed under this Section 3.2(a), nor shall the committee at any time have fewer than two members.

(b) The term "Disinterested Person" shall mean a member of the Board who is not, during the period of one (1) year prior to service as a member of the Administrative Committee, or during such service, granted or awarded Equity Securities pursuant to the Plan or any other plan of the Company or any of its Affiliates, other than grants or awards that would not prevent the member from being a "disinterested person" with respect to the Plan for purposes of Rule 16b-3.

3.3 POWERS; REGULATIONS. The Administrative Committee shall have full power and authority, subject only to the express provisions of the Plan (a) to designate the Eligible Persons to whom Options are to be granted under the Plan; (b) to determine the number of shares subject to, and all of the other terms and conditions (which need not be identical) of, all Options so granted; (c) to interpret the provisions of the Plan and the Option Agreements evidencing the Options so granted; (d) to correct any defect, supply any information and reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; (e) to supervise the administration of the Plan; and (f) to take such other actions in connection with or in relation to the Plan as it deems necessary or advisable. The Administrative Committee is authorized to establish, amend and rescind such

rules and regulations not inconsistent with the terms and conditions of the Plan as it deems necessary or advisable for the proper administration of the Plan. In making determinations hereunder, the Administrative Committee may give such consideration to the recommendations of management of the Company as the Administrative Committee deems desirable.

3.4 LIMITS ON AUTHORITY. Exercise by the Administrative Committee of its authority under the Plan shall be consistent (a) with the intent that all Incentive Stock Options issued under the Plan be qualified under the terms of Section 422 of the Code (including any amendments thereto and any similar successor provision), and (b) if the Company registers any class of any Equity Security pursuant to Section 12 of the Exchange Act, with the intent that the Plan be administered in a manner that satisfies the conditions of Rule 16b-3(c)(2)(i) under the Exchange Act (including any amendments thereto and any similar successor provision) so that the grant of Options under this Plan, as well as all other transactions with respect to the Plan, to Options granted thereunder and to any Common Stock acquired upon exercise of Options, shall, to the extent possible, be exempt from the operation of Section 16(b) of the Exchange Act.

3.5 EXERCISE OF AUTHORITY. Each action and determination made or taken pursuant to the Plan by the Administrative Committee, including but not limited to any interpretation or construction of the Plan and the Option Agreements, shall be final and conclusive for all purposes and upon all persons. No member of the Administrative Committee shall be liable for any action or determination made or taken by the member or the Administrative Committee in good faith with respect to the Plan.

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ARTICLE 4

SHARES SUBJECT TO THE PLAN

4.1 NUMBER OF SHARES. Subject to the provisions of this Article 4, the maximum number of shares of Common Stock with respect to which Options may be granted during the term of the Plan shall be Three Million Six Hundred Thousand (3,600,000). Shares of Common Stock will be made available from the authorized but unissued shares of the Company or from shares reacquired by the Company. If any Option terminates for any reason without having been exercised in full, the shares of Common Stock subject to the Option for which it has not been exercised shall again be available for purposes of the Plan.

4.2 ADJUSTMENTS. If the Company subdivides its outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock dividend, stock split, reclassification or otherwise) or combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock (by reverse stock split, reclassification or otherwise), or if the Administrative Committee determines, in its sole discretion, that any stock dividend, extraordinary cash dividend, reclassification, recapitalization, reorganization, split-up, spin-off, combination, exchange of shares, warrants or rights offering to purchase Common Stock, or other similar corporate event (including a merger or consolidation other than one that constitutes an Approved Transaction) affects the Common Stock such that an adjustment is required in order to preserve the benefits or potential benefits intended to be made available under this Plan, then the Administrative Committee shall, in its sole discretion and in such manner as the Administrative Committee may deem equitable and appropriate, make adjustments to any or all of (a) the number and kind of shares with respect to which Options may thereafter be granted under this Plan; (b) the number and kind of shares subject to outstanding Options, and (c) the purchase price under outstanding Options; PROVIDED, HOWEVER, that the number of shares subject to an Option shall always be a whole number. The Administrative Committee may, if

deemed appropriate, provide for a cash payment to any Holder of an Option in connection with any adjustment made pursuant to this Section 4.2.

ARTICLE 5

ELIGIBILITY

5.1 GENERAL. The persons eligible to participate in the Plan and to receive Options under the Plan ("Eligible Persons") shall, subject to Section 5.2, be (a) employees (including officers and directors who are also employees) of the Company or any of its Affiliates, and (b) consultants (other than directors) rendering services to the Company or any of its Affiliates in the capacity of independent contractors. Options may be granted to Eligible Persons even if they hold or have held Options under this Plan or options or similar awards under any other plan of the Company or any of its Affiliates.

5.2 INELIGIBILITY. If the Company registers any class of any Equity Security pursuant to Section 12 of the Exchange Act, then, from the effective date of the registration until six (6) months after the termination of the registration, no member of the Administrative Committee, while serving as such, shall be eligible to receive an Option.

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ARTICLE 6

STOCK OPTIONS

6.1 GRANT OF OPTIONS. Subject to the limitations of the Plan, the Administrative Committee shall designate from time to time each Eligible Person who is to be granted an Option, the time when the Option shall be granted, the number of shares subject to the Option, whether the Option is to be an Incentive Stock Option or a Nonqualified Stock Option and, subject to Section 6.2, the purchase price of the shares of Common Stock subject to the Option; PROVIDED, HOWEVER, that Incentive Stock Options may only be granted to Eligible Persons who are employees of the Company or an Affiliate that constitutes a "parent corporation" or a "subsidiary corporation" within the meaning of Section 424 of the Code. Each Option granted under this Plan shall also be subject to such other terms and conditions not inconsistent with this Plan as the Administrative Committee, in its sole discretion, determines. Subject to the limitations of the Plan, the same Eligible Person may receive Incentive Stock Options and Nonqualified Stock Options at the same time and pursuant to the same Option Agreement, provided that Incentive Stock Options and Nonqualified Stock Options are clearly designated as such.

6.2 PURCHASE PRICE. The price at which shares may be purchased upon exercise of an Option shall be fixed by the Administrative Committee and may be more than, less than or equal to the Fair Market Value of the Common Stock as of the date the Option is granted; PROVIDED, HOWEVER, that the purchase price of an Incentive Stock Option shall be (a) at least 110% of the Fair Market Value as of the date of grant of the Common Stock subject thereto, if the Incentive Stock Option is being granted to a 10% Shareholder, and (b) at least 100% of the Fair Market Value as of the date of grant of the Common Stock subject thereto, if the Incentive Stock Option is being granted to any other Eligible Person.

6.3 LIMITATION ON GRANTS. The aggregate Fair Market Value of the Common Stock with respect to which, during any calendar year, one or more Incentive Stock Options under this Plan (and/or one or more options under any other plan maintained by the Company or any of its Affiliates for the granting of options intended to qualify under Section 422 of the Code) are exercisable for the first time by a Holder shall not exceed \$100,000 (said value to be determined as of

the respective dates on which the options are granted to the Holder). If an Option that would otherwise qualify as an Incentive Stock Option becomes exercisable for the first time in any calendar year for shares of Common Stock that would cause such aggregate Fair Market Value to exceed \$100,000, then the portion of the Option in respect of such shares shall be deemed to be a Nonqualified Stock Option.

6.4 TERM OF OPTIONS. Subject to the provisions of the Plan with respect to termination of Options upon death, Disability or termination of services, the term of each Option shall be for such period as the Administrative Committee shall determine, but not more than (a) five (5) years from the date of grant in the case of Incentive Stock Options held by 10% Shareholders; (b) ten (10) years from the date of grant in the case of Incentive Stock Options held by persons other than 10% Shareholders; and (c) twenty (20) years from the date of grant in the case of all other Options, provided, however, that the term for Nonqualified Stock Option granted more than one (1) year following the Effective Date shall be ten (10) years unless otherwise determined by the Administrative Committee.

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6.5 OPTION AGREEMENT. Each Option granted under the Plan shall be evidenced by an agreement (the "Option Agreement") which shall designate the Option as an Incentive Stock Option or a Nonqualified Stock Option and contain such terms and provisions not inconsistent with the provisions of the Plan as the Administrative Committee from time to time approves. Each grantee of an Option shall be notified promptly of the grant, an Option Agreement shall be executed and delivered by the Company to the grantee within sixty (60) days after the date the Administrative Committee approves the grant, and, in the discretion of the Administrative Committee, the grant shall terminate if the Option Agreement is not signed by the grantee (or his or her attorney) and delivered to the Company within sixty (60) days after it is delivered to the grantee. An Option Agreement may contain (but shall not be required to contain) such provisions as the Administrative Committee deems appropriate to insure that the penalty provisions of Section 4999 of the Code will not apply to any stock received by the Holder from the Company. An Option Agreement may be modified from time to time pursuant to Section 7.6(b).

6.6 EXERCISE OF OPTIONS. An Option granted under the Plan shall become and remain exercisable during the term of the Option to the extent provided in the Option Agreement evidencing the Option and in this Plan and, unless the Option Agreement otherwise provides, may be exercised to the extent exercisable, in whole or in part, at any time and from time to time during such term; PROVIDED, HOWEVER, that subsequent to the grant of an Option, the Administrative Committee, at any time before complete termination of the Option, may accelerate the time or times at which the Option may be exercised in whole or in part (without reducing the term of the Option).

6.7 MANNER OF EXERCISE.

(a) FORM OF PAYMENT. An Option shall be exercised by written notice to the Company upon such terms and conditions as the Option Agreement evidencing the Option may provide and in accordance with such other procedures for the exercise of Options as the Administrative Committee may establish from time to time. The method or methods of payment of the purchase price for the shares to be purchased upon exercise of an Option and of any amounts required by Section 7.8 shall be determined by the Administrative Committee and may consist of (i) cash, (ii) check, (iii) promissory note, (iv) whole shares of Common Stock already owned by the Holder, (v) the withholding of shares of Common Stock issuable upon exercise of the Option, (vi) the delivery, together with a properly executed exercise notice, of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds required to pay the purchase price, (vii) any combination of the foregoing methods of

payment, or (viii) such other consideration and method of payment as may be permitted for the issuance of shares under applicable securities and other laws. The permitted methods or methods of payment of the amounts payable upon exercise of an Option, if other than in cash, shall be set forth in the Option Agreement evidencing the Option and may be subject to such conditions as the Administrative Committee deems appropriate. Without limiting the generality of the foregoing, if a Holder is permitted to elect to have shares of Common Stock issuable upon exercise of an Option withheld to pay all or any part of the amounts payable in connection with the exercise, then the Administrative Committee shall have the sole discretion to approve or disapprove the election, which approval or disapproval shall be given after the election is made, and the making of the election (including the related exercise of the Option) shall comply with the requirements for exemptive relief under Rule 16b-3, including but not limited to paragraphs (e)(3) and (e)(4) thereof (to the extent Rule 16b-3 applies to the election or exercise).

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(b) VALUE OF SHARES. Shares of Common Stock delivered in payment of all or any part of the amounts payable in connection with the exercise of an Option, and shares of Common Stock withheld for the payment, shall be valued for such purpose at their Fair Market Value as of the exercise date.

(c) ISSUANCE OF SHARES. The Company shall effect the issuance of the shares of Common Stock purchased under the Option as soon as practicable after the exercise thereof and payment in full of the purchase price therefor and of any amounts required by Section 7.8, and within a reasonable time thereafter the issuance shall be evidenced on the books of the Company.

6.8 LEGENDS. Each certificate representing shares of Common Stock issued under the Plan upon exercise of an Option shall, unless the Administrative Committee otherwise determines, contain on its face the notice "SEE TRANSFER RESTRICTIONS ON REVERSE" and on its reverse a legend in form substantially as follows, together with any other legends that are required by the terms and conditions of the Plan or that the Administrative Committee in its discretion deems necessary or appropriate:

NOTICE: TRANSFER AND OTHER RESTRICTIONS

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, TRANSFERRED, ENCUMBERED, OR OTHERWISE DISPOSED OF EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS. INFORMATION CONCERNING THESE RESTRICTIONS MAY BE OBTAINED FROM THE CORPORATION. ANY OFFER OR DISPOSITION OF THESE SECURITIES WITHOUT SATISFACTION OF SAID CONDITIONS WILL BE WRONGFUL AND WILL NOT ENTITLE THE TRANSFEREE TO REGISTER OWNERSHIP OF THE SECURITIES WITH THE CORPORATION.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO RESTRICTIONS ON TRANSFER, AND MAY BE SUBJECT TO REPURCHASE BY THE CORPORATION OR ONE OR MORE OF ITS SHAREHOLDERS PURSUANT TO THE PROVISIONS OF THE CORPORATION'S 1995 STOCK OPTION PLAN AND/OR AN AGREEMENT BETWEEN THE HOLDER AND THE CORPORATION AND/OR AN AGREEMENT AMONG THE CORPORATION AND ITS SHAREHOLDERS. INFORMATION CONCERNING THESE RESTRICTIONS MAY BE OBTAINED FROM THE CORPORATION.

The Company may cause the transfer agent for the Common Stock to place a stop transfer order with respect to such shares.

6.9 NONTRANSFERABILITY. Options shall not be transferable other than by

will or the laws of descent and distribution, and Options may be exercised during the lifetime of the Holder thereof only by the Holder (or his or her court appointed legal representative).

6.10 REPURCHASE OF SHARES.

(a) RIGHT OF REPURCHASE. The Company shall have the right, but shall not be required, to repurchase from a Holder who is an employee of the Company or any of its Affil-

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iates or a party to a written consulting agreement with the Company or any of its Affiliates, all or part of the shares of Common Stock that the Holder has acquired upon the exercise of the Option. Such right shall be exercisable at any time and from time to time during the period of ninety (90) days commencing on the date of termination of the Holder's employment or consulting agreement with the Company or any of its Affiliates for "cause," as defined in Section 7.2(b).

(b) EXERCISE OF REPURCHASE RIGHT. The Company's right of repurchase under this Section 6.10 shall be exercised by delivery written notice to the Holder specifying the number of shares to be repurchased and the effective date of the repurchase, which date shall not be earlier than the date of the notice nor later than the date of termination of the Company's right of repurchase.

(c) REPURCHASE PRICE. With respect to each share to be repurchased by the Company upon its exercise of its right of repurchase under this Section 6.10, the repurchase price shall be the Fair Market Value of the share as of the effective date of the repurchase. The Company may elect to pay the amount owed to the Holder either (i) in cash, in which case the amount shall be paid, without interest, within thirty (30) days following the effective date of the repurchase, or (ii) in three equal installments, with the first installment payable on the first anniversary of the effective date of the repurchase, and the remaining installments payable on the corresponding date in each of the next two years, with each installment to include interest on the unpaid principal computed at the prime rate in effect at the effective date of the repurchase, for the period from the effective date of the repurchase or the date of the most recent installment, as the case may be, to the due date of the installment being paid.

(d) TERMINATION OF RIGHT OF REPURCHASE. Any right of repurchase of the Company under this Section 6.10 shall terminate upon the occurrence of a Control Purchase or an Approved Transaction (other than an Approved Transaction in connection with which the Administrative Committee determines, in accordance with the last sentence of Section 7.1, that Options otherwise subject to such right of repurchase will not vest or become exercisable on an accelerated basis and/or will not terminate if not exercised prior to consummation of the Approved Transaction). Any right of repurchase of the Company under this Section 6.10 shall also terminate upon the effective date of the registration by the Company of any class of any Equity Security pursuant to Section 12 of the Exchange Act.

6.11 CLASS OF COMMON STOCK. The class of shares subject to each Option and the class of shares to be received upon exercise of each Option shall depend upon the employment status of the Eligible Person at the date the Option is granted and at the date the Option is exercised. If the Eligible Person is an employee (including officers and directors who are also employees) of the Company or one of its Affiliates as of the date the Option is granted, the shares subject to the Option shall be shares of Series B Common Stock, which are automatically convertible into the shares of Series C Common Stock upon the occurrence of certain events (a "Conversion Event") as described in the Company's Articles of Incorporation, as amended from time to time (the "Articles"), provided, that if a Conversion Event occurs prior to the exercise

of an Option, the shares subject to the Option shall be shares of Series C Common Stock, with the rights defined in the Articles. If the Eligible Person is a consultant (other than a director) rendering services to the Company or any of its Affiliates in the capacity of an independent contractor as of the date the Option is granted, the shares subject to the Option shall be shares of Series C

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Common Stock, with the rights defined in the Articles, regardless of the Eligible Person's employment status with the Company at the date the Option is exercised

ARTICLE 7

GENERAL PROVISIONS

7.1 ACCELERATION OF OPTIONS--APPROVED TRANSACTIONS; CONTROL PURCHASE. In the event of any Approved Transaction or Control Purchase, each outstanding Option under the Plan shall become exercisable in full in respect of the aggregate number of shares covered thereby, notwithstanding any contrary vesting schedule in the Option Agreement evidencing the Option (except to the extent the Option Agreement expressly provides otherwise), effective upon the Control Purchase or immediately prior to consummation of the Approved Transaction. In the case of an Approved Transaction, the Company shall provide notice of the pendency of the Approved Transaction, at least fifteen (15) days prior to the expected date of consummation thereof, to each Holder of an outstanding Option. Each Holder shall thereupon be entitled to exercise the Option at any time prior to consummation of the Approved Transaction. Any such exercise as to any portion of the Option that will only become vested immediately prior to the consummation of the Approved Transaction in accordance with the foregoing acceleration provision shall be contingent on such consummation. Any such exercise as to any other portion of the Option will not be contingent on such consummation unless so elected by the Holder in a notice delivered to the Company simultaneously with the exercise. Upon consummation of the Approved Transaction, all Options shall expire to the extent such exercise has not occurred. Notwithstanding the foregoing, except to the extent otherwise provided in one or more Option Agreements evidencing Options, the Administrative Committee may, in its discretion, determine that any or all outstanding Options will not vest or become exercisable on an accelerated basis in connection with an Approved Transaction and/or will not terminate if not exercised prior to consummation of the Approved Transaction, if the Board or the surviving or acquiring corporation, as the case may be, shall take, or made effective provision for the taking of, such action as in the opinion of the Administrative Committee is equitable and appropriate in order to substitute new Options for such Options, or to assume such Options (which assumption may be effected by any means determined by the Administrative Committee, in its discretion, including, but not limited to, by a cash payment to each Holder, in cancellation of the Options held by him or her, of such amount as the Administrative Committee determines, in its sole discretion, represents the then value of the Options) and in order to make such new or assumed Options, as nearly as practicable, equivalent to the old Options (before giving effect to any acceleration of the vesting or exercisability thereof), taking into account, to the extent applicable, the kind and amount of securities, cash or other assets into or for which the Common Stock may be changed, converted or exchanged in connection with the Approved Transaction.

7.2 TERMINATION OF SERVICES. The provisions of this Section 7.2 shall apply to any Holder who is an employee of the Company or any of its Affiliates or a party to a written consulting agreement with the Company or any of its Affiliates.

(a) GENERAL. If such a Holder's employment or consulting agreement terminates prior to the complete exercise of an Option, then the Option shall, except to the extent the Option Agreement evidencing the Option expressly provides otherwise, thereafter be exercisable, to the extent that the Holder was entitled to exercise the Option on the date of such termination, for a period of three (3) months following such termination (but not later than the scheduled

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expiration date of the Option); PROVIDED, HOWEVER, that (i) if the Holder's employment or consulting agreement terminates by reason of death or Disability, then, except to the extent the Option Agreement evidencing the Option expressly provides otherwise, the Option shall be exercisable, to the extent that the Holder was entitled to exercise the Option on the date of such termination, for a period of one (1) year following such termination (but not later than the scheduled expiration of the Option), and (ii) any termination by the Company or any of its Affiliates for cause will be treated in accordance with the provisions of Section 7.2(b) (except to the extent the Option Agreement expressly provides otherwise).

(b) TERMINATION BY COMPANY FOR CAUSE. If a Holder's employment or consulting agreement with the Company or any of its Affiliates is terminated for cause, then all Options held by the Holder shall immediately terminate and, accordingly, may not be exercised, except to the extent one or more of the Option Agreements evidencing the Options expressly provides otherwise. For purposes of this Plan, "cause" shall have the meaning given that term in any employment agreement or consulting agreement to which the Holder is a party or, in the absence thereof, the conduct that shall constitute "cause" for purposes of this Plan shall be insubordination, dishonesty, incompetence, moral turpitude, the refusal to perform the Holder's duties and responsibilities for any reason other than illness or incapacity, and any other misconduct of any kind that the Administrative Committee determines constitutes "cause" for purposes of this Plan; PROVIDED, HOWEVER, that if a termination occurs within twelve (12) months after an Approved Transaction or Control Purchase, termination for cause shall mean only a felony conviction for fraud, misappropriation or embezzlement.

(c) MISCELLANEOUS. The Administrative Committee may determine whether any given leave of absence of a Holder constitutes a termination of the Holder's employment or consulting agreement; PROVIDED, HOWEVER, that for purposes of the Plan____

(i) a leave of absence, duly authorized in writing by the Company or any of its Affiliates for military service or sickness, or for any other purpose approved by the Company or any of its Affiliates, if the period of the leave does not exceed ninety (90) days, and

(ii) a leave of absence in excess of ninety (90) days, duly authorized in writing by the Company or any of its Affiliates, provided the Holder's right to return to service with the Company or the Affiliate is guaranteed either by statute or by contract____

shall not be deemed a termination of the Holder's employment or consulting agreement. Options granted under the Plan shall not be affected by any change of a Holder's employment or consulting agreement so long as the Holder continues to be an employee of or consultant to the Company or any of its Affiliates. Except to the extent an Option Agreement evidencing an Option expressly provides otherwise, if a Holder has an employment or consulting agreement with an Affiliate of the Company that ceases to be an Affiliate, such event shall be deemed to constitute a termination of the Holder's employment or consulting agreement for a reason other than death or Disability.

7.3 RIGHT TO TERMINATE SERVICES. Nothing contained in the Plan or in any Option Agreement, and no action of the Company or the Administrative Committee with respect thereto, shall confer or be construed to confer on any Holder any right to continue in the service of the Company or any of its Affiliates or interfere in any way with the right of the Company or any

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of its Affiliates, subject to the provisions of any agreement between the Holder and the Company or any of its Affiliates, to terminate at any time, with or without cause, the employment or consulting agreement with the Holder.

7.4 NONALIENATION OF BENEFITS. Except as provided in Section 6.9, no right or benefit under the Plan shall be subject to anticipation, alienation, sale, assignment, hypothecation, pledge, exchange, transfer, encumbrance or charge, and any attempt to anticipate, alienate, sell, assign, hypothecate, pledge, exchange, transfer, encumber or charge the same shall be void. No right or benefit hereunder shall in any manner be liable for or subject to the debts, contracts, liabilities or torts of the person entitled to the right or benefit.

7.5 SHAREHOLDERS AGREEMENT. Unless the Option Agreement evidencing an Option expressly provides otherwise, the Holder of the Option shall be required, as a condition to the issuance of any shares of Common Stock that the Holder acquires upon the exercise of the Option, to execute and deliver to the Company a shareholders agreement in such form as may be in use by the Company at the time of such exercise, or a counterpart thereof, together with, unless the Holder is unmarried, a spousal consent in the form required thereby, unless the Holder has previously executed and delivered such documents and they are in effect at the time the shares are to be issued.

7.6 TERMINATION AND AMENDMENT.

(a) GENERAL. Unless the Plan shall previously have been terminated as hereinafter provided, no Options may be granted under the Plan on or after the tenth (10th) anniversary of the Effective Date. The Board or the Administrative Committee may at any time prior to the tenth (10th) anniversary of the Effective Date terminate the Plan, and may, from time to time, suspend or discontinue the Plan or modify or amend the Plan in such respects as it shall deem advisable; PROVIDED, HOWEVER, that any such modification or amendment shall comply with all applicable laws, applicable stock exchange listing requirements, and applicable requirements for exemption (to the extent necessary) under Rule 16b-3. Notwithstanding the foregoing, if shareholder approval is obtained pursuant to Section 1.2, without further shareholder approval no modification or amendment to this Plan shall increase the number of shares of Common Stock subject to the Plan (except as authorized by Article 4), change the class of persons eligible to receive Options under the Plan, or otherwise materially increase the benefits accruing to participants under the Plan.

(b) MODIFICATION. No termination, modification or amendment of the Plan may adversely affect the rights of the Holder of an outstanding Option in any material way unless the Holder consents thereto. No modification, extension, renewal or other change in any Option granted under the Plan shall be made after the grant of the Option, unless the same is consistent with the provisions of the Plan. With the consent of the Holder and subject to the terms and conditions of the Plan (including Section 7.6(a)), the Administrative Committee may amend outstanding Option Agreements with any Holder, including, without limitation, any amendment that would (i) accelerate the time or times at which the Option may be exercised, and/or (ii) extend the scheduled expiration date of the Option. Without limiting the generality of the foregoing, the Administrative Committee may, but solely with the Holder's consent unless otherwise provided in the Option Agreement, agree to cancel any Option under the Plan and issue a new Option in substitution therefor, provided that the Option so substituted shall

satisfy all of the requirements of the Plan as of the date the new Option is granted. Nothing contained in the foregoing provisions of this Section 7.6(b) shall be construed to prevent the Administrative

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Committee from providing in any Option Agreement that the rights of the Holder with respect to the Option are subject to such rules and regulations as the Administrative Committee may, subject to the express provisions of the Plan, adopt from time to time, or impair the enforceability of any such provision.

7.7 GOVERNMENT AND OTHER REGULATIONS. The obligation of the Company with respect to Options shall be subject to all applicable laws, rules and regulations and such approvals by any governmental agencies as may be required, including, without limitation, the effectiveness of any registration statement required under the Securities Act of 1933, and the rules and regulations of any securities exchange or association on which the Common Stock may be listed or quoted. As long as the Common Stock is registered under the Exchange Act, the Company shall use its reasonable efforts to comply with any legal requirements (a) to maintain a registration statement in effect under the Securities Act of 1933 with respect to all shares of Common Stock that may be issued to Holders under the Plan, and (b) to file in a timely manner all reports required to be filed by it under the Exchange Act.

7.8 WITHHOLDING. The Company's obligation to deliver shares of Common Stock upon exercise of an Option shall be subject to applicable federal, state and local tax withholding requirements. Federal, state and local withholding tax due at the time an Option is exercised may, in the discretion of the Administrative Committee, be paid in shares of Common Stock already owned by the Holder or through the withholding of shares otherwise issuable to the Holder, upon such terms and conditions as the Administrative Committee shall determine. If the Holder shall fail to pay, or make arrangements satisfactory to the Administrative Committee for the payment of, all such federal, state and local taxes, then the Company or any of its Affiliates shall, to the extent not prohibited by law, have the right to deduct from any payment of any kind otherwise due to the Holder an amount equal to any federal, state or local taxes of any kind required to be withheld by the Company or any of its Affiliates with respect to the Option.

7.9 SEPARABILITY. With respect to Incentive Stock Options, if this Plan does not contain any provision required to be included herein under Section 422 of the Code, such provision shall be deemed to be incorporated herein with the same force and effect as if such provision had been set out at length herein; PROVIDED, HOWEVER, that to the extent any Option that is intended to qualify as an Incentive Stock Option cannot so qualify, the Option, to that extent, shall be deemed to be a Nonqualified Stock Option for all purposes of the Plan.

7.10 NON-EXCLUSIVITY OF THE PLAN. Neither the adoption of the Plan by the Board nor the submission of the Plan to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of stock options and the awarding of stock and cash otherwise than under the Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

7.11 EXCLUSION FROM PENSION AND PROFIT-SHARING COMPUTATION. By acceptance of an Option, unless otherwise provided in the Option Agreement evidencing the Option, the Holder shall be deemed to have agreed that the Option is special incentive compensation that will not be taken into account, in any manner, as salary, compensation or bonus in determining the amount of any payment under any pension, retirement or other employee benefit plan, program or policy of the Company or any of its Affiliates.

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7.12 NO SHAREHOLDER RIGHTS. No Holder or other person shall have any voting or other shareholder rights with respect to shares of Common Stock subject to an Option until the Option has been duly exercised, full payment of the purchase price has been made, all conditions under the Option and this Plan to issuance of the shares have been satisfied, and a certificate for the shares has been issued. No adjustment shall be made for cash or other dividends or distributions to shareholders for which the record date is prior to the date of such issuance.

7.13 GOVERNING LAW. The Plan shall be governed by, and construed in accordance with, the laws of the State of Washington.

7.14 COMPANY'S RIGHTS. The grant of Options pursuant to the Plan shall not affect in any way the right or power of the Company to make reclassifications, reorganizations or other changes of or to its capital or business structure or to merge, consolidate, liquidate, sell or otherwise dispose of all or any part of its business or assets.

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Exhibit 10.2

REALNETWORKS, INC.
AMENDED AND RESTATED
1996 STOCK OPTION PLAN

(AS AMENDED AND RESTATED
AS OF SEPTEMBER 24, 1997)

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REALNETWORKS, INC.

AMENDED AND RESTATED 1996 STOCK OPTION PLAN

ARTICLE 1

PURPOSE AND EFFECTIVENESS

1.1 PURPOSE. The purpose of the 1996 Stock Option Plan (the "Plan") is to provide a method by which selected individuals rendering services to RealNetworks, Inc., a Washington corporation (the "Company"), may be offered an opportunity to invest in capital stock of the Company, thereby increasing their personal interest in the growth and success of the Company. The Plan is also intended to aid in attracting persons of exceptional ability to become officers and employees of the Company.

1.2 EFFECTIVE DATE; SHAREHOLDER APPROVAL. The Plan shall be effective at the time specified in the resolutions of the Board adopting the Plan (the "Effective Date"). The Plan shall be subject to the requirement of RCW 21.20.310(10) that the Administrator of Securities of the Department of Financial Institutions of the State of Washington be provided with notification of the adoption of the Plan. No Option shall be granted hereunder until this notification requirement has been satisfied. The issuance of Incentive Stock Options shall be subject to approval of the Plan by holders of shares of Common Stock constituting at least a majority of the shares of Common Stock represented in person or by proxy at the meeting at which the approval is sought. If this shareholder approval requirement is not satisfied within twelve (12) months after the Effective Date, all Incentive Stock Options issued under the Plan shall automatically become Nonqualified Stock Options.

ARTICLE 2

DEFINITIONS

2.1 CERTAIN DEFINED TERMS. Capitalized terms not defined elsewhere in the Plan shall have the following meanings (whether used in the singular or plural):

"Administrative Committee" is defined in Section 3.1.

"Affiliate" of the Company means any corporation, partnership, or other business association that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Company.

"Approved Transaction" means (a) any merger, consolidation or binding share exchange pursuant to which shares of Common Stock are changed or converted into or exchanged for cash, securities or other property, other than any such transaction in which the persons who hold Common Stock immediately prior to the transaction have immediately following the transaction the same proportionate ownership of the common stock of, and the same voting power with respect to, the surviving corporation; (b) any merger, consolidation or binding share exchange in which the persons who hold Common Stock immediately prior to the transaction have immediately following the transaction less than a majority of the combined voting power of the outstanding capital stock of the Company ordinarily (and

apart from rights accruing under special circumstances) having the right to vote in the election of directors; (c) any liquidation or dissolution of the Company; and (d) any sale, lease, exchange or other transfer not in the

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ordinary course of business (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company.

"Board" means the Board of Directors of the Company.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Code shall include any successor section.

"Common Stock" means the Series B Common Stock or the Series C Common Stock of the Company.

"Company" means RealNetworks, Inc., a Washington corporation.

"Control Purchase" means any transaction (or series of related transactions), consummated without the approval or recommendation of the Board, in which (a) any person, corporation or other entity (including any "person" as defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act, but excluding the Company and any employee benefit plan sponsored by the Company) purchases any Common Stock (or securities convertible into Common Stock) for cash, securities or any other consideration pursuant to a tender offer or exchange offer; or (b) any person, corporation or other entity (including any "person" as defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act, but excluding the Company and any employee benefit plan sponsored by the Company) becomes the "beneficial owner" (as that term is defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the then outstanding securities of the Company ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors (calculated as provided in Rule 13d-3(d) under the Exchange Act in the case of rights to acquire the Company's securities).

"Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

"Disinterested Person" is defined in Section 3.2(b).

"Effective Date" is defined in Section 1.2.

"Eligible Person" is defined in Section 5.1.

"Equity Securities" has the meaning given that term in Rule 3a11-1 promulgated under the Exchange Act, as amended from time to time, or any successor rule thereto.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Exchange Act shall include any successor section.

"Executive Officer" means any employee of the company who is an "officer" within the meaning of Rule 16a-1(f) of the Exchange Act, as amended from time to time, or any successor rule thereto.

"Fair Market Value" on any day means, if the Common Stock is publicly traded, the last sales price (or, if no last sales price is reported, the average of the high bid and low asked prices) for a share of Common Stock on that day (or, if that day is not a trading day, on the next

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preceding trading day), as reported by the principal exchange on which the Common Stock is listed, or, if the Common Stock is publicly traded but not listed on an exchange, as reported by The Nasdaq Stock Market, or, if such prices or quotations are not reported by The Nasdaq Stock Market, as reported by any other available source of prices or quotations selected by the Administrative Committee. If the Common Stock is not publicly traded, or if the Fair Market Value is not determinable by any of the foregoing means, the Fair Market Value on any day shall be determined in good faith by the Administrative Committee on the basis of such considerations as the Administrative Committee deems appropriate.

"Holder" means an Eligible Person who has received an Option under this Plan or, if rights continue under the Option following the death of the Eligible Person, the person who succeeds to those rights by will or by the laws of descent and distribution.

"Incentive Stock Option" means an Option that is an incentive stock option within the meaning of Section 422 of the Code.

"Nonqualified Stock Option" means an Option that is designated as a nonqualified stock option.

"Option" means an option with respect to shares of Common Stock awarded pursuant to Article 6.

"Option Agreement" is defined in Section 6.5.

"Plan" is defined in Section 1.1.

"Securities Act" means the Securities Act of 1933, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Securities Act shall include any successor section.

"10% Shareholder" means a person who owns (or is considered as owning within the meaning of Section 424 of the Code) stock possessing more than 10% of the total combined voting power of all classes of capital stock of the Company.

ARTICLE 3

ADMINISTRATION

3.1 ADMINISTRATIVE COMMITTEE. The Plan shall be administered by the Board unless the Board, either voluntarily or as required by Section 3.2 below, appoints a separate committee of the Board to administer the Plan (the Board, or such committee, if it is administering the Plan, will be referred to in the Plan as the "Administrative Committee"). The Administrative Committee shall select one of its members as its chairman and shall hold its meetings at such times and places as it shall deem advisable. A majority of its members shall constitute a quorum and all determinations shall be made by a majority of that quorum. Any determination reduced to writing and signed by all of the members of the Administrative Committee shall be fully as effective as if it had been made by a majority vote at a meeting duly called and held.

3.2 APPOINTMENT OF ADMINISTRATIVE COMMITTEE. The Board may appoint a committee consisting of two or more of its members to administer the Plan. Once appointed, the committee shall continue to serve until otherwise directed by the Board. From time to time the Board may increase the size of the committee and appoint additional members, remove members (with or

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without cause) and appoint new members in their place, fill vacancies however caused, and/or remove all members of the committee and thereafter directly administer the Plan.

3.3 POWERS; REGULATIONS. The Administrative Committee shall have full power and authority, subject only to the express provisions of the Plan (a) to designate the Eligible Persons to whom Options are to be granted under the Plan; (b) to determine the number of shares subject to, and all of the other terms and conditions (which need not be identical) of, all Options so granted; (c) to interpret the provisions of the Plan and the Option Agreements evidencing the Options so granted; (d) to correct any defect, supply any information and reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; (e) to supervise the administration of the Plan; and (f) to take such other actions in connection with or in relation to the Plan as it deems necessary or advisable. The Administrative Committee is authorized to establish, amend and rescind such rules and regulations not inconsistent with the terms and conditions of the Plan as it deems necessary or advisable for the proper administration of the Plan. In making determinations hereunder, the Administrative Committee may give such consideration to the recommendations of management of the Company as the Administrative Committee deems desirable.

3.4 LIMITS ON AUTHORITY. Exercise by the Administrative Committee of its authority under the Plan shall be consistent (a) with the intent that all Incentive Stock Options issued under the Plan be qualified under the terms of Section 422 of the Code (including any amendments thereto and any similar successor provision), and (b) if the Company registers any class of Equity Security pursuant to Section 12 of the Exchange Act, with the intent that the Plan be administered in a manner so that, to the extent possible, the grant of Options and all other transactions with respect to the Plan, to Options and to any Common Stock acquired upon exercise of Options, shall be exempt from the operation of Section 16(b) of the Exchange Act.

3.5 EXERCISE OF AUTHORITY. Each action and determination made or taken pursuant to the Plan by the Administrative Committee, including but not limited to any interpretation or construction of the Plan and the Option Agreements, shall be final and conclusive for all purposes and upon all persons. No member of the Administrative Committee shall be liable for any action or determination made or taken by the member or the Administrative Committee in good faith with respect to the Plan.

ARTICLE 4

SHARES SUBJECT TO THE PLAN

4.1 NUMBER OF SHARES. Subject to the provisions of this Article 4, the maximum number of shares of Common Stock with respect to which Options may be granted during the term of the Plan shall be the sum of (a) 8,800,000, plus (b) an additional 892,736 shares of Common Stock previously reserved for issuance pursuant to Section 4.1 of the Company's 1995 Stock Option Plan (the "1995 Plan"), plus (c) any of the 1,540,473 shares of Common Stock subject to options outstanding under the 1995 Plan on September 24, 1997, to the extent the options terminate with having been exercised in full. Shares of Common Stock will be

made available from the authorized but unissued shares of the Company or from shares reacquired by the Company. If any Option terminates for any reason without having been exercised in full, the shares of Common Stock subject to the Option for which it has not been exercised shall again be available for purposes of the Plan.

4.2 ADJUSTMENTS. If the Company subdivides its outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock dividend, stock split, reclassification or otherwise) or combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock (by reverse stock split, reclassification or otherwise), or if the

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Administrative Committee determines, in its sole discretion, that any stock dividend, extraordinary cash dividend, reclassification, recapitalization, reorganization, split-up, spin-off, combination, exchange of shares, warrants or rights offering to purchase Common Stock, or other similar corporate event (including a merger or consolidation other than one that constitutes an Approved Transaction) affects the Common Stock such that an adjustment is required in order to preserve the benefits or potential benefits intended to be made available under this Plan, then the Administrative Committee shall, in its sole discretion and in such manner as the Administrative Committee may deem equitable and appropriate, make adjustments to any or all of (a) the number and kind of shares with respect to which Options may thereafter be granted under this Plan; (b) the number and kind of shares subject to outstanding Options, and (c) the purchase price under outstanding Options; PROVIDED, HOWEVER, that the number of shares subject to an Option shall always be a whole number. The Administrative Committee may, if deemed appropriate, provide for a cash payment to any Holder of an Option in connection with any adjustment made pursuant to this Section 4.2.

ARTICLE 5

ELIGIBILITY

The persons eligible to participate in the Plan and to receive Options under the Plan ("Eligible Persons") shall, subject to Section 5.2, be (a) employees (including officers and directors who are also employees) of the Company or any of its Affiliates, and (b) consultants (and directors who are not employees) rendering services to the Company or any of its Affiliates in the capacity of independent contractors. Options may be granted to Eligible Persons even if they hold or have held Options under this Plan or options or similar awards under any other plan of the Company or any of its Affiliates.

ARTICLE 6

STOCK OPTIONS

6.1 GRANT OF OPTIONS. Subject to the limitations of the Plan, the Administrative Committee shall designate from time to time each Eligible Person who is to be granted an Option, the time when the Option shall be granted, the number of shares subject to the Option, whether the Option is to be an Incentive Stock Option or a Nonqualified Stock Option and, subject to Section 6.2, the purchase price of the shares of Common Stock subject to the Option; PROVIDED, HOWEVER, that Incentive Stock Options may only be granted to Eligible Persons who are employees of the Company or an Affiliate that constitutes a "parent corporation" or a "subsidiary corporation" within the meaning of Section 424 of the Code. Each Option granted under this Plan shall also be subject to such other terms and conditions not inconsistent with this Plan as the Administrative Committee, in its sole discretion, determines. Subject to the limitations of the

Plan, the same Eligible Person may receive Incentive Stock Options and Nonqualified Stock Options at the same time and pursuant to the same Option Agreement, provided that Incentive Stock Options and Nonqualified Stock Options are clearly designated as such.

6.2 PURCHASE PRICE. The price at which shares may be purchased upon exercise of an Option shall be fixed by the Administrative Committee and may be more than, less than or equal to the Fair Market Value of the Common Stock as of the date the Option is granted; PROVIDED, HOWEVER, that the purchase price of an Incentive Stock Option shall be (a) at least 110% of the

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Fair Market Value as of the date of grant of the Common Stock subject thereto, if the Incentive Stock Option is being granted to a 10% Shareholder, and (b) at least 100% of the Fair Market Value as of the date of grant of the Common Stock subject thereto, if the Incentive Stock Option is being granted to any other Eligible Person.

6.3 LIMITATIONS ON GRANTS.

(a) ANNUAL LIMITATION ON GRANTS OF INCENTIVE STOCK OPTIONS. The aggregate Fair Market Value of the shares of Common Stock with respect to which, during any calendar year, one or more Incentive Stock Options under this Plan (and/or one or more options under any other plan maintained by the Company or any of its Affiliates for the granting of options intended to qualify under Section 422 of the Code) become exercisable for the first time by a Holder shall not exceed \$100,000 (said value to be determined as of the respective dates on which the options are granted to the Holder). If (i) a Holder holds one or more Incentive Stock Options under this Plan (and/or one or more options under any other plan maintained by the Company or any of its Affiliates for the granting of options intended to qualify under Section 422 of the Code), and (ii) the aggregate Fair Market Value of the shares of Common Stock with respect to which, during any calendar year, such options become exercisable for the first time exceeds \$100,000 (said value to be determined as provided above), then such option or options are intended to qualify under Section 422 of the Code with respect to the maximum number of such shares as can, in light of the foregoing limitation, be so qualified, with the shares so qualified to be the shares subject to the option or options earliest granted to the Holder. If an Option that would otherwise qualify as an Incentive Stock Option becomes exercisable for the first time in any calendar year for shares of Common Stock that would cause such aggregate Fair Market Value to exceed \$100,000, then the portion of the Option in respect of such shares shall be deemed to be a Nonqualified Stock Option.

(b) ANNUAL LIMITATION ON GRANTS FOLLOWING EXCHANGE ACT REGISTRATION. If the Company registers any class of any Equity Security pursuant to Section 12 of the Exchange Act, then, from the effective date of the registration until six (6) months after the termination of the registration, the number of shares subject to one or more Options granted during any calendar year to an Eligible Person shall not exceed one million (1,000,000).

6.4 TERM OF OPTIONS. Subject to the provisions of the Plan with respect to termination of Options upon death, Disability or termination of services, the term of each Option shall be for such period as the Administrative Committee shall determine, but not more than (a) five (5) years from the date of grant in the case of Incentive Stock Options held by 10% Shareholders; (b) ten (10) years from the date of grant in the case of Incentive Stock Options held by persons other than 10% Shareholders; and (c) twenty (20) years from the date of grant in the case of all other Options, provided, however, that the term for a Nonqualified Stock Option granted more than one (1) year following the Effective Date shall be ten (10) years unless otherwise determined by the Administrative

Committee.

6.5 OPTION AGREEMENT. Each Option granted under the Plan shall be evidenced by an agreement (the "Option Agreement") which shall designate the Option as an Incentive Stock Option or a Nonqualified Stock Option and contain such terms and provisions not inconsistent with the provisions of the Plan as the Administrative Committee from time to time approves. Each grantee of an Option shall be notified promptly of the grant, an Option Agreement shall be executed and delivered by the Company to the grantee within sixty (60) days after the date the Administrative Committee approves the grant, and, in the discretion of the Administrative

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Committee, the grant shall terminate if the Option Agreement is not signed by the grantee (or his or her attorney) and delivered to the Company within sixty (60) days after it is delivered to the grantee. An Option Agreement may contain (but shall not be required to contain) such provisions as the Administrative Committee deems appropriate to insure that the penalty provisions of Section 4999 of the Code will not apply to any stock received by the Holder from the Company. An Option Agreement may be modified from time to time pursuant to Section 7.6(b).

6.6 EXERCISE OF OPTIONS. An Option granted under the Plan shall become and remain exercisable during the term of the Option to the extent provided in the Option Agreement evidencing the Option and in this Plan and, unless the Option Agreement otherwise provides, may be exercised to the extent exercisable, in whole or in part, at any time and from time to time during such term; PROVIDED, HOWEVER, that subsequent to the grant of an Option, the Administrative Committee, at any time before complete termination of the Option, may accelerate the time or times at which the Option may be exercised in whole or in part (without reducing the term of the Option). If an Option is scheduled to become exercisable on one or more dates specified in its Option Agreement, and its Holder has a leave of absence without pay, such date or dates shall be postponed for a period equal to the duration of the leave unless the Administrative Committee determines otherwise.

6.7 MANNER OF EXERCISE.

(a) FORM OF PAYMENT. An Option shall be exercised by written notice to the Company upon such terms and conditions as the Option Agreement evidencing the Option may provide and in accordance with such other procedures for the exercise of Options as the Administrative Committee may establish from time to time. The method or methods of payment of the purchase price for the shares to be purchased upon exercise of an Option and of any amounts required by Section 7.8 shall be determined by the Administrative Committee and may consist of (i) cash, (ii) check, (iii) promissory note, (iv) whole shares of Common Stock already owned by the Holder, (v) the withholding of shares of Common Stock issuable upon exercise of the Option, (vi) the delivery, together with a properly executed exercise notice, of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds required to pay the purchase price, (vii) any combination of the foregoing methods of payment, or (viii) such other consideration and method of payment as may be permitted for the issuance of shares under applicable securities and other laws. The permitted methods or methods of payment of the amounts payable upon exercise of an Option, if other than in cash, shall be set forth in the Option Agreement evidencing the Option and may be subject to such conditions as the Administrative Committee deems appropriate. Without limiting the generality of the foregoing, if a Holder is permitted to elect to have shares of Common Stock issuable upon exercise of an Option withheld to pay all or any part of the amounts payable in connection with the exercise, then the Administrative Committee shall have the sole discretion to approve or disapprove the election,

which approval or disapproval shall be given after the election is made.

(b) VALUE OF SHARES. Shares of Common Stock delivered in payment of all or any part of the amounts payable in connection with the exercise of an Option, and shares of Common Stock withheld for the payment, shall be valued for such purpose at their Fair Market Value as of the exercise date.

(c) ISSUANCE OF SHARES. The Company shall effect the issuance of the shares of Common Stock purchased under the Option as soon as practicable after the exercise thereof and

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payment in full of the purchase price therefor and of any amounts required by Section 7.8, and within a reasonable time thereafter the issuance shall be evidenced on the books of the Company. Following the exercise of an Incentive Stock Option, the Administrative Committee shall cause the information statement required by Section 6039 of the Code to be furnished to the Holder within the time and in the manner prescribed by law.

6.8 LEGENDS. Each certificate representing shares of Common Stock issued under the Plan upon exercise of an Option shall, unless the Administrative Committee otherwise determines, contain on its face the notice "SEE TRANSFER RESTRICTIONS ON REVERSE" and on its reverse a legend in form substantially as follows, together with any other legends that are required by the terms and conditions of the Plan or that the Administrative Committee in its discretion deems necessary or appropriate:

NOTICE: TRANSFER AND OTHER RESTRICTIONS

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, TRANSFERRED, ENCUMBERED, OR OTHERWISE DISPOSED OF EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS. INFORMATION CONCERNING THESE RESTRICTIONS MAY BE OBTAINED FROM THE CORPORATION. ANY OFFER OR DISPOSITION OF THESE SECURITIES WITHOUT SATISFACTION OF SAID CONDITIONS WILL BE WRONGFUL AND WILL NOT ENTITLE THE TRANSFEREE TO REGISTER OWNERSHIP OF THE SECURITIES WITH THE CORPORATION.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO RESTRICTIONS ON TRANSFER, AND MAY BE SUBJECT TO REPURCHASE BY THE CORPORATION OR ONE OR MORE OF ITS SHAREHOLDERS PURSUANT TO THE PROVISIONS OF THE CORPORATION'S 1996 STOCK OPTION PLAN AND/OR AN AGREEMENT BETWEEN THE HOLDER AND THE CORPORATION AND/OR AN AGREEMENT AMONG THE CORPORATION AND ITS SHAREHOLDERS. INFORMATION CONCERNING THESE RESTRICTIONS MAY BE OBTAINED FROM THE CORPORATION.

The Company may cause the transfer agent for the Common Stock to place a stop transfer order with respect to such shares.

6.9 NONTRANSFERABILITY. Unless the Administrative Committee determines otherwise at the time an Option is granted (or at any later time when the Administrative Committee, by written notice to the Holder, releases in whole or in part the restrictions under this Section 6.9), an Option shall not be transferable other than by will or the laws of descent and distribution, and may be exercised during the lifetime of the Holder thereof only by the Holder (or his or her court appointed legal representative). Options shall not be transferable other than by will or the laws of descent and distribution, and Options may be exercised during the lifetime of the Holder thereof only by the Holder (or his or her court appointed legal representative).

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6.10 REPURCHASE OF SHARES.

(a) RIGHT OF REPURCHASE. If so specified by the Administrative Committee at the time an Option is granted to a Holder who is an employee of the Company or any of its Affiliates or a party to a consulting arrangement with the Company or any of its Affiliates, the Company shall have the right, but shall not be required, to repurchase from the Holder all or part of (i) the shares of Common Stock that the Holder acquires upon the exercise of the Option, and (ii) any other shares of Common Stock or other securities issued or acquired with respect to the shares specified in the preceding clause (i) or this clause (ii) in connection with any stock dividend, stock split, reclassification, recapitalization, reorganization, split-up, spin-off, combination, exchange of shares, warrants or rights offering to purchase Common Stock, or other similar corporate event. Such right shall be exercisable at any time and from time to time during the period of ninety (90) days commencing on the date of termination of the Holder's employment or consulting agreement with the Company or any of its Affiliates for "cause," as defined in Section 7.2(b).

(b) EXERCISE OF REPURCHASE RIGHT. The Company's right of repurchase under this Section 6.10 shall be exercised by delivery written notice to the Holder specifying the number of shares or other securities to be repurchased and the effective date of the repurchase, which date shall not be earlier than the date of the notice nor later than the date of termination of the Company's right of repurchase. If a Holder transfers shares or other securities that are subject to the Company's right of repurchase, the shares or other securities shall remain subject to the Company's right of repurchase during the period specified in the last sentence of Section 6.10(a) (exercise of the right of repurchase in such even shall be effected by notice to the person or entity holding the shares or other securities at the time of exercise).

(c) REPURCHASE PRICE. With respect to each share or other security to be repurchased by the Company upon its exercise of its right of repurchase under this Section 6.10, the repurchase price shall be the Fair Market Value of the share or security as of the effective date of the repurchase. The Company may elect to pay the amount owed to the Holder (or to the person or entity holding the share or other security to be repurchased) either (i) in cash, in which case the amount shall be paid, without interest, within thirty (30) days following the effective date of the repurchase, or (ii) in three equal installments, with the first installment payable on the first anniversary of the effective date of the repurchase, and the remaining installments payable on the corresponding date in each of the next two years, with each installment to include interest on the unpaid principal computed at the prime rate published in the Wall Street Journal for the first business day of the month in which the effective date of the repurchase occurs, for the period from the effective date of the repurchase or the date of the most recent installment, as the case may be, to the due date of the installment being paid.

(d) TERMINATION OF RIGHT OF REPURCHASE. Any right of repurchase of the Company under this Section 6.10 shall terminate upon the occurrence of a Control Purchase or an Approved Transaction (other than an Approved Transaction in connection with which the Administrative Committee determines, in accordance with the last sentence of Section 7.1, that Options otherwise subject to such right of repurchase will not vest or become exercisable on an accelerated basis and/or will not terminate if not exercised prior to consummation of the Approved Transaction). Any right of repurchase of the Company under this Section 6.10 shall also terminate upon the effective date of the registration by the Company of any class of any Equity Security pursuant to Section 12 of the Exchange Act.

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6.11 CLASS OF COMMON STOCK. The class of shares subject to each Option and the class of shares to be received upon exercise of each Option shall depend upon the employment status of the Eligible Person at the date the Option is granted and at the date the Option is exercised. If the Eligible Person is an employee (including officers and directors who are also employees) of the Company or one of its Affiliates as of the date the Option is granted, the shares subject to the Option shall be shares of Series B Common Stock, which are automatically convertible into the shares of Series C Common Stock upon the occurrence of certain events (a "Conversion Event") as described in the Company's Articles of Incorporation, as amended from time to time (the "Articles"), provided, that if a Conversion Event occurs prior to the exercise of an Option, the shares subject to the Option shall be shares of Series C Common Stock, with the rights defined in the Articles. If the Eligible Person is a consultant (other than a director) rendering services to the Company or any of its Affiliates in the capacity of an independent contractor as of the date the Option is granted, the shares subject to the Option shall be shares of Series C Common Stock, with the rights defined in the Articles, regardless of the Eligible Person's employment status with the Company at the date the Option is exercised

6.12 DELEGATION TO EXECUTIVE OFFICER OF AUTHORITY TO GRANT OPTIONS. The Board may delegate to an Executive Officer the authority to determine from time to time (a) the Eligible Persons to whom Options are to be granted; (b) the number of shares of Common Stock for which the Options are exercisable and the purchase price of such shares; (c) whether the Options are Incentive Stock Options or Nonqualified Stock Options; and (d) all of the other terms and conditions (which need not be identical) of the Options; PROVIDED, HOWEVER, that (i) the authority delegated to the Executive Officer under this Section 6.12 shall not exceed that of the Administrative Committee under the foregoing provisions of this Article 6 and shall be subject to such limitations, in addition to those specified in this Section 6.12, as may be specified by the Board at the time of delegation; (ii) the Executive Officer may not be delegated authority under this Section 6.12 to grant any Option to any person who is an Executive Officer or a director of the Company at the time of the grant; (iii) the purchase price of each share of Common Stock under an Option granted under this Section 6.12 shall not be less than the Fair Market Value of such share on the date of grant of the Option; and (iv) the Executive Officer shall promptly provide a report to the Administrative Committee of each person to whom an Option has been granted under this Section 6.12 and the material terms and conditions of the Option.

ARTICLE 7

GENERAL PROVISIONS

7.1 ACCELERATION OF OPTIONS -- APPROVED TRANSACTIONS; CONTROL PURCHASE. In the event of any Approved Transaction or Control Purchase, each outstanding Option under the Plan shall become exercisable in full in respect of the aggregate number of shares covered thereby, notwithstanding any contrary vesting schedule in the Option Agreement evidencing the Option (except to the extent the Option Agreement expressly provides otherwise), effective upon the Control Purchase or immediately prior to consummation of the Approved Transaction. In the case of an Approved Transaction, the Company shall provide notice of the pendency of the Approved Transaction, at least fifteen (15) days prior to the expected date of consummation thereof, to each Holder of an outstanding Option. Each Holder shall thereupon be entitled to exercise the Option at any time prior to consummation of the Approved Transaction. Any such exercise as to any portion of the Option that will only become vested immediately prior to the consummation of the Approved Transaction in accordance with the foregoing acceleration

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provision shall be contingent on such consummation. Any such exercise as to any other portion of the Option will not be contingent on such consummation unless so elected by the Holder in a notice delivered to the Company simultaneously with the exercise. Upon consummation of the Approved Transaction, all Options shall expire to the extent such exercise has not occurred. Notwithstanding the foregoing, except to the extent otherwise provided in one or more Option Agreements evidencing Options, the Administrative Committee may, in its discretion, determine that any or all outstanding Options will not vest or become exercisable on an accelerated basis in connection with an Approved Transaction and/or will not terminate if not exercised prior to consummation of the Approved Transaction, if the Board or the surviving or acquiring corporation, as the case may be, shall take, or made effective provision for the taking of, such action as in the opinion of the Administrative Committee is equitable and appropriate in order to substitute new Options for such Options, or to assume such Options (which assumption may be effected by any means determined by the Administrative Committee, in its discretion, including, but not limited to, by a cash payment to each Holder, in cancellation of the Options held by him or her, of such amount as the Administrative Committee determines, in its sole discretion, represents the then value of the Options) and in order to make such new or assumed Options, as nearly as practicable, equivalent to the old Options (before giving effect to any acceleration of the vesting or exercisability thereof), taking into account, to the extent applicable, the kind and amount of securities, cash or other assets into or for which the Common Stock may be changed, converted or exchanged in connection with the Approved Transaction.

7.2 TERMINATION OF SERVICES. The provisions of this Section 7.2 shall apply to any Holder who is an employee of the Company or any of its Affiliates or a party to a written consulting agreement with the Company or any of its Affiliates.

(a) GENERAL. If such a Holder's employment or consulting agreement terminates prior to the complete exercise of an Option, then the Option shall, except to the extent the Option Agreement evidencing the Option expressly provides otherwise, thereafter be exercisable, to the extent that the Holder was entitled to exercise the Option on the date of such termination, for a period of three (3) months following such termination (but not later than the scheduled expiration date of the Option); PROVIDED, HOWEVER, that (i) if the Holder's employment or consulting agreement terminates by reason of death or Disability, then, except to the extent the Option Agreement evidencing the Option expressly provides otherwise, the Option shall be exercisable, to the extent that the Holder was entitled to exercise the Option on the date of such termination, for a period of one (1) year following such termination (but not later than the scheduled expiration of the Option), and (ii) any termination by the Company or any of its Affiliates for cause will be treated in accordance with the provisions of Section 7.2(b) (except to the extent the Option Agreement expressly provides otherwise).

(b) TERMINATION BY COMPANY FOR CAUSE. If a Holder's employment or consulting agreement with the Company or any of its Affiliates is terminated for cause, then all Options held by the Holder shall immediately terminate and, accordingly, may not be exercised, except to the extent one or more of the Option Agreements evidencing the Options expressly provides otherwise. For purposes of this Plan, "cause" shall have the meaning given that term in any employment agreement or consulting agreement to which the Holder is a party or, in the absence thereof, the conduct that shall constitute "cause" for purposes of this Plan shall be insubordination, a knowing violation of a state or federal law involving the commission of a crime against the Company or any of its Affiliates or a felony, any misrepresentation, deception, fraud or dishonesty that is materially injurious to the Company or any of its Affiliates,

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incompetence, moral turpitude, the refusal to perform the Holder's duties and responsibilities for any reason other than illness or incapacity, and any other misconduct of any kind that the Administrative Committee determines constitutes "cause" for purposes of this Plan; PROVIDED, HOWEVER, that if a termination occurs within twelve (12) months after an Approved Transaction or Control Purchase, termination for cause shall mean only a felony conviction for fraud, misappropriation or embezzlement. Following termination of a Holder's employment or consulting agreement, if the Holder engages in any act that would have constituted cause if the Holder had remained employed by or in a consulting relationship with the Company or any of its Affiliates, then the Administrative Committee shall be entitled to terminate any Options held by the Holder.

(c) MISCELLANEOUS. The Administrative Committee may determine whether any given leave of absence of a Holder constitutes a termination of the Holder's employment or consulting agreement; PROVIDED, HOWEVER, that for purposes of the Plan --

(i) a leave of absence, duly authorized in writing by the Company or any of its Affiliates for military service or sickness, or for any other purpose approved by the Company or any of its Affiliates, if the period of the leave does not exceed ninety (90) days, and

(ii) a leave of absence in excess of ninety (90) days, duly authorized in writing by the Company or any of its Affiliates, provided the Holder's right to return to service with the Company or the Affiliate is guaranteed either by statute or by contract --

shall not be deemed a termination of the Holder's employment or consulting agreement. Options granted under the Plan shall not be affected by any change of a Holder's employment or consulting agreement so long as the Holder continues to be an employee of or consultant to the Company or any of its Affiliates. Except to the extent an Option Agreement evidencing an Option expressly provides otherwise, if a Holder has an employment or consulting agreement with an Affiliate of the Company that ceases to be an Affiliate, such event shall be deemed to constitute a termination of the Holder's employment or consulting agreement for a reason other than death or Disability.

7.3 RIGHT TO TERMINATE SERVICES. Nothing contained in the Plan or in any Option Agreement, and no action of the Company or the Administrative Committee with respect thereto, shall confer or be construed to confer on any Holder any right to continue in the service of the Company or any of its Affiliates or interfere in any way with the right of the Company or any of its Affiliates, subject to the provisions of any agreement between the Holder and the Company or any of its Affiliates, to terminate at any time, with or without cause, the employment or consulting agreement with the Holder.

7.4 NONALIENATION OF BENEFITS. Except as provided in Section 6.9, no right or benefit under the Plan shall be subject to anticipation, alienation, sale, assignment, hypothecation, pledge, exchange, transfer, encumbrance or charge, and any attempt to anticipate, alienate, sell, assign, hypothecate, pledge, exchange, transfer, encumber or charge the same shall be void. No right or benefit hereunder shall in any manner be liable for or subject to the debts, contracts, liabilities or torts of the person entitled to the right or benefit.

7.5 SHAREHOLDERS AGREEMENT. Unless the Option Agreement evidencing an Option expressly provides otherwise, the Holder of the Option shall be required, as a condition to the

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issuance of any shares of Common Stock that the Holder acquires upon the exercise of the Option, to execute and deliver to the Company a shareholders agreement in such form as may be in use by the Company at the time of such exercise, or a counterpart thereof, together with, unless the Holder is unmarried, a spousal consent in the form required thereby, unless the Holder has previously executed and delivered such documents and they are in effect at the time the shares are to be issued.

7.6 TERMINATION AND AMENDMENT.

(a) GENERAL. Unless the Plan shall previously have been terminated as hereinafter provided, no Options may be granted under the Plan on or after February 16, 2006. The Board or the Administrative Committee may at any time prior to February 16, 2006 terminate the Plan, and may, from time to time, suspend or discontinue the Plan or modify or amend the Plan in such respects as it shall deem advisable; PROVIDED, HOWEVER, that any such modification or amendment shall comply with all applicable laws and stock exchange listing requirements and, with respect to Incentive Stock Options granted or to be granted under the Plan, shall be subject to any approval by shareholders of the Company required under the Code.

(b) MODIFICATION. No termination, modification or amendment of the Plan may adversely affect the rights of the Holder of an outstanding Option in any material way unless the Holder consents thereto. No modification, extension, renewal or other change in any Option granted under the Plan shall be made after the grant of the Option, unless the same is consistent with the provisions of the Plan. With the consent of the Holder and subject to the terms and conditions of the Plan (including Section 7.6(a)), the Administrative Committee may amend outstanding Option Agreements with any Holder, including, without limitation, any amendment that would (i) accelerate the time or times at which the Option may be exercised, and/or (ii) extend the scheduled expiration date of the Option. Without limiting the generality of the foregoing, the Administrative Committee may, but solely with the Holder's consent unless otherwise provided in the Option Agreement, agree to cancel any Option under the Plan and issue a new Option in substitution therefor, provided that the Option so substituted shall satisfy all of the requirements of the Plan as of the date the new Option is granted. Nothing contained in the foregoing provisions of this Section 7.6(b) shall be construed to prevent the Administrative Committee from providing in any Option Agreement that the rights of the Holder with respect to the Option are subject to such rules and regulations as the Administrative Committee may, subject to the express provisions of the Plan, adopt from time to time, or impair the enforceability of any such provision.

7.7 GOVERNMENT AND OTHER REGULATIONS. The obligation of the Company with respect to Options shall be subject to all applicable laws, rules and regulations and such approvals by any governmental agencies as may be required, including, without limitation, the effectiveness of any registration statement required under the Securities Act, and the rules and regulations of any securities exchange or association on which the Common Stock may be listed or quoted. As long as the Common Stock is not registered under the Exchange Act, the Company intends that all offers and sales of Options and shares of Common Stock issuable upon exercise of Options shall be exempt from registration under the provisions of Section 5 of the Securities Act, and the Plan shall be administered in a manner so as to preserve such exemption. The Company also intends that the Plan shall constitute a written compensatory benefit plan, within the meaning of Rule 701(b) promulgated under the Securities Act, and that each Option granted under the Plan at a time when the Common Stock is not registered under the Exchange Act shall, unless

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otherwise provided by the Administrative Committee at the time the Option is granted, be granted in reliance on the exemption from the registration requirements of Section 5 of the Securities Act provided by Rule 701. As long as the Common Stock is registered under the Exchange Act, the Company shall use its reasonable efforts to comply with any legal requirements to file in a timely manner all reports required to be filed by it under the Exchange Act.

7.8 WITHHOLDING. The Company's obligation to deliver shares of Common Stock upon exercise of an Option shall be subject to applicable federal, state and local tax withholding requirements. Federal, state and local withholding tax due at the time an Option is exercised may, in the discretion of the Administrative Committee, be paid in shares of Common Stock already owned by the Holder or through the withholding of shares otherwise issuable to the Holder, upon such terms and conditions as the Administrative Committee shall determine. If the Holder shall fail to pay, or make arrangements satisfactory to the Administrative Committee for the payment of, all such federal, state and local taxes, then the Company or any of its Affiliates shall, to the extent not prohibited by law, have the right to deduct from any payment of any kind otherwise due to the Holder an amount equal to any federal, state or local taxes of any kind required to be withheld by the Company or any of its Affiliates with respect to the Option.

7.9 SEPARABILITY. With respect to Incentive Stock Options, if this Plan does not contain any provision required to be included herein under Section 422 of the Code, such provision shall be deemed to be incorporated herein with the same force and effect as if such provision had been set out at length herein; PROVIDED, HOWEVER, that to the extent any Option that is intended to qualify as an Incentive Stock Option cannot so qualify, the Option, to that extent, shall be deemed to be a Nonqualified Stock Option for all purposes of the Plan.

7.10 NON-EXCLUSIVITY OF THE PLAN. Neither the adoption of the Plan by the Board nor the submission of the Plan to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of stock options and the awarding of stock and cash otherwise than under the Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

7.11 EXCLUSION FROM PENSION AND PROFIT-SHARING COMPUTATION. By acceptance of an Option, unless otherwise provided in the Option Agreement evidencing the Option, the Holder shall be deemed to have agreed that the Option is special incentive compensation that will not be taken into account, in any manner, as salary, compensation or bonus in determining the amount of any payment under any pension, retirement or other employee benefit plan, program or policy of the Company or any of its Affiliates.

7.12 NO SHAREHOLDER RIGHTS. No Holder or other person shall have any voting or other shareholder rights with respect to shares of Common Stock subject to an Option until the Option has been duly exercised, full payment of the purchase price has been made, all conditions under the Option and this Plan to issuance of the shares have been satisfied, and a certificate for the shares has been issued. No adjustment shall be made for cash or other dividends or distributions to shareholders for which the record date is prior to the date of such issuance.

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7.13 GOVERNING LAW. The Plan shall be governed by, and construed in accordance with, the laws of the State of Washington.

7.14 COMPANY'S RIGHTS. The grant of Options pursuant to the Plan shall not affect in any way the right or power of the Company to make reclassifications, reorganizations or other changes of or to its capital or business structure or to merge, consolidate, liquidate, sell or otherwise dispose of all or any part of its business or assets.

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Exhibit 10.3

THE SECURITIES OFFERED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND ANY SALE OF SUCH SECURITIES IS SUBJECT TO COMPLIANCE WITH, OR THE AVAILABILITY OF EXEMPTIONS FROM COMPLIANCE WITH, THE REGISTRATION AND QUALIFICATION REQUIREMENTS OF SUCH ACT AND ANY APPLICABLE STATE SECURITIES LAWS. THIS INSTRUMENT DOES NOT CONSTITUTE AN OFFER OR SOLICITATION TO ANY PERSON IN ANY JURISDICTION WHERE SUCH OFFER OR SOLICITATION MAY NOT LAWFULLY BE MADE. TRANSFER OF THIS INSTRUMENT AND THE SECURITIES OFFERED HEREBY IS RESTRICTED AS PROVIDED IN SECTIONS 7, 8, 9 AND 10 BELOW.

STOCK OPTION AGREEMENT

THIS STOCK OPTION AGREEMENT (this "Agreement") is entered into effective as of _____, 19__ the "Grant Date"), by PROGRESSIVE NETWORKS, INC., a Washington corporation (the "Company") and _____ (the "Holder").

R E C I T A L S

A. The Company has adopted the Progressive Networks, Inc. 1996 Stock Option Plan, as amended and restated (the "Plan"), a copy of which is attached as Exhibit A (capitalized terms that are used but not defined in this Agreement will have the meanings given those terms in the Plan).

B. The Holder is an employee of the Company, and has been designated by the Administrative Committee to receive a stock option under the Plan.

NOW, THEREFORE, the Company and the Holder covenant and agree as follows:

1. GRANT OF THE OPTION.

(a) The Company hereby grants to the Holder a stock option (the "Option") to acquire from the Company _____ (_____) shares of the Series B Common Stock, no par value, of the Company (the "Common Stock"), at the price of \$____ per share (the "Option Price"). The Option is not intended to qualify as an "incentive stock option," as that term is defined in Section 422 of the Internal Revenue Code of 1986, as amended.

(b) The Holder acknowledges that: (i) a copy of the Company's Articles of Incorporation, as amended and currently in effect as of the Grant Date (the "Articles"), is attached as Exhibit B; (ii) the Articles, as amended from time to time, define the rights of the Common Stock; (iii) although this Option is currently an option to purchase shares of Series B Common Stock, such shares will automatically convert into shares of Series C Common Stock, or Common Stock, upon the occurrence of certain events, as described in the Articles, and, accordingly, the shares issued upon exercise of this Option may be shares of

Series B Common Stock, shares of Series C Common Stock or shares of Common Stock.

2. TERM OF THE OPTION. Unless earlier terminated in accordance with the provisions of the Plan, the Option will terminate on the earliest to occur of (a) the expiration of twenty (20) years from the Grant Date; (b) the expiration of ninety (90) days following termination of the Holder's employment with the Company for any reason other than death, Disability or cause (as defined in Section 7.2(b) of the Plan); (c) the expiration of one (1) year following termination of the Holder's employment with the Company on account of death or Disability; and (d) the date of termination of the Holder's employment with the Company for cause (as defined in Section 7.2(b) of the Plan).

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3. VESTING. The vesting schedule applicable to the Option shall commence on _____, 19__ (the "Vest Date"). The Option shall vest and become exercisable in accordance with the following schedule:

<TABLE>

<CAPTION>

Date ----	Cumulative Number of Shares Vested -----	(Percent) -----
<S>	<C>	<C>
12 months after Vest Date	_____	(20%)
18 months after Vest Date	_____	(30%)
24 months after Vest Date	_____	(40%)
30 months after Vest Date	_____	(50%)
36 months after Vest Date	_____	(60%)
42 months after Vest Date	_____	(70%)
48 months after Vest Date	_____	(80%)
54 months after Vest Date	_____	(90%)
60 months after Vest Date	_____	(100%)

</TABLE>

provided, however, that, if the Holder's employment with the Company terminates for any reason, the Option will not vest further following such termination. To the extent the Option is vested, it shall be exercisable at any time and from time to time prior to its termination as provided in Section 2.

4. OTHER LIMITATIONS ON THE OPTION. The Option is subject to all of the provisions of the Plan, including but not limited to Section 4.2 (which permits adjustments to the Option upon the occurrence of certain corporate events such as stock dividends, extraordinary cash dividends, reclassifications, recapitalizations, reorganizations, split-ups, spin-offs, combinations, exchanges of shares, and warrants or rights offerings), Section 6.10 (which provides that the Company may repurchase any and all shares of Common Stock issued upon exercise of the Option in the event the Holder's employment is terminated for "cause"), and Section 7.1 (which applies in the event of an Approved Transaction or Control Purchase).

5. EXERCISE OF THE OPTION. To exercise the Option, the Holder must do the following:

(a) deliver to the Company a written notice, in the form attached to

this Agreement as Exhibit C, specifying the number of shares of Common Stock for which the Option is being exercised;

(b) surrender this Agreement to the Company;

(c) tender payment of the aggregate Option Price for the shares for which the Option is being exercised, which payment may be made (i) in cash or by check; or (ii) by such other means as the Administrative Committee, in its sole discretion, shall permit at the time of exercise;

(d) pay, or make arrangements satisfactory to the Administrative Committee for payment to the Company of all federal, state and local taxes, if any, required to be withheld by the Company in connection with the exercise of the Option;

(e) if requested by the Administrative Committee, deliver to the Company, at the Holder's expense, a legal opinion, satisfactory in form and substance to the Company, of legal counsel designated by the Holder and satisfactory to the Company, to the effect that exercise of the Option by the Holder, and the acquisition of shares of Common Stock pursuant thereto, may be effected without registration or

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qualification of such shares under the Securities Act of 1933, as amended (the "1933 Act"), or any applicable state securities laws;

(f) if not already a party to the Shareholders' Buy-Sell Agreement (as defined in Section 9), execute and become a party to that agreement (as required by Section 9) by delivering to the Company an executed Consent to Be Bound by Shareholders' Buy-Sell Agreement in the form attached to this Agreement as Exhibit D; and

(g) execute and deliver to the Company the documents required by the Plan and any other documents required from time to time by the Administrative Committee in order to promote compliance with the Plan, the 1933 Act, applicable state securities laws, or any other applicable law, rule or regulation.

6. DELIVERY OF SHARE CERTIFICATE. As soon as practicable after the Option has been duly exercised, the Company will deliver to the Holder a certificate for the shares of Common Stock for which the Option was exercised. Unless the Option has expired or been exercised in full, the Company and the Holder agree to execute a new Stock Option Agreement, covering the remaining shares of Common Stock that may be acquired upon exercise of the Option, which will be identical to this Agreement except as to the number of shares of Common Stock subject thereto. In lieu of replacing this Agreement in such manner, the Company may affix to this Agreement an appropriate notation indicating the number of shares for which the Option was exercised and return this Agreement to the Holder.

7. NONTRANSFERABILITY. The Option is not transferable other than by will or the laws of descent and distribution, and the Option may be exercised during the lifetime of the Holder only by the Holder or the Holder's court appointed legal representative.

8. WARRANTIES AND REPRESENTATIONS OF THE HOLDER. By executing this Agreement, the Holder accepts the Option and represents and warrants to the Company and covenants and agrees with the Company as follows:

(a) The Holder agrees to comply with all of the provisions of this Agreement and the Plan.

(b) The Holder recognizes, agrees and acknowledges that no

registration statement under the 1933 Act, or under any state securities laws, has been or will be filed with respect to the Option or any shares of Common Stock that may be acquired upon exercise of the Option.

(c) The Holder warrants and represents that the Option and any shares of Common Stock acquired upon exercise of the Option will be acquired and held by the Holder for the Holder's own account, for investment purposes only, and not with a view towards the distribution or public offering thereof nor with any present intention of reselling or distributing the same at any particular future time.

(d) The Holder agrees not to sell, transfer or otherwise dispose of any shares of Common Stock that may be acquired upon exercise of the Option unless (i) there is an effective registration statement under the 1933 Act covering the proposed disposition and compliance with governing state securities laws, (ii) the Holder delivers to the Company, at the Holder's expense, a "no-action" letter or similar interpretative opinion, satisfactory in form and substance to the Company, from the staff of each appropriate securities agency, to the effect that such shares may be disposed of by the Holder in the manner proposed, or (iii) the Holder delivers to the Company, at the Holder's expense, a legal opinion, satisfactory in form and substance to the Company, of legal counsel designated by the Holder and satisfactory to the Company, to the effect that the proposed disposition is exempt from registration under the 1933 Act and governing state securities laws.

(e) The Holder acknowledges and consents to the appearance of the restrictive legends, in the form required by Section 6.8 of the Plan, on each certificate representing shares of Common Stock issued upon exercise of the Option.

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(f) The Holder agrees not to sell, transfer or otherwise dispose of the Option or any shares of Common Stock acquired upon exercise of the Option, except as specifically permitted by this Agreement, the Plan and any applicable securities laws.

9. SHAREHOLDERS AGREEMENT. The Holder shall be required, as a condition to the issuance of any shares of Common Stock upon the exercise of the Option, to execute and deliver to the Company a shareholders agreement in such form as may be in use by the Company at the time of such exercise, or a counterpart thereof, together with, unless the Holder is unmarried, a spousal consent in the form required thereby, unless the Holder has previously executed and delivered such documents and they are in effect at the time the shares are to be issued.

10. PROCEDURES UPON PERMITTED TRANSFER. Prior to any sale, transfer or other disposition of any of the shares of Common Stock acquired upon exercise of the Option, the Holder agrees to give written notice to the Company of the Holder's intention to effect such disposition. The notice must describe the circumstances of the proposed transfer in reasonable detail and must specify the manner in which the requirements of Section 8(d) above will be satisfied in connection with the proposed disposition. After (a) legal counsel to the Company has determined that the requirements of Section 8(d) above will be satisfied, (b) the Holder has executed such documentation as may be necessary to effect the proposed disposition, and (c) the Holder has paid, or made arrangements satisfactory to the Administrative Committee for the payment of, all federal, state and local taxes, if any, required to be withheld by the Company in connection with the proposed disposition, the Company will, as soon as practicable, transfer such shares in accordance with the terms of the notice. Any stock certificate issued upon such transfer will bear the restrictive legends, in the form required by Section 6.8 of the Plan, unless in the opinion of legal counsel to the Company such legends are not required. Compliance with the foregoing procedures are in addition to compliance with any separate

requirements applicable to the Holder under the Company's Articles of Incorporation or otherwise.

11. RIGHTS AS SHAREHOLDER. The Holder will have no rights as a shareholder of the Company on account of the Option or on account of shares of Common Stock which will be acquired upon exercise of the Option (but with respect to which no certificates have been delivered to the Holder).

12. TAX WITHHOLDING. The Holder agrees to pay, or to make arrangements satisfactory to the Administrative Committee for payment to the Company of, all federal, state and local income and employment taxes, if any, required to be withheld by the Company in connection with the exercise of the Option or any sale, transfer or other disposition of any shares of Common Stock acquired upon exercise of the Option. If the Holder fails to do so, then the Holder hereby authorizes the Company to deduct all or any portion of such taxes from any payment of any kind otherwise due to the Holder.

13. FURTHER ASSURANCES. The Holder agrees from time to time to execute such additional documents as the Company may reasonably require to effectuate the purposes of the Plan and this Agreement.

14. BINDING EFFECT. This Agreement shall be binding upon the Holder and the Holder's heirs, successors and assigns.

15. ENTIRE AGREEMENT; MODIFICATIONS. This Agreement, together with the Plan and agreements referenced in this Agreement and/or the Plan, constitutes the entire agreement and understanding between the Company and the Holder regarding the subject matter hereof. Except as otherwise provided in the Plan, no modification of the Option or this Agreement, or waiver of any provision of this Agreement or the Plan, shall be valid unless in writing and duly executed by the Company and the Holder. The failure of any party to enforce any of that party's rights against the other party for breach of any of the terms of this Agreement shall not be construed as a waiver of such rights as to any continued or subsequent breach.

Option No. NQ-____

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16. COST OF LITIGATION. In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the unsuccessful party to such litigation, as determined by the court in a final judgment or decree, shall pay the successful party or parties all costs, expenses and reasonable attorneys' fees incurred by the successful party or parties (including without limitation costs, expenses and fees in any appellate proceedings), and if the successful party recovers judgment in any such action or proceeding, such costs, expenses and attorneys' fees shall be included as part of the judgment.

17. GOVERNING LAW. This Agreement shall be governed by the laws of the State of Washington.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

"COMPANY"

PROGRESSIVE NETWORKS, INC.

BY

ITS CHIEF FINANCIAL OFFICER

"HOLDER"

Option No. NQ-____

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EXHIBIT A

(ATTACH AMENDED AND RESTATED 1996 STOCK OPTION PLAN)

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EXHIBIT B

(ATTACH AMENDED AND RESTATED ARTICLES OF INCORPORATION)

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FORM OF EXERCISE OF OPTION

To: Progressive Networks, Inc.
1111 Third Avenue, Suite 2900
Seattle, WA 98101

The undersigned holds Option Number NQ-____ (the "Option"), represented by a Stock Option Agreement dated effective as of _____ (the "Agreement"), granted to the undersigned pursuant to the Progressive Networks, Inc. 1996 Stock Option Plan as Amended (the "Plan"). The undersigned hereby exercises the Option and elects to purchase _____ shares (the "Shares") of Series B Common Stock (or shares of Common Stock) of Progressive Networks, Inc. (the "Company") pursuant to the Option. This notice is accompanied by full payment of the Option Price of \$____ per share for the Shares in cash or by check or in another manner permitted by Section 5(c) of the Agreement. The undersigned has also paid, or made arrangements satisfactory to the Administrative Committee administering the Plan for payment of, all federal, state and local taxes, if any, required to be withheld by the Company in connection with the exercise of the Option.

The undersigned acknowledges that no registration statement under the 1933 Act, or under any state securities laws, has been or will be filed with respect to the Shares. The undersigned warrants and represents that the undersigned is acquiring and will hold the Shares for the undersigned's own account, for investment purposes only, and not with a view towards the distribution or public offering of the Shares nor with any present intention of reselling or distributing the Shares at any particular future time. The undersigned consents to the appearance of restrictive legends, in the form required by Section 6.8 of the Plan, on the certificate for the Shares. The undersigned agrees not to sell, transfer or otherwise dispose of the Shares except as specifically permitted by the Agreement, the Plan and any applicable securities laws.

Date: _____

Signature of Holder

EXHIBIT C

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CONSENT TO BE BOUND BY
SHAREHOLDERS' BUY-SELL AGREEMENT

In consideration of the issuance, sale, pledge or other transfer to the undersigned of shares of the capital stock of Progressive Networks, Inc., a Washington corporation (the "Company"), the undersigned (the "Shareholder") consents and agrees to the terms of, and does hereby execute and become a party to, the Shareholders' Buy-Sell Agreement dated March 31, 1995 (the "Agreement") among the Company and certain of the Company's shareholders, as such may be amended from time to time as provided in the Agreement. The undersigned acknowledges receipt of a copy of the Agreement and agrees that all Shares (as defined in the Agreement) of the undersigned shall be held in accordance with and restricted by the terms of the Agreement.

The execution of this Consent by the spouse of the Shareholder signifies that the spouse authorizes, ratifies, confirms and approves the execution of this Consent and, therefore, the Agreement, by the Shareholder, and he or she further authorizes and appoints the Shareholder as his or her attorney-in-fact to exercise all rights he or she may have with respect to the ownership of any Shares of the Company, including the encumbrance and disposition of such Shares.

DATED: _____

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ AND
UNDERSTOOD THE SHAREHOLDERS' BUY-SELL AGREEMENT AND HAVE
BEEN ENCOURAGED TO RETAIN SEPARATE COUNSEL

Shareholder: _____

Address: _____

Social Security Number

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ AND
UNDERSTOOD THE SHAREHOLDERS' BUY-SELL AGREEMENT,
INCLUDING SECTION 10 AND HAVE BEEN ENCOURAGED
TO RETAIN SEPARATE COUNSEL

Shareholder's Spouse

Social Security Number

EXHIBIT D

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EXHIBIT 10.4

REALNETWORKS, INC.

1998 EMPLOYEE STOCK PURCHASE PLAN

REALNETWORKS, INC., a Washington corporation (the "Company"), hereby establishes this 1998 Employee Stock Purchase Plan (the "Plan").

1. PURPOSE OF PLAN. The purpose of the Plan is to enable Eligible Employees (as defined in Section 3) who wish to become shareholders of the Company a convenient and favorable method of doing so. The Plan is intended to constitute an "employee stock purchase plan," as defined in Section 423(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be interpreted and administered to further that intent.

2. ADMINISTRATION OF THE PLAN. The Plan will be administered by the Compensation Committee (the "Committee") of the Board of Directors of the Company (the "Board"). Subject to the provisions of the Plan, the Committee will have the complete authority to interpret the Plan, to adopt, amend and rescind rules and procedures relating to the Plan, and to make all of the determinations necessary or advisable for the administration of the Plan. All such interpretations, rules, procedures and determinations will, in the absence of fraud or patent mistake, be conclusive and binding on all persons with any interest in the Plan.

3. ELIGIBLE EMPLOYEES. The term "Eligible Employees" means all common law employees of the Company and its current majority-owned subsidiaries (and each other corporation designated by the Committee that hereafter becomes a majority-owned subsidiary of the Company), except the following: (a) employees who have been employed for less than 90 days; (b) employees whose customary employment is 20 hours or less per week; and (c) employees whose customary employment is for not more than five months in any calendar year. Except as otherwise expressly provided in the Plan and permitted by Section 423 of the Code, all Eligible Employees shall have the same rights and obligations under the Plan.

4. STOCK SUBJECT TO THE PLAN. The stock subject to the Plan shall be shares of the Company's authorized but unissued voting Common Stock, \$.001 par value per share (the "Common Stock"). The aggregate number of shares of Common Stock that may be purchased by Eligible Employees pursuant to the Plan is 1,000,000, subject to adjustment as provided in Section 13.

5. OFFERING PERIODS. The Common Stock shall be offered under the Plan during ten consecutive six-month periods (the "Offering Periods"). The first Offering Period shall begin on January 1, 1998 and end on June 30, 1998. Thereafter, the Offering Periods will begin on the first day and end on the last day of each subsequent six-month period.

6. PARTICIPANTS; PAYROLL DEDUCTIONS

6.1 A person who is an Eligible Employee at the beginning of an Offering Period may elect to have the Company make deductions from the person's Compensation (as defined in Section 6.4), at a specified percentage rate, to be used to purchase of shares of Common Stock pursuant to the Plan. Such election shall be made prior to the beginning of the Offering Period in accordance with such procedures as the Committee may adopt (each Eligible Employee who so elects to have such deductions made will be referred to as a "Participant").

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6.2 The maximum rate of deduction that a Participant may elect for any Offering Period is 10%. An amount equal to the elected percentage shall be deducted from the Participant's pay each time during the Offering Period that any Compensation is paid to the Participant. The Committee may set such minimum level of payroll deductions as the Committee determines to be appropriate. Any minimum level of deductions set by the Committee shall apply

equally to all Eligible Employees. A Participant's accumulated payroll deductions shall remain the property of the Participant until applied toward the purchase of shares of Common Stock under the Plan, but may be commingled with the general funds of the Company. No interest will be paid on payroll deductions accumulated under the Plan.

6.3 A Participant in the Plan on the last day of an Offering Period shall automatically continue to participate in the Plan during the next Offering Period unless he or she withdraws in the manner described in Section 11.

6.4 The term "Compensation" means all cash salary, wages, bonuses, commissions and other amounts paid to or on behalf of a Participant for services performed or on account of holidays, vacation, sick leave or other similar events, including any amounts by which such amounts are reduced, at the election of a Participant, pursuant to a cafeteria plan described in Section 125 of the Code, a dependent care assistance program described in Section 129 of the Code, a cash or deferred arrangement described in Section 401(k) of the Code, or any similar plan, program or arrangement, but excluding the value of any noncash benefits under any employee benefit plans and any special amounts paid to the Participant that are specifically excluded by the Committee.

7. PURCHASE OF SHARES

7.1 At the end of an Offering Period, a Participant's accumulated payroll deductions for the Offering Period will, subject to the limitations in Section 9 and the termination provisions of Section 16, be applied toward the purchase of shares of Common Stock at a purchase price (the "Purchase Price") equal to the lesser of --

(a) 85% of the Market Price (as defined in Section 8.1) of the Common Stock on the first Business Day (as defined in Section 8.2) of the Offering Period; or

(b) 85% of the Market Price for the Common Stock on the last Business Day of the Offering Period;

in either event rounded to the nearest whole cent.

7.2 Shares of Common Stock may be purchased under the Plan only with a Participant's accumulated payroll deductions. Fractional shares cannot be purchased. Any portion of a Participant's accumulated payroll deductions for an Offering Period not used for the purchase of Common Stock shall be applied to the purchase of Common Stock in the next Offering Period, if the Participant is participating in the Plan during that Offering Period, or returned to the Participant.

7.3 Each Participant who purchases shares of Common Stock under the Plan shall thereby be deemed to have agreed that the Company or the subsidiary of the Company that employs the Participant shall be entitled to withhold, from any other amounts that may be payable to the Participant at or around the time of the purchase, such federal, state, local and foreign income, employment and other taxes may be required to be withheld under applicable

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laws. In lieu of such withholding, the Company or such subsidiary may require the Participant to remit such taxes to the Company or such subsidiary as a condition of the purchase.

8. MARKET PRICE

8.1 For purposes of the Plan, the term "Market Price" on any

day means, if the Common Stock is publicly traded, the last sales price (or, if no last sales price is reported, the average of the high bid and low asked prices) for a share of Common Stock on that day as reported by the principal exchange on which the Common Stock is listed, or, if the Common Stock is publicly traded but not listed on an exchange, as reported by The Nasdaq Stock Market, or, if such prices or quotations are not reported by The Nasdaq Stock Market, as reported by any other available source of prices or quotations selected by the Committee.

8.2 For purposes of the Plan, the term "Business Day" means a day on which prices or quotations for the Common Stock are reported by a national securities exchange, the Nasdaq Stock Market, or any other available source of prices or quotations selected by the Committee, whichever is applicable pursuant to the preceding paragraph.

8.3 If the Market Price of the Common Stock must be determined for purposes of the Plan at a time when the Common Stock is not publicly traded, then the term "Market Price" shall mean the fair market value of the Common Stock as determined by the Committee, after taking into consideration all the factors it deems appropriate, including, without limitation, recent sale and offer prices of the Common Stock in private transactions negotiated at arm's length.

9. LIMITATIONS ON SHARE PURCHASES

9.1 Notwithstanding Section 3, an employee will not be an Eligible Employee for purposes of the Plan if the employee owns stock possessing 5% or more of the total combined voting power or value of all classes of stock of the Company. For purposes of this 5% limitation, an employee shall be treated as owning any stock the ownership of which is attributed to him or her under the rules of Section 424(d) of the Code, as well as any stock that, in the absence of this paragraph, the employee could purchase under the Plan with his or her payroll deductions held pursuant to Section 6 but not yet applied to the purchase of shares of Common Stock under the Plan.

9.2 During any calendar year, the maximum value of the Common Stock that may be purchased by a Participant under the Plan is \$10,000, said value to be determined on the basis of the Market Price of the Common Stock on the first Business Day of each Offering Period that ends in the calendar year.

9.3 The limitations in Section 9.1 and Section 9.2 are intended to and shall be interpreted in such a manner as will comply with Section 423(b)(3) and Section 423(b)(8) of the Code, respectively.

10. CHANGES IN PAYROLL DEDUCTIONS. The rate of payroll deductions for an Offering Period may not be increased or decreased by a Participant during the Offering Period. However, the Participant may change the rate of payroll deduction for a subsequent Offering Period. In addition, a Participant may withdraw in full from the Plan in the manner described in Section 11.

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11. WITHDRAWAL FROM THE PLAN

11.1 A Participant may elect to withdraw from the Plan, effective for the Offering Period in progress, by delivering to the Committee written notice thereof prior to the end of the Offering Period. If a Participant so withdraws, all of the Participant's payroll deductions for that Offering Period will be promptly returned to the Participant. If a Participant's payroll deductions are interrupted by any legal process, the

Participant will be deemed to have elected to withdraw from the Plan for the Offering Period in which the interruption occurs.

11.2 A Participant may elect to withdraw from the Plan, effective for an Offering Period that has not yet commenced, by delivering to the Committee written notice thereof prior to the first day of the Offering Period.

11.3 Following withdrawal from the Plan, in order to participate in the Plan for any subsequent Offering Period, the Participant must again elect to participate in the manner described in Section 6.1.

12. ISSUANCE OF COMMON STOCK.

12.1 Certificates for the shares of Common Stock purchased by Participants will be delivered by the Company's transfer agent as soon as practicable after each Offering Period. In lieu of issuing certificates for such shares directly to Participants, the Company shall be entitled to issue such shares to a bank, broker-dealer or similar custodian (the "Custodian") that has agreed to hold such shares for the accounts of the respective Participants. Fees and expenses of the Custodian shall be paid by the Company or allocated among the respective Participants in such manner as the Committee determines.

12.2 A Participant may direct, in accordance with such procedures as the Committee may adopt, that shares purchased by the Participant shall be issued (or, if such shares are issued to the Custodian, that the account for such shares be held) in the names of the Participant and one other person designated by the Participant, as joint tenants with right of survivorship, tenants in common, or community property, to the extent and in the manner permitted by applicable law.

12.3 A Participant may at any time, in the manner described in Section 18, undertake a disposition (as that term is defined in Section 424(c) of the Code), whether by sale, exchange, gift or other transfer of legal title, of any or all of the shares held for the Participant by the Custodian. In the absence of such a disposition of the shares, the shares shall continue to be held by the Custodian until the holding period set forth in Section 423(a) of the Code has been satisfied. If a Participant so requests, shares for which such holding period has been satisfied will be transferred to another brokerage account specified by the Participant, or a stock certificate for such shares will be issued and delivered to the Participant or his or her designee.

13. CHANGES IN CAPITALIZATION

13.1 Upon the happening of any of the following described events, a Participant's right to purchase shares of Common Stock under the Plan shall be adjusted as hereinafter provided:

(a) If the shares of Common Stock are subdivided or combined into a greater or smaller number of shares of Common Stock or if, upon a recapitalization, split-up or other reorganization of the Company, the shares of Common Stock are exchanged for other securities of the Company, the rights of each Participant shall be modified

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so that the Participant is entitled to purchase, in lieu of the shares of Common Stock that the Participant would otherwise have been entitled to purchase for the Offering Period in progress at the time of such subdivision, combination or exchange (the "Offering Period Shares"),

such number of shares of Common Stock or such number and type of other securities as the Participant would have received if such Offering Period Shares had been issued and outstanding at the time of such subdivision, combination or exchange (unless in the case of an exchange the Committee determines that the nature of the exchange is such that it is not feasible or advisable that the rights of Participants be so modified, in which event the exchange shall be deemed a Terminating Event under Section 14); and

(b) If the Company issues any of its shares as a stock dividend upon or with respect to the Common Stock, each Participant who purchases shares of Common Stock under the Plan at the end of the Offering Period in progress on the record date for the stock dividend shall be entitled to receive the shares so purchased (the "Purchased Shares") and shall also be entitled to receive at no additional cost, but only if the Purchase Price for the Purchased Shares was determined with reference to the Market Price of the Common Stock on the first Business Day of the Offering Period, the number of shares of the class of stock issued as a stock dividend, and the amount of cash in lieu of fractional shares, that the Participant would have received if he or she had been the holder of the Purchased Shares on the record date for the stock dividend.

13.2 Upon the happening of an event specified in clause (a) or (b) above, the class and aggregate number of shares available under the Plan, as set forth in Section 4, shall be appropriately adjusted to reflect the event. Notwithstanding the foregoing, such adjustments shall be made only to the extent that the Committee, based on advice of counsel for the Company, determines that such adjustments will not constitute a change requiring shareholder approval under Section 423(b)(2) of the Code.

14. TERMINATING EVENTS

14.1 Upon (a) the dissolution or liquidation of the Company, (b) a merger or other reorganization of the Company with one or more corporations as a result of which the Company will not be a surviving corporation, (c) the sale of all or substantially all of the assets of the Company or a material division of the Company, (d) a sale or other transfer, pursuant to a tender offer or otherwise, of more than fifty percent (50%) of the then outstanding shares of Common Stock of the Company, (e) an acquisition by the Company resulting in an extraordinary expansion of the Company's business or the addition of a material new line of business, or (f) any exchange that is subject to this Section 14 in accordance with the provisions of Section 13 (any of such events is herein referred to as a "Terminating Event"), the Committee may but shall not be required to --

(a) make provision for the continuation of the Participants' rights under the Plan on such terms and conditions as the Committee determines to be appropriate and equitable, including where applicable, but not limited to, an arrangement for the substitution on an equitable basis, for each share of Common Stock that could otherwise be purchased at the end of the Offering Period in progress at the time of the Terminating Event, of any consideration payable with respect to each then outstanding share of Common Stock in connection with the Terminating Event; or

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(b) terminate all rights of Participants under the Plan for such Offering Period and --

(i) return to the Participants all of their payroll deductions for such Offering Period; and

(ii) for each share of Common Stock, if any, that otherwise could have been purchased under the Plan by a Participant at the end of such Offering Period (determined by assuming that payroll deductions at the rate elected by the Participant were continued to the end of the Payroll Period and used to purchase shares based on the Market Price of the Common Stock on the first Business Day of the Offering Period) and with respect to which (A) the Purchase Price at which such share could be purchased (determined with reference only to the Market Price of the Common Stock on the first Business Day of the Offering Period) is exceeded by (B) the Market Price on the date of the Terminating Event of a share of Common Stock, as determined by the Committee, pay to the Participant an amount equal to such excess.

14.2 The Committee shall make all determinations necessary or advisable in connection with Terminating Events, and its determinations shall, in the absent of fraud or patent mistake, be conclusive and binding on all persons with any interest in the Plan.

15. NO TRANSFER OR ASSIGNMENT OF EMPLOYEE'S RIGHTS. An Eligible Employee's rights under the Plan are the Eligible Employee's alone and may not be voluntarily or involuntarily transferred or assigned to, or availed of by, any other person other than by will or the laws of descent and distribution. An Eligible Employee's rights under the Plan are exercisable during his or her lifetime by the Eligible Employee alone.

16. TERMINATION OF EMPLOYEE'S RIGHTS

16.1 Subject to Section 16.2, a Participant's rights under the Plan will terminate if he or she for any reason (including death, disability or voluntary or involuntary termination of employment) ceases to be an employee of the Company or one of its subsidiaries.

16.2 Notwithstanding the foregoing, if a Participant ceases to be an employee of the Company or one of its subsidiaries, the termination of the Participant's rights under the preceding paragraph shall not apply to any right the Participant may have to purchase shares of Common Stock at the end of the Offering Period in progress when the Participant ceases to be an employee. Such purchases of shares of Common Stock shall, to the extent of payroll deductions accumulated for the Offering Period, occur automatically at the end of the Offering Period, unless the Participant or his or her personal representative withdraws from the Plan for the Offering Period in the manner described in Section 11.

16.3 To the extent that the rights of a Participant terminate in accordance with this Section 16, any of the Participant's payroll deductions not used to purchase shares of Common Stock will be promptly returned to the Participant or his or her personal representative.

17. TERMINATION AND AMENDMENT OF PLAN

17.1 The Plan shall terminate on December 31, 2002. The Plan may be terminated at any earlier time by the Board, but, except as provided in Section 14, such termination shall not affect the rights of Participants under the Plan for the Offering Period in progress at the time of termination. The Plan will also terminate in any case when all or substantially all of the

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unissued shares of Common Stock reserved for the purposes of the Plan have been purchased. If at any time shares of Common Stock reserved for the purpose of the Plan remain available for purchase but not in sufficient number to satisfy all then unfilled purchase requirements, the available shares shall be apportioned among Participants in proportion to the respective amounts of their accumulated payroll deductions, and the Plan shall terminate. Upon such termination or any other termination of the Plan, all payroll deductions not used to purchase shares of Common Stock will be refunded to the Participants entitled thereto.

17.2 The Committee or the Board may from time to time adopt amendments to the Plan; PROVIDED, HOWEVER, that, without the approval of the shareholders of the Company, no amendment may increase the number of shares that may be issued under the Plan or make any other change for which shareholder approval is required by Section 423 of the Code or the regulations thereunder.

18. DISPOSITION OF SHARES. Subject to compliance with any applicable federal and state securities and other laws and any policy of the Company in effect from time to time with respect to trading in its shares, a Participant may effect a disposition (as that term is defined in Section 424(c) of the Code) of Common Stock purchased under the Plan at any time the Participant chooses; PROVIDED, HOWEVER, each Participant agrees, by purchasing shares of Common Stock under the Plan, that (a) the Company shall be entitled to withhold, from any other amounts that may be payable to the Participant by the Company at or around the time of such disposition, such federal, state, local and foreign income, employment and other taxes as the Company may be required to withhold under applicable law; and (b) in lieu of such withholding, the Participant will, upon request of the Company, promptly remit such taxes to the Company. EACH EMPLOYEE PURCHASING SHARES OF COMMON STOCK UNDER THE PLAN ASSUMES THE RISK OF ANY MARKET FLUCTUATIONS IN THE PRICE THEREOF.

19. NO SHAREHOLDER RIGHTS; INFORMATION TO PARTICIPANTS. A Participant shall not have any rights as a shareholder of the Company (other than the right potentially to receive stock dividends under Section 13) on account of shares of Common Stock that may be purchased under the Plan prior to the time such shares are actually purchased by and issued to the Participant. Notwithstanding the foregoing, the Company shall deliver to each Participant under the Plan who does not otherwise receive such materials (a) a copy of the Company's annual financial statements (which shall be delivered annually as promptly as practical following each fiscal year of the Company and review or audit of such statements by the Company's auditors), together with management's discussion and analysis of financial condition and results of operations for the fiscal year, and (b) a copy of all reports, proxy statements and other communications distributed to the Company's security holders generally.

20. USE OF PROCEEDS. The proceeds received by the Company from the sale of shares of Common Stock under the Plan will be used for general corporate purposes.

21. GOVERNMENTAL REGULATIONS. The Company's obligation to sell and deliver shares of the Common Stock under the Plan is subject to the approval of any governmental authority required in connection with the authorization, issuance or sale of such shares, including the Securities and Exchange Commission, the securities administrators of the states in which Participants reside, and the Internal Revenue Service.

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22. MISCELLANEOUS PROVISIONS

22.1 Nothing contained in the Plan shall obligate the Company or any of its subsidiaries to employ a Participant for any period, nor shall the Plan interfere in any way with the right of the Company or any of its subsidiaries to reduce a Participant's compensation.

22.2 The provisions of the Plan shall be binding upon each Participant and, subject to the provisions of Section 15, the heirs, successors and assigns of each Participant.

22.3 Where the context so requires, references in the Plan to the singular shall include the plural, and vice versa, and references to a particular gender shall include either or both additional genders.

22.4 The Plan shall be construed, administered and enforced in accordance with the laws of the United States, to the extent applicable thereto, as well as the laws of the State of Washington.

23. APPROVAL OF SHAREHOLDERS. The Plan shall be effective January 1, 1998, subject to approval by the shareholders of the Company in a manner that complies with Section 423(b)(2) of the Code. If such approval does not occur prior to January 1, 1998, the Plan shall be void and of no effect.

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Exhibit 10.5

NEITHER THE SECURITY EVIDENCED BY THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES ACT (COLLECTIVELY, THE "SECURITIES LAWS"). THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE SOLD, OFFERED FOR SALE OR OTHERWISE TRANSFERRED UNLESS THE SECURITIES (I) ARE REGISTERED UNDER THE SECURITIES LAWS OR (II) ARE EXEMPT FROM REGISTRATION UNDER THE SECURITIES LAWS AND THE COMPANY IS PROVIDED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

No. _____
 ISSUED: NOVEMBER 27, 1996
 HOLDER: _____

WARRANT TO PURCHASE _____
 SHARES OF SERIES D PREFERRED STOCK

PROGRESSIVE NETWORKS, INC.

SERIES D PREFERRED STOCK PURCHASE WARRANT

THIS IS TO CERTIFY that, for value received and subject to the terms and conditions of this Warrant, the person whose name appears as holder above, or such other person to whom this Warrant may be transferred pursuant to Section 6 of this Warrant (the "Holder"), is entitled, at any time before the termination of this Warrant as provided in Section 5 (the "Exercise Period"), to subscribe

for and purchase upon exercise of this Warrant _____
(_____) fully paid and nonassessable shares of Series D Preferred Stock (the "Warrant Stock") of Progressive Networks, Inc., a Washington corporation (the "Company"), at a price per share of \$9.4125 (the "Unit Price"). In the event, however, that pursuant to the Company's Articles of Incorporation, as amended, an event causing conversion of the Company's Series D Preferred Stock shall have occurred prior to the exercise of this Warrant, in whole or in part, then this Warrant shall be exercisable for the number of shares of Common Stock of the Company into which the Series D Preferred Stock not purchased upon any prior exercise of the Warrant would have been so converted (and, where the context requires, reference to "Warrant Stock" shall be deemed to include such Common Stock).

This Warrant is subject to the following additional terms and conditions:

1. Issuance of Warrant. This Warrant is issued in connection with Holder's acquisition of shares of Series D Preferred Stock pursuant to the terms of the Series D Preferred Stock Purchase Agreement dated November 19, 1996 (the "Stock Purchase Agreement").

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2. Method of Exercise.

(a) This Warrant may be exercised in whole at any time or from time to time in part, but not as to a fractional share of Warrant Stock, by delivering to the Company during the Exercise Period (i) the attached form of "Election to Purchase," duly completed and executed by the Holder, (ii) this Warrant, and (iii) payment of the Unit Price for each share of Warrant Stock for which the Warrant is exercised in cash or by certified or official bank check payable to the order of the Company or by wire transfer of immediately available funds to the account of the Company. At the option of the Holder, in case of an exercise of this Warrant other than in connection with an initial public offering, in lieu of paying the Unit Price, the Holder may deliver Warrants to the Company for cancellation and receive shares of Warrant Stock in accordance with the following formula: in exchange for each share of Warrant Stock issuable on exercise of each Warrant the Holder delivers for cancellation, such Holder shall receive a fractional share of Warrant Stock, such fraction to have a numerator equal to the Fair Market Value per share of Warrant Stock at such time minus the Unit Price per share of Warrant Stock at such time, and a denominator equal to the Fair Market Value per share of Warrant Stock at such time. If the Holder receives notice of a proposed initial public offering of the Company or an event described in Section 8(c)(i) through (v) below, the Holder may make exercise of this Warrant contingent upon consummation of such transaction (and, if such transaction is an initial public offering, upon inclusion of the Warrant Stock as selling shareholder shares in the offering) by so electing in writing in the Election to Purchase delivered to the Company under this Section 2.

(b) For purposes of clause (a) of this Section 2, the "Fair Market Value" per share of the Warrant Stock means: (A) the average of the closing prices of the Company's Common Stock as quoted by NASDAQ or listed on any exchange, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the five (5) trading days prior to the date of the Holder's election hereunder or (B) if applicable at the time of or in connection with the exercise under clause (a) of this Section 2, the gross sales price of one share of the Company's Common Stock pursuant to a registered public offering or that amount which shareholders of the Company will receive for each share of Common Stock pursuant to a merger, reorganization or sale of assets. If the Company's Common Stock is not quoted by NASDAQ or listed on an exchange, the "Fair Market Value" of the Series D Preferred shall be the price at which a willing buyer would buy and a willing seller would sell the Series D Preferred

on the date of exercise of the warrant as agreed to by the Holder and the Company. If the Holder and the Company cannot agree on the Fair Market Value within ten (10) business days of the Company's receipt of the Holder's Election to Purchase, the Fair Market Value shall be determined by an independent appraiser selected by the Company and reasonably acceptable to the Holder. The cost of the appraisal shall be divided equally between the Company and the Holder.

3. Delivery of Stock Certificates. Within three (3) days after the exercise of this Warrant (in full or in part), the Company at its expense (except for the payment of any applicable issue taxes) shall issue in the name of and deliver to the Holder (a) a certificate or certificates for the number of fully paid and nonassessable shares of Warrant Stock to which

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the Holder shall be entitled upon such exercise (in such denominations of Warrant Stock as may be requested by the Holder hereof and registered in the name of such Holder or such other name(s) as shall be designated by such Holder, subject to the limitations contained in Section 6), and (b) unless this Warrant has expired, a new Warrant representing the number of shares of Warrant Stock, if any, with respect to which this Warrant shall not have been exercised. The Holder shall for all purposes be deemed to have become the holder of record of such shares of Warrant Stock on the date on which this Warrant is surrendered and payment of the Warrant Price is made (or immediately upon consummation of a Reorganization, in the case of an exercise that is contingent upon such an event), irrespective of the date of delivery of the certificate or certificates representing the Warrant Stock; provided, that if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of record of such shares of Warrant Stock at the close of business on the next succeeding date on which the stock transfer books are open.

4. Covenants as to Warrant Stock. The Company covenants and agrees that all shares of Warrant Stock issued pursuant to the terms of this Warrant as well as all shares of Common Stock issuable upon conversion of the Warrant Stock (collectively, the "Reserved Shares") will, upon their issuance, be validly issued and outstanding, fully paid and nonassessable. The Company further covenants and agrees that the Company will at all times have authorized and reserved a sufficient number of the Reserved Shares to provide for the exercise of the rights represented by this Warrant.

5. Vesting and Termination.

(a) This Warrant is exercisable from the date of issuance until the Termination Date (as defined in this Section 5).

(b) Upon a merger or consolidation in which the Company is not the survivor, an acquisition of all or substantially all of the assets of the Company, a reorganization of the Company or a liquidation of the Company (collectively, a "Reorganization"), in connection with which the holders of the Company's capital stock will not receive stock or any other securities of any other entity, this Warrant shall be canceled and all rights granted hereunder shall terminate; provided, however, that the Company shall have delivered to the Holder notice of the Reorganization no less than twenty (20) business days before the date scheduled for the Reorganization.

(c) If not sooner canceled pursuant to the provisions of Sections 5(b), this Warrant shall be canceled and the rights granted hereunder shall terminate on November 27, 1998, provided, that if such date occurs during the period (a "Lockup Period") described in Section 1.6 of the Investors' Rights Agreement (as defined in the Stock Purchase Agreement), such date shall be

postponed until the fifteenth (15th) business day following the Lockup Period.

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(d) The date of termination of this Warrant as provided in this Section 5 shall be referred to herein as the "Termination Date."

6. Restrictions on Transfer. Neither this Warrant nor any securities purchased upon exercise of this Warrant may be transferred unless (a) such transfer is registered under the Securities Act and any applicable state securities or blue sky laws, (b) the Company has received a legal opinion from counsel and in form reasonably satisfactory to the Company to the effect that the transfer is exempt from the prospectus delivery and registration requirements of the Securities Act and any applicable state securities and blue sky laws, or (c) the Company otherwise satisfies itself that such transfer is exempt from registration.

7. Legend. A legend setting forth or referring to the above restrictions shall be placed on this Warrant, any replacement hereof and any certificate representing a security issued pursuant to the exercise of this Warrant and a stop transfer restriction or order may be placed on the books of the Company and with any transfer agent until such securities may be legally sold or otherwise transferred.

8. Adjustment of Unit Price and Number of Shares.

(a) In case the Company shall at any time subdivide its outstanding shares of Series D Preferred Stock into a greater number of shares, the Unit Price in effect immediately prior to such subdivision shall be proportionately reduced (and the number of shares of Warrant Stock for which this Warrant shall be exercisable shall be increased in inverse proportion to such reduction), and conversely, in case the outstanding shares of Series D Preferred Stock of the Company shall be combined into a smaller number of shares, the Unit Price in effect immediately prior to such combination shall be proportionately increased (and the number of shares of Warrant Stock for which this Warrant shall be exercisable shall be decreased in inverse proportion to such increase).

(b) Upon any adjustment of the Unit Price and number of shares purchasable upon the exercise of this Warrant, the Company shall give written notice thereof, by first class mail, postage prepaid, addressed to the registered holder of this Warrant at the address of such holder as shown on the books of the Company. The notice shall be signed by the Company's chief financial officer and shall state the Unit Price resulting from such adjustment and the increase or decrease, if any, in the number of shares purchasable at such price upon the exercise of this Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(c) If at any time or from time to time the holders of Series D Preferred Stock (or any shares of stock or other securities at the time receivable upon the exercise of this Warrant) shall have received or become entitled to receive, without payment therefor,

(x) Preferred Stock, or any shares of stock or other securities whether or not such securities are at any time directly or indirectly convertible into or exchangeable for Preferred Stock, or any rights or options to subscribe

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for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution (other than by conversion under section 5.4 of the Company's Amended and Restated Articles of Incorporation), or

(y) any cash paid or payable otherwise than as a cash dividend, or

(z) Preferred Stock or other or additional stock or other securities or property (including cash) by way of spinoff, split-up, reclassification, combination of shares or similar corporate rearrangement (other than shares of Preferred Stock issued as a stock split, adjustments in respect of which shall be covered by the terms of clause (a) above), or

if at any time:

(i) the Company shall declare any cash dividend upon its Series D Preferred Stock;

(ii) the Company shall declare any dividend upon its Series D Preferred Stock payable in stock or make any special dividend or other distribution to the holders of its Series D Preferred Stock;

(iii) the Company shall offer for subscription pro rata to the holders of its Series D Preferred Stock any additional shares of stock of any class or other rights;

(iv) there shall be any capital reorganization or reclassification of the capital stock of the Company, or consolidation or merger of the Company with, or sale of all or substantially all of its assets to, another corporation;

(v) there shall be a voluntary or involuntary dissolution, liquidation or winding-up of the Company; or

(vi) the Company shall take or propose to take any other action, notice of which is actually provided to holders of the Series D Preferred Stock;

then, in any one or more of said cases, the Company shall give, by first class mail, postage prepaid, addressed to the holder of this Warrant at the address of such holder as shown on the books of the Company, (A) at least twenty (20) days prior written notice of the date on which the books of the Company shall close or a record shall be taken for such events listed in this section 8(c) above or for determining rights to vote (if applicable) in respect of any such events listed above in this section 8(c), and (B) in the case of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action, at least twenty (20) days written notice of the date when the same shall take place. Any notice given in accordance with the foregoing clause (A) shall also specify, in the case

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of any such dividend, distribution or subscription rights, the date on which the holders of Series D Preferred Stock shall be entitled thereto. Any notice given in accordance with the foregoing clause (B) shall also specify the date on which the holders of Series D Preferred Stock shall be entitled to exchange their Series D Preferred Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action as the case may be.

(d) If the change in the outstanding Series D Preferred Stock of the Company or any other event occurs as to which the other provisions of this Section 8 are not strictly applicable or if strictly applicable would not fairly protect the purchase rights of the Holder of the Warrant in accordance with the essential intent and principles of such provisions, then the Board of Directors of the Company shall make an adjustment in the number and class of shares available under the Warrant, the Unit Price and/or the application of such provisions, in accordance with such essential intent and principles, so as to protect such purchase rights as aforesaid. The adjustment shall be such as will give the Holder of the Warrant upon exercise for the same aggregate Unit Price the total number, class and kind of shares as he would have owned had the Warrant been exercised prior to the event and had he continued to hold such shares until after the event requiring adjustment.

9. Consolidation or Merger of the Company. If the Company is a party to (a) any consolidation or merger with another corporation in which the Company is not the survivor, (b) any consolidation or merger of another entity into the Company in which the Company is the survivor but, in connection therewith, the Company's equity securities are changed into or exchanged for stock or other securities of any other entity, or (c) any capital reorganization or reclassification of its Series D Preferred Stock or Common Stock, pursuant to any of which transactions the holders of the Company's capital stock are entitled to receive with respect to or in exchange for such capital stock, stock or other securities, whether alone or together with any other consideration (all such consideration being the "Allowed Consideration"), then, as a condition of such transaction, lawful and adequate provisions shall be made whereby the Holder hereof shall thereafter have the right to purchase and receive (in lieu of the shares of the Warrant Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby) such Allowed Consideration as may be issued or payable with respect to or in exchange for the number of shares of such Warrant Stock immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby. In any such case, appropriate provisions shall be made with respect to the rights and interests of the Holder of this Warrant to the end that the provisions hereof (including, without limitation, provisions for adjustments of the Unit Price and the number of shares purchasable and receivable upon the exercise of this Warrant) shall thereafter be applicable, as nearly as may be reasonably practicable (as determined in the good faith of the Company), in relation to the Allowed Consideration thereafter deliverable upon the exercise hereof. The Company will not effect any such consolidation or merger unless, prior to the consummation thereof, the successor corporation resulting from such consolidation or merger shall assume by written instrument, executed and mailed or delivered to the registered Holder hereof at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such

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Allowed Consideration as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

10. Issue Tax. The issuance of certificates for shares of Preferred Stock upon the exercise of the Warrant shall be made without charge to the Holder of the Warrant for any issue tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the then Holder of the Warrant being exercised.

11. Closing of Books. The Company will at no time close its transfer books against the transfer of any Warrant or of any shares of Series D Preferred Stock issued or issuable upon the exercise of any warrant in any manner which

interferes with the timely exercise of this Warrant.

12. Holder as Owner. The Company may deem and treat the holder of record of this Warrant as the absolute owner hereof for all purposes regardless of any notice to the contrary.

13. No Rights as Shareholder. This Warrant shall not entitle the Holder to any voting rights or to any other rights as a shareholder of the Company or to any other rights whatsoever except the rights stated herein; and no cash dividend or interest shall be payable or shall accrue in respect of this Warrant or the Warrant Stock purchasable hereunder unless, until and to the extent that this Warrant shall be exercised. No provisions hereof, in the absence of affirmative action by the Holder to purchase shares of Preferred Stock, and no mere enumeration herein of the rights or privileges of the Holder hereof, shall give rise to any liability of such Holder for the Unit Price or as a shareholder of the Company, whether such liability is asserted by the Company or by its creditors.

14. Construction. The validity and interpretation of the terms and provisions of this Warrant shall be governed by the laws of the State of Washington. The descriptive headings of the several sections of this Warrant are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

15. Expiration. This Warrant shall be void and all rights represented hereby shall cease unless exercised on or before the Termination Date. All restrictions set forth herein on the shares of capital stock issued upon exercise of any rights hereunder shall survive such exercise and expiration of the rights granted hereunder.

16. Exchange of Warrant. This Warrant is exchangeable upon the surrender hereof by the Holder at the office of the Company for new Warrants of like tenor but of different denominations representing in the aggregate the rights to subscribe for and purchase the number of shares that may be subscribed for and purchased hereunder, each of such new Warrants to represent the right to subscribe for and purchase such number of shares as shall be designated by the Holder at the time of such surrender.

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17. Lost Warrant Certificate. If this Warrant is lost, stolen, mutilated or destroyed, the Company shall issue a new Warrant of like denomination, tenor and date as this Warrant, subject to the Company's right to require the Holder to give the Company a bond or other satisfactory security sufficient to indemnify the Company against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft, mutilation or destruction of this Warrant or the issuance of such new Warrant.

18. Waivers and Amendments. This Warrant or any provision hereof may be changed, waived, discharged or terminated only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

19. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be mailed by United States mail first-class postage prepaid, or by registered or certified mail with return receipt requested, addressed as follows:

If to the Holder:

To the address last furnished in writing to the Company by the Holder.

If to the Company:

Progressive Networks, Inc.
1111 Third Avenue, Suite 500
Seattle, Washington 98101
Attention: President

Each of the foregoing parties shall be entitled to specify a different address by giving five (5) days' advance written notice as aforesaid to the other party.

20. Registration Rights. The Holder shall be entitled to registration rights with respect to the shares of Common Stock issuable upon conversion of the Warrant Stock to the extent provided in, and subject to the terms and conditions of, the Investors' Rights Agreement.

21. Investment Intent. By accepting this Warrant, the Holder represents that he, she or it is acquiring this Warrant for investment and not with a view to, or for sale in connection with, any distribution thereof.

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IN WITNESS WHEREOF, the Company has executed this certificate as of the date first written above.

Progressive Networks, Inc.

By

Its

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ELECTION TO PURCHASE

(To be executed only upon exercise of Warrant)

The undersigned registered owner of this Warrant (the "Owner") irrevocably exercises this Warrant for _____ shares of Series D Preferred Stock of Progressive Networks, Inc. (the "Exercise Shares"), on the terms and conditions specified in this Warrant, and requests that a certificate for the Exercise Shares hereby purchased (and any securities or other property issuable upon such exercise) be issued in the name of and delivered to _____ whose address is _____, and, if such shares shall not include all of the shares for which this Warrant is exercisable, that a new Warrant of like tenor and date for the balance of the shares issuable hereunder (properly reduced to reflect cashless exercise, if applicable) be delivered to the undersigned.

The Owner wishes to utilize cashless exercise in payment of the exercise price for the Exercise Shares and hereby authorizes the Company to adjust the number of shares for which this Warrant may be exercised in the future to properly reflect such cashless exercise:

[] Yes, for _____ shares

[] No

Dated: _____

Signature of Registered Owner

Title: _____

(Street Address)-----
(City) (State) (Zip Code)

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EXHIBIT 10.6

NEITHER THE SECURITY EVIDENCED BY THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES ACT (COLLECTIVELY, THE "SECURITIES LAWS"). THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE SOLD, OFFERED FOR SALE OR OTHERWISE TRANSFERRED UNLESS THE SECURITIES (I) ARE REGISTERED UNDER THE SECURITIES LAWS OR (II) ARE EXEMPT FROM REGISTRATION UNDER THE SECURITIES LAWS AND THE COMPANY IS PROVIDED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

No. 35
 ISSUED: JULY 21, 1997
 HOLDER: MICROSOFT CORPORATION

WARRANT TO PURCHASE 3,709,305
 SHARES OF SERIES E PREFERRED STOCK

PROGRESSIVE NETWORKS, INC.

SERIES E PREFERRED STOCK PURCHASE WARRANT

THIS IS TO CERTIFY that, for value received and subject to the terms and conditions of this Warrant, the person whose name appears as holder above, or such other person to whom this Warrant may be transferred pursuant to Section 6 of this Warrant (the "Holder"), is entitled, at any time before the termination of this Warrant as provided in Section 5 (the "Exercise Period"), to subscribe for and purchase upon exercise of this Warrant Three Million Seven Hundred Nine Thousand Three Hundred Five (3,709,305) fully paid and nonassessable shares of Series E Preferred Stock (the "Warrant Stock") of Progressive Networks, Inc., a Washington corporation (the "Company"), at a price per share of \$13.48 (the "Unit Price"). In the event, however, that pursuant to the Company's Articles of Incorporation, as amended, an event causing conversion of the Company's Series E Preferred Stock shall have occurred prior to the

exercise of this Warrant, in whole or in part, then this Warrant shall be exercisable for the number of shares of Common Stock of the Company into which the Series E Preferred Stock not purchased upon any prior exercise of the Warrant would have been so converted (and, where the context requires, reference to "Warrant Stock" shall be deemed to include such Common Stock).

This Warrant is subject to the following additional terms and conditions:

1. Issuance of Warrant. This Warrant is issued in connection with Holder's acquisition of shares of Series E Preferred Stock pursuant to the terms of the Series E Preferred Stock Purchase Agreement dated July 21, 1997 (the "Stock Purchase Agreement").

2. Method of Exercise.

(a) This Warrant may be exercised in whole at any time or from time to time in part, but not as to a fractional share of Warrant Stock, by delivering to the Company during

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the Exercise Period (i) the attached form of "Election to Purchase," duly completed and executed by the Holder, (ii) this Warrant, and (iii) payment of the Unit Price for each share of Warrant Stock for which the Warrant is exercised in cash or by certified or official bank check payable to the order of the Company or by wire transfer of immediately available funds to the account of the Company. At the option of the Holder, in case of an exercise of this Warrant other than in connection with an initial public offering, in lieu of paying the Unit Price, the Holder may deliver this Warrant to the Company for cancellation and receive shares of Warrant Stock in accordance with the following formula: in exchange for each share of Warrant Stock issuable on exercise of the Warrant the Holder delivers for cancellation, such Holder shall receive a fractional share of Warrant Stock, such fraction to have a numerator equal to the Fair Market Value per share of Warrant Stock at such time minus the Unit Price per share of Warrant Stock at such time, and a denominator equal to the Fair Market Value per share of Warrant Stock at such time. If the Holder receives notice of a proposed initial public offering of the Company or an event described in Section 8(c)(i) through (v) below, the Holder may make exercise of this Warrant contingent upon consummation of such transaction (and, if such transaction is an initial public offering, upon inclusion of the Warrant Stock as selling shareholder shares in the offering) by so electing in writing in the Election to Purchase delivered to the Company under this Section 2.

(b) For purposes of clause (a) of this Section 2, the "Fair Market Value" per share of the Warrant Stock means: (i) the average of the closing prices of the Company's Common Stock as quoted by NASDAQ or listed on any exchange, whichever is applicable, as published in the Western Edition of the Wall Street Journal for the five (5) trading days prior to the date of the Holder's election hereunder or (ii) if applicable at the time of or in connection with the exercise under clause (a) of this Section 2, the gross sales price of one share of the Company's Common Stock pursuant to a registered public offering or that amount which shareholders of the Company will receive for each share of Common Stock pursuant to a merger, reorganization or sale of assets. If the Company's Common Stock is not quoted by NASDAQ or listed on an exchange, the "Fair Market Value" of the Warrant Stock shall be the price at which a willing buyer would buy and a willing seller would sell the Warrant Stock on the date of exercise of the warrant as agreed to by the Holder and the Company. If the Holder and the Company cannot agree on Fair Market Value within ten (10) business days of the Company's receipt of the Holder's Election to Purchase, the Fair Market Value shall be determined by an independent appraiser selected by the Company and reasonably acceptable to the Holder. The cost of the appraisal shall be divided equally between the Company and the Holder.

3. Delivery of Stock Certificates. Within three (3) days after the exercise of this Warrant (in full or in part), the Company at its expense (except for the payment of any applicable issue taxes) shall issue in the name of and deliver to the Holder (a) a certificate or certificates for the number of fully paid and nonassessable shares of Warrant Stock to which the Holder shall be entitled upon such exercise (in such denominations of Warrant Stock as may be requested by the Holder hereof and registered in the name of such Holder or such other name(s) as shall be designated by such Holder, subject to the limitations contained in Section 6), and (b) unless this Warrant has expired, a new Warrant representing the number of shares of Warrant Stock, if any, with respect to which this Warrant shall not have been exercised. The Holder

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shall for all purposes be deemed to have become the holder of record of such shares of Warrant Stock on the date on which this Warrant is surrendered and payment of the Warrant Price is made (or immediately upon consummation of a Reorganization, in the case of an exercise that is contingent upon such an event), irrespective of the date of delivery of the certificate or certificates representing the Warrant Stock; provided, that if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of record of such shares of Warrant Stock at the close of business on the next succeeding date on which the stock transfer books are open.

4. Covenants as to Warrant Stock. The Company covenants and agrees that all shares of Warrant Stock issued pursuant to the terms of this Warrant as well as all shares of Common Stock issuable upon conversion of the Warrant Stock (collectively, the "Reserved Shares") will, upon their issuance, be validly issued and outstanding, fully paid and nonassessable. The Company further covenants and agrees that the Company will at all times have authorized and reserved a sufficient number of the Reserved Shares to provide for the exercise of the rights represented by this Warrant.

5. Vesting and Termination.

(a) This Warrant is exercisable from the date of issuance until the Termination Date (as defined in this Section 5).

(b) If Microsoft Corporation, or any of its successors or assigns ("Microsoft"), materially breaches any material warranty, term, condition, or covenant of that certain Agreement between Microsoft and Progressive Networks on Media Steaming Technology dated June 17, 1997, as thereafter amended (the "Microsoft Agreement"), and such breach, other than of the provisions of Section 8.2 of that Agreement, which the parties have agreed cannot be cured, is not cured within forty-five (45) days after written notice is given to Microsoft by the Company (the "Cure Period"), during which Cure Period, or such shorter period ending on the date of cure if the breach is cured prior to the end of such Cure Period, this Warrant shall not be exercisable, this Warrant shall, immediately and automatically upon the breach (unless such breach is cured during the Cure Period), be canceled and all rights granted hereunder shall terminate, and, if applicable, any and all shares of Warrant Stock or Common Stock issued as a result of any exercise of the rights represented by this Warrant on or after the date of the breach, notwithstanding that the date of discovery of such breach may be after such issuance or issuances, shall be canceled, at the option of the Company, provided, however, that in the event of such cancellation, the Company shall deliver written notice of such cancellation to, and shall refund the Unit Price paid by, Microsoft with respect to such shares and such cancellation shall be effective upon delivery to Microsoft of the written notice and the Unit Price paid. If Microsoft disputes that a material breach has occurred, whether a material breach has been cured, or whether a material breach has been cured within the Cure Period, and the parties submit such dispute to structured negotiation or binding arbitration as

provided in Section 11.3 of the Microsoft Agreement (the "Dispute Resolution Period"), the parties agree that this Warrant shall not be exercisable during the Dispute Resolution Period and thereafter unless and until the arbiter of the dispute determines that Microsoft Corporation, or any of its successors or assigns, has not breached the Microsoft Agreement or has cured the breach within the Cure

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Period. The parties agree that this Section 5(b) shall survive any assignment of this Warrant by Microsoft.

(c) Upon a merger or consolidation in which the Company is not the survivor, an acquisition of all or substantially all of the assets of the Company, a reorganization of the Company or a liquidation of the Company (collectively, a "Reorganization"), in connection with which the holders of the Company's capital stock will not receive stock or any other securities of any other entity, this Warrant shall be canceled and all rights granted hereunder shall terminate; provided, however, that the Company shall have delivered to the Holder notice of the Reorganization no less than twenty (20) business days before the date scheduled for the Reorganization.

(d) Upon closing of an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), covering the offer and sale of Common Stock for the account of the Company to the public (an "IPO"), this Warrant shall be canceled and all rights granted hereunder shall terminate; provided, however, that the Company shall deliver to the holder notice of the IPO no less than fifteen (15) business days before the date scheduled for the closing of the IPO.

(e) If not sooner canceled pursuant to the provisions of Sections 5(b), 5(c) or 5(d), this Warrant shall be canceled and the rights granted hereunder shall terminate on January 21, 2000, provided, that if such date occurs during the period (a "Lockup Period") described in Section 1.6 of the Investors' Rights Agreement (as defined in the Stock Purchase Agreement) or during the Dispute Resolution Period (as defined above), such date shall be postponed until the fifteenth (15th) business day following the Lockup Period or the Dispute Resolution Period, as applicable, provided that, in the event of the latter, the arbiter of the dispute determines that Microsoft Corporation, or any of its successors or assigns, has not breached the Microsoft Agreement or has cured the breach within the Cure Period.

(f) The date of termination of this Warrant as provided in this Section 5 shall be referred to herein as the "Termination Date."

6. Restrictions on Transfer. Neither this Warrant nor any securities purchased upon exercise of this Warrant may be transferred unless (a) such transfer is registered under the Securities Act and any applicable state securities or blue sky laws, (b) the Company has received a legal opinion from counsel and in form reasonably satisfactory to the Company to the effect that the transfer is exempt from the prospectus delivery and registration requirements of the Securities Act and any applicable state securities and blue sky laws, or (c) the Company otherwise satisfies itself that such transfer is exempt from registration.

7. Legend. A legend setting forth or referring to the above restrictions, including those contained in Section 5(b) above, shall be placed on this Warrant, any replacement hereof, and any certificate representing a security issued pursuant to the exercise of this Warrant and a stop transfer restriction or order may be placed on the books of the Company and with any transfer agent until such securities may be legally sold or otherwise transferred.

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8. Adjustment of Unit Price and Number of Shares.

(a) In case the Company shall at any time subdivide its outstanding shares of Series E Preferred Stock into a greater number of shares, the Unit Price in effect immediately prior to such subdivision shall be proportionately reduced (and the number of shares of Warrant Stock for which this Warrant shall be exercisable shall be increased in inverse proportion to such reduction), and conversely, in case the outstanding shares of Series E Preferred Stock of the Company shall be combined into a smaller number of shares, the Unit Price in effect immediately prior to such combination shall be proportionately increased (and the number of shares of Warrant Stock for which this Warrant shall be exercisable shall be decreased in inverse proportion to such increase).

(b) Upon any adjustment of the Unit Price and number of shares purchasable upon the exercise of this Warrant, the Company shall give written notice thereof, by first class mail, postage prepaid, addressed to the registered holder of this Warrant at the address of such holder as shown on the books of the Company. The notice shall be signed by the Company's chief financial officer and shall state the Unit Price resulting from such adjustment and the increase or decrease, if any, in the number of shares purchasable at such price upon the exercise of this Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(c) If at any time or from time to time the holders of Series E Preferred Stock (or any shares of stock or other securities at the time receivable upon the exercise of this Warrant) shall have received or become entitled to receive, without payment therefor,

(x) Preferred Stock, or any shares of stock or other securities whether or not such securities are at any time directly or indirectly convertible into or exchangeable for Preferred Stock, or any rights or options to subscribe for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution (other than by conversion under section 5.4 of the Company's Amended and Restated Articles of Incorporation), or

(y) any cash paid or payable otherwise than as a cash dividend, or

(z) Preferred Stock or other or additional stock or other securities or property (including cash) by way of spinoff, split-up, reclassification, combination of shares or similar corporate rearrangement (other than shares of Preferred Stock issued as a stock split, adjustments in respect of which shall be covered by the terms of clause (a) above), or

if at any time:

(i) the Company shall declare any cash dividend upon its Series E Preferred Stock;

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(ii) the Company shall declare any dividend upon its

Series E Preferred Stock payable in stock or make any special dividend or other distribution to the holders of its Series E Preferred Stock;

(iii) the Company shall offer for subscription pro rata to the holders of its Series E Preferred Stock any additional shares of stock of any class or other rights;

(iv) there shall be any capital reorganization or reclassification of the capital stock of the Company, or consolidation or merger of the Company with, or sale of all or substantially all of its assets to, another corporation;

(v) there shall be a voluntary or involuntary dissolution, liquidation or winding-up of the Company; or

(vi) the Company shall take or propose to take any other action, notice of which is actually provided to holders of the Series E Preferred Stock;

then, in any one or more of said cases, the Company shall give, by first class mail, postage prepaid, addressed to the holder of this Warrant at the address of such holder as shown on the books of the Company, (A) at least twenty (20) days prior written notice of the date on which the books of the Company shall close or a record shall be taken for such events listed in this Section 8(c) above or for determining rights to vote (if applicable) in respect of any such events listed above in this Section 8(c), and (B) in the case of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action, at least twenty (20) days written notice of the date when the same shall take place. Any notice given in accordance with the foregoing clause (A) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Series E Preferred Stock shall be entitled thereto. Any notice given in accordance with the foregoing clause (B) shall also specify the date on which the holders of Series E Preferred Stock shall be entitled to exchange their Series E Preferred Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action as the case may be.

(d) If the change in the outstanding Series E Preferred Stock of the Company or any other event occurs as to which the other provisions of this Section 8 are not strictly applicable or if strictly applicable would not fairly protect the purchase rights of the Holder of the Warrant in accordance with the essential intent and principles of such provisions, then the Board of Directors of the Company shall make an adjustment in the number and class of shares available under the Warrant, the Unit Price and/or the application of such provisions, in accordance with such essential intent and principles, so as to protect such purchase rights as aforesaid. The adjustment shall be such as will give the Holder of the Warrant upon exercise for the same aggregate Unit Price the total number, class and kind of shares as he would have owned had the Warrant been exercised prior to the event and had he continued to hold such shares until after the event requiring adjustment.

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9. Consolidation or Merger of the Company. If the Company is a party to (a) any consolidation or merger with another corporation in which the Company is not the survivor, (b) any consolidation or merger of another entity into the Company in which the Company is the survivor but, in connection therewith, the Company's equity securities are changed into or exchanged for stock or other securities of any other entity, or (c) any capital reorganization or reclassification of its Series E Preferred Stock, pursuant to any of which

transactions the holders of the Company's capital stock are entitled to receive with respect to or in exchange for such capital stock, stock or other securities, whether alone or together with any other consideration (all such consideration being the "Allowed Consideration"), then, as a condition of such transaction, lawful and adequate provisions shall be made whereby the Holder hereof shall thereafter have the right to purchase and receive (in lieu of the shares of the Warrant Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby) such Allowed Consideration as may be issued or payable with respect to or in exchange for the number of shares of such Warrant Stock immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby. In any such case, appropriate provisions shall be made with respect to the rights and interests of the Holder of this Warrant to the end that the provisions hereof (including, without limitation, provisions for adjustments of the Unit Price and the number of shares purchasable and receivable upon the exercise of this Warrant) shall thereafter be applicable, as nearly as may be reasonably practicable (as determined in the good faith of the Company), in relation to the Allowed Consideration thereafter deliverable upon the exercise hereof. The Company will not effect any such consolidation or merger unless, prior to the consummation thereof, the successor corporation resulting from such consolidation or merger shall assume by written instrument, executed and mailed or delivered to the registered Holder hereof at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such Allowed Consideration as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

10. Issue Tax. The issuance of certificates for shares of Preferred Stock upon the exercise of the Warrant shall be made without charge to the Holder of the Warrant for any issue tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the then Holder of the Warrant being exercised.

11. Closing of Books. The Company will at no time close its transfer books against the transfer of any Warrant or of any shares of Series E Preferred Stock issued or issuable upon the exercise of any warrant in any manner which interferes with the timely exercise of this Warrant.

12. Holder as Owner. The Company may deem and treat the holder of record of this Warrant as the absolute owner hereof for all purposes regardless of any notice to the contrary.

13. No Rights as Shareholder. This Warrant shall not entitle the Holder to any voting rights or to any other rights as a shareholder of the Company or to any other rights whatsoever except the rights stated herein; and no cash dividend or interest shall be payable or shall accrue in respect of this Warrant or the Warrant Stock purchasable hereunder unless, until and to the

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extent that this Warrant shall be exercised. No provisions hereof, in the absence of affirmative action by the Holder to purchase shares of Preferred Stock, and no mere enumeration herein of the rights or privileges of the Holder hereof, shall give rise to any liability of such Holder for the Unit Price or as a shareholder of the Company, whether such liability is asserted by the Company or by its creditors.

14. Construction. The validity and interpretation of the terms and provisions of this Warrant shall be governed by the laws of the State of Washington. The descriptive headings of the several sections of this Warrant are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

15. Expiration. This Warrant shall be void and all rights represented hereby shall cease unless exercised on or before the Termination Date. All restrictions set forth herein on the shares of capital stock issued upon exercise of any rights hereunder shall survive such exercise and expiration of the rights granted hereunder.

16. Exchange of Warrant. This Warrant is exchangeable upon the surrender hereof by the Holder at the office of the Company for new Warrants of like tenor but of different denominations representing in the aggregate the rights to subscribe for and purchase the number of shares that may be subscribed for and purchased hereunder, each of such new Warrants to represent the right to subscribe for and purchase such number of shares as shall be designated by the Holder at the time of such surrender.

17. Lost Warrant Certificate. If this Warrant is lost, stolen, mutilated or destroyed, the Company shall issue a new Warrant of like denomination, tenor and date as this Warrant, subject to the Company's right to require the Holder to give the Company a bond or other satisfactory security sufficient to indemnify the Company against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft, mutilation or destruction of this Warrant or the issuance of such new Warrant.

18. Waivers and Amendments. This Warrant or any provision hereof may be changed, waived, discharged or terminated only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

19. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be mailed by United States mail first-class postage prepaid, or by registered or certified mail with return receipt requested, addressed as follows:

If to the Holder:

To the address last furnished in writing to the
Company by the Holder.

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If to the Company:

Progressive Networks, Inc.
1111 Third Avenue, Suite 500
Seattle, Washington 98101
Attention: President

With a copy to:

Progressive Networks, Inc.
1111 Third Avenue, Suite 500
Seattle, Washington 98101
Attention: General Counsel

Each of the foregoing parties shall be entitled to specify a different address by giving five (5) days' advance written notice as aforesaid to the other party.

20. Registration Rights. The Holder shall be entitled to registration rights with respect to the shares of Common Stock issuable upon conversion of the Warrant Stock to the extent provided in, and subject to the terms and conditions of, the Investors' Rights Agreement.

21. Investment Intent. By accepting this Warrant, the Holder represents that it is acquiring this Warrant for investment and not with a view to, or for sale in connection with, any distribution thereof.

IN WITNESS WHEREOF, the Company has executed this certificate as of the date first written above.

Progressive Networks, Inc.

By /s/ Mark Klebanoff

Its CFO

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ELECTION TO PURCHASE

(To be executed only upon exercise of Warrant)

The undersigned registered owner of this Warrant (the "Owner") irrevocably exercises this Warrant for _____ shares of Series E Preferred Stock of Progressive Networks, Inc. (the "Exercise Shares"), on the terms and conditions specified in this Warrant, and requests that a certificate for the Exercise Shares hereby purchased (and any securities or other property issuable upon such exercise) be issued in the name of and delivered to _____ whose address is _____, and, if such shares shall not include all of the shares for which this Warrant is exercisable, that a new Warrant of like tenor and date for the balance of the shares issuable hereunder (properly reduced to reflect cashless exercise, if applicable) be delivered to the undersigned.

Dated: _____

Signature of Registered Owner

Title:

(Street Address)

(City) (State) (Zip Code)

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</TEXT>
</DOCUMENT>

<DOCUMENT>
 <TYPE>EX-10.7
 <SEQUENCE>12
 <DESCRIPTION>LEASE AGREEMENT BETWEEN REGISTRANT & W. RUNSTAD
 <TEXT>

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Exhibit 10.7

=====

MIDCOM TOWER
 AT
 1111 THIRD AVENUE

LEASE AGREEMENT

BETWEEN

WRIGHT RUNSTAD PROPERTIES L. P.
 LANDLORD

AND

PROGRESSIVE NETWORKS, INC.
 TENANT

=====

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LEASE AGREEMENT
MIDCOM TOWER AT
1111 THIRD AVENUE

THIS LEASE made this 4TH day of MARCH, 1996, between WRIGHT RUNSTAD PROPERTIES L. P., a Delaware limited partnership ("Landlord"), and PROGRESSIVE NETWORKS, INC., a Washington corporation ("Tenant").

As parties hereto, Landlord and Tenant agree:

1. LEASE DATA AND EXHIBITS

The following terms as used herein shall have the meanings provided in this Section 1, unless otherwise specifically modified by provisions of this Lease:

(a) BUILDING

Known as MIDCOM TOWER AT 1111 THIRD AVENUE, or such other name as Landlord may designate from time to time, situated on a portion of the real property more particularly described in Section 2 hereof, with an address of 1111 Third Avenue, Seattle, Washington 98101.

(b) PREMISES

Consisting of the area on the FIFTH (5TH) floor of the Building, as outlined on the floor plan attached hereto as Exhibit A, including tenant improvements IN "AS IS" CONDITION.

(c) TENANT'S PRO RATA SHARE:

Landlord and Tenant agree that, for purposes of this Lease, the net

rentable area of the Premises is deemed to be AT LEAST 13,000 SQUARE FEET INITIALLY and Tenant's Pro Rata Share of the Building is deemed to be AT LEAST 2.46% INITIALLY. THE NET RENTABLE AREA OF THE BUILDING IS DEEMED TO BE 528,282 SQUARE FEET. SEE ALSO EXHIBIT C.

"NET RENTABLE SQUARE FEET" AND "RENTABLE AREA" AS USED HEREIN SHALL MEAN "RENTABLE AREA" AS DEFINED IN BOMA AMERICAN NATIONAL STANDARD Z65.1-1980 (REPRINTED MAY 1981).

(d) BASIC PLANS DELIVERY DATE:

NA

(e) FINAL PLANS DELIVERY DATE:

NA

(f) COMMENCEMENT DATE:

APRIL 1, 1996, OR UPON OCCUPANCY, IF EARLIER.

(g) EXPIRATION DATE:

APRIL 30, 2001, OR SUCH LATER DATE AS MAY BE ESTABLISHED BY TENANT'S EXERCISE OF ITS OPTION(S) TO EXTEND THE TERM OF THIS LEASE PURSUANT TO SECTION 5 OF EXHIBIT C.

(h) RENT:

SEE EXHIBIT C, ITEM 2.

(i) SECURITY DEPOSIT:

\$ NA

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(j) BASE YEAR:

For purposes of this Lease, the Base Year shall be: 1996 FOR THE INITIAL TERM OF THE LEASE. THE BASE YEAR FOR THE FIRST EXTENDED TERM SHALL BE THE FIRST YEAR OF THE FIRST EXTENSION OPTION PERIOD, AND THE BASE YEAR FOR THE SECOND EXTENDED TERM SHALL BE THE FIRST YEAR OF THE SECOND EXTENSION OPTION PERIOD.

(k) TENANT'S LEASING BROKER/AGENT:

MARTIN SMITH INC.

(l) PARKING:

Tenant shall have the right to purchase ONE (1) permit to park automobiles in the Building garage PER 1,200 NET RENTABLE SQUARE FEET ON WHICH TENANT IS PAYING RENT. PARKING SHALL BE on an unassigned self-park (or executive valet) basis (as designated by Landlord from time to time) at the prevailing monthly rates established by Landlord from time to time.

(m) NOTICE ADDRESSES:

Landlord: Wright Runstad Properties L. P.
1111 Third Avenue, Suite 2730
Seattle, Washington 98101

Tenant: Progressive Networks, Inc.
1111 Third Avenue, Suite 500
Seattle, Washington 98101

(n) PAYMENT ADDRESS:

Wright Runstad Properties L. P.
P.O. Box 94023
Seattle, Washington 98124-9423

(o) EXHIBITS:

The following exhibits or riders are made a part of this Lease:

Exhibit A - Floor Plan of Premises
Exhibit C - Addendum to Lease
Exhibit D - Subordination Agreement
Exhibit E - Satellite Antenna locations
Exhibit F - Rate Schedule

2. PREMISES:

Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, upon the terms and conditions herein set forth, the Premises described in Section 1(b) hereof as shown on Exhibit A attached hereto and incorporated herein, together with rights of ingress and egress over common areas in the Building located on the land ("Land") more particularly described as:

Lots 2, 3, 6 and 7; Block 14, C.D. Boren's Addition, City of Seattle, King County, State of Washington.

3. COMMENCEMENT AND EXPIRATION DATES:

(A) COMMENCEMENT DATE:

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THE COMMENCEMENT DATE SHALL BE THE DATE SPECIFIED IN SECTION 1(F).

(B) DELAYS:

[INTENTIONALLY DELETED]

(C) CONFIRMATION OF COMMENCEMENT DATE:

Landlord shall confirm the COMMENCEMENT DATE to Tenant in writing.

(D) EXPIRATION DATE:

This Lease shall expire on the date specified in Section 1(g).

4. ACCEPTANCE OF PREMISES:

[INTENTIONALLY DELETED]

5. RENT AND ADDITIONAL RENT:

STARTING MAY 1, 1996, Tenant shall pay Landlord without notice the Rent stated in Section 1(h) hereof and Additional Rent as provided in Section 9 and Section 10 and any other payments due under this Lease without deduction or offset in lawful money of the United States in advance on or before the first day of each month at Landlord's Payment Address set forth in Section 1(n)

hereof, or to such other party or at such other place as Landlord may hereafter from time to time designate in writing. Rent and Additional Rent for any partial month at the beginning or end of the Lease term shall be prorated in proportion to the number of days in such month. All amounts which Tenant assumes or agrees to pay to Landlord pursuant to this Lease shall be deemed Additional Rent hereunder and, in the event of nonpayment thereof, Landlord shall have all remedies provided for in the case of nonpayment of Rent.

6. SECURITY DEPOSIT:

[INTENTIONALLY DELETED]

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7. PARKING:

Use of parking in the Building by Tenant shall be subject to such reasonable rules and regulations as Landlord or its parking operator, or the City of Seattle may publish from time to time. Tenant shall provide Landlord with thirty (30) days prior written notice of the number of parking permits required by Tenant, up to the maximum number specified in Section 1(1), and of any changes in those requirements. Short-term hourly parking shall be offered on a space available basis during Normal Business Hours except Saturdays [as defined in Section 9(b)], and except Sundays or legal holidays, for Tenant's clients and customers.

8. USES:

The Premises are to be used only for general office purposes, THE OPERATION OF COMPUTER SERVERS, A VIDEO RECORDING STUDIO, A SOUND RECORDING STUDIO, AND RELATED ACTIVITIES ("Permitted Uses"), and for no other business or purpose without the prior written consent of Landlord, which consent may be withheld if Landlord, in its sole discretion, determines that any proposed use is inconsistent with or detrimental to the maintenance and operation of the Building as a first-class office building or is inconsistent with any restriction on use of the Premises, the Building, or the Land contained in any lease, mortgage, or other instrument or agreement by which the Landlord is bound or to which any of such property is subject. Tenant shall not commit any act that will increase the then existing cost of insurance on the Building without Landlord's consent. Tenant shall promptly pay upon demand the amount of any increase in insurance costs caused by any act or acts of Tenant. Tenant shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance or other act which disturbs the quiet enjoyment of any other tenant in the Building or which is unlawful. Tenant shall not, without the written consent of Landlord, use any apparatus, machinery or device in or about the Premises which will cause any substantial noise, vibration or fumes. If Tenant shall permit smoking in the Premises, in compliance with any applicable laws or regulations, Tenant shall be required to install, at Tenant's sole cost, special tenant improvements designed to alleviate the spread of smoke outside the Premises, including extending demising walls from structure to structure and installing a dedicated exhaust system for the Premises in compliance with any applicable laws or regulations. If any of Tenant's office machines or equipment should disturb the quiet enjoyment of any other tenant in the Building, then Tenant shall provide adequate insulation, or take other action as may be necessary to eliminate the disturbance. Tenant shall comply with all laws relating to its use or occupancy of the Premises and shall observe such reasonable rules and regulations (not inconsistent with the terms of this Lease) as may be adopted and made available to Tenant by Landlord from time to time for the safety, care and cleanliness of the Premises or the Building, and for the preservation of good order therein.

9. SERVICES AND UTILITIES:

(a) STANDARD SERVICES:

Landlord shall maintain the Premises and the public and common areas of the Building in good order and condition consistent with the operation and maintenance of a first-class office building in downtown Seattle, Washington. Landlord shall furnish the Premises with electricity for normal office use, including lighting and operation of low power usage office machines, water and elevator service at all times during the term of the Lease. IN ADDITION, LANDLORD SHALL PROVIDE ADDITIONAL ELECTRICAL SERVICE AT TENANT'S REQUEST, PROVIDED TENANT PAYS THE COST THEREOF. Landlord shall also provide lamp replacement service for building standard light fixtures, toilet room supplies, window washing at reasonable intervals, and customary building janitorial service. No janitorial service shall be provided for

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Saturdays, Sundays or legal holidays. The costs of any janitorial or other service provided by Landlord to Tenant which are in addition to the services ordinarily provided MAJOR Building tenants shall be repaid by Tenant as Additional Rent upon receipt of billings therefor. LANDLORD SHALL PROVIDE SECURITY PERSONNEL AND SERVICES TYPICAL OF CLASS A BUILDINGS IN DOWNTOWN SEATTLE.

(b) NORMAL BUSINESS HOURS:

From 7:00 a.m. to 6:00 p.m. on weekdays and from 8:00 a.m. to 1:00 p.m. on Saturdays, excluding legal holidays ("Normal Business Hours"), Landlord shall furnish to the Premises heat and air conditioning. If requested by Tenant, Landlord shall furnish heat and air conditioning at times other than Normal Business Hours and the cost of such services as estimated by Landlord shall be paid by Tenant as Additional Rent. During other than Normal Business Hours, Landlord may restrict access to the Building in accordance with the Building's security system, provided that Tenant shall have at all times during the term of this Lease (24 hours of all days) reasonable access to the Premises. LANDLORD SHALL, AT THE REQUEST OF TENANT PROGRAM THE SECURITY ACCESS SYSTEMS TO RESTRICT ELEVATOR ACCESS TO THOSE FLOORS ON WHICH TENANT IS THE SOLE OCCUPANT.

(c) INTERRUPTION OF SERVICES:

Landlord shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption, or failure of such services due to any cause whatsoever OTHER THAN LANDLORD'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. No temporary interruption or failure of such services incident to the making of repairs, alterations, or improvements, or due to accident, strike or conditions or events beyond Landlord's reasonable control shall be deemed an eviction of Tenant or relieve Tenant from any of Tenant's obligations hereunder; provided, however, if such interruption or failure shall continue for THREE (3) business days, Tenant's Rent hereunder shall thereafter abate to the extent the Premises are thereby rendered untenable for Tenant's normal business operations until such services are restored. Landlord shall use its best efforts in good faith to minimize any disruption of Tenant's use of the Premises arising from any interruption or failure of services.

(d) ADDITIONAL SERVICES:

The Building mechanical system is designed to accommodate heating loads generated by lights and equipment using up to 2.8 watts per square foot. Before installing lights and equipment in the Premises which WILL CAUSE the aggregate ACTUAL LOADS IN THE PREMISES TO EXCEED AN AVERAGE OF 2.8 WATTS PER SQUARE FOOT, Tenant shall obtain the written permission of Landlord. Landlord may refuse to

grant such permission unless Tenant shall agree to pay the costs of Landlord for installation of supplementary air conditioning capacity or electrical systems as necessitated by such equipment or lights. LANDLORD HEREBY APPROVES TENANT'S INSTALLATION OF ALL COMPUTERS, SOUND STUDIO EQUIPMENT AND SERVICES WHICH TENANT REQUIRES FOR THE OPERATION OF ITS BUSINESS, PROVIDED, HOWEVER THAT IF THE ACTUAL LOADS IN THE PREMISES ARE IN EXCESS OF 2.8 WATTS PER SQUARE FOOT, TENANT SHALL PAY THE COST OF LANDLORD FOR INSTALLATION OF SUPPLEMENTARY AIR CONDITIONING CAPACITY OR ELECTRICAL SYSTEMS AS NECESSITATED BY SUCH EQUIPMENT OR LIGHTS.

(e) COSTS OF ADDITIONAL SERVICES:

In addition, Tenant shall in advance, on the first day of each month during the Lease term, pay Landlord as Additional Rent the reasonable amount estimated by Landlord as the cost of furnishing electricity for the operation of such equipment or lights and the reasonable amount estimated by Landlord as the costs of operation and maintenance of supplementary air conditioning units necessitated by Tenant's use of such equipment or lights. Landlord shall be entitled to install and operate at Tenant's cost a monitoring/metering system in the Premises to measure the added demands on electricity, heating, ventilation, and air conditioning systems resulting from such equipment or lights and from Tenant's after-hours heating, ventilation and air conditioning service requirements. Tenant shall comply with Landlord's reasonable instructions for the use of drapes, blinds and thermostats in the Building.

(f) LANDLORD SHALL PROVIDE AFTER-HOURS HVAC SERVICE TO EACH FLOOR ON WHICH THE PREMISES ARE LOCATED WHICH CAN BE ACTIVATED BY TENANT BY A SWITCH ON EACH FLOOR FOR A THREE HOUR (OR LESS) DURATION). TENANT SHALL REIMBURSE LANDLORD THE REASONABLE COSTS OF INSTALLATION AND PROGRAMMING OF THE SWITCH SYSTEM AND WILL PAY THE THEN-CURRENT PER HOUR COSTS, AS REASONABLY ESTIMATED BY LANDLORD (CURRENTLY ESTIMATED TO BE \$12.00 PER HOUR PER FLOOR), FOR AFTER-HOURS HVAC.

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10. COSTS OF OPERATIONS AND REAL ESTATE TAXES:

(A) ADDITIONAL RENT:

Tenant shall pay as Additional Rent its pro rata share of increases in taxes and operating costs in excess of taxes and operating costs in the Base Year ("Base Amounts"). Operating costs shall be adjusted to reflect 100% occupancy in the Building.

(B) DEFINITIONS:

(i) For the purposes of this section, "Taxes" shall mean taxes and assessments (including special district levies) on real and personal property payable during any calendar year or fiscal year, based on the actual assessment period, with respect to the Land, the Building and all property of Landlord, real or personal, used directly in the operation of the Building and located in or on the Building, together with any taxes levied or assessed in addition to or in lieu of any such taxes or any tax upon leasing of the Building or the rents collected (excluding any net income or franchise tax) ("Taxes").

(ii) For purposes of this Section, "Operating Costs" or "Costs" shall mean all expenses of Landlord for maintaining, operating and repairing the Land and Building and the personal property used in connection therewith, including without limitation insurance premiums, utilities, REASONABLE management fees and other expenses which in accordance with generally accepted accounting and management practices would be considered an expense of maintaining, operating or repairing the Building ("Operating Costs" or "Costs"); excluding, however: (I) Costs of any special services rendered to individual tenants for which a separate charge is collected; (II) leasing commissions and other leasing

expenses; (III) Costs of improvements required to be capitalized in accordance with generally accepted accounting principals, except Operating Costs shall include amortization of capital improvements (A) made subsequent to initial development of the Building which are designed with a reasonable probability of improving the operating efficiency of the Building, or providing savings in the cost of operating the Building; or, (B) which are reasonably responsive to requirements imposed with respect to the Building under any amendment to any applicable building, health, safety, fire, nondiscrimination, or similar law or regulation ("law"), or any new law, or any new interpretation of an existing law ("new interpretation"), which amendment, law or new interpretation is adopted or arose after the Commencement Date of this Lease; (IV) INTEREST AND AMORTIZATION OF PRINCIPAL OF MORTGAGES, AND OTHER DEBT COSTS OR GROUND LEASE PAYMENTS, IF ANY; (V) LEGAL FEES IN CONNECTION WITH LEASING, TENANT DISPUTES, ENFORCEMENT OF LEASES OR DEFENSE OF LANDLORD'S TITLE TO OR ANY INTEREST IN THE PREMISES, THE BUILDING OR THE PROPERTY; (VI) COSTS OF IMPROVEMENTS OR ALTERATIONS TO TENANT SPACES, INCLUDING BUT NOT LIMITED TO PERMIT, LICENSE AND INSPECTION FEES; (VII) COSTS PAID BY ANY TENANT DIRECTLY TO THIRD PARTIES OR AS TO WHICH LANDLORD IS OTHERWISE REIMBURSED BY ANY THIRD PARTY OR TENANT IN CONNECTION WITH ANY SERVICE PROVIDED FOR ANY TENANT; (VIII) ANY COSTS EXPRESSLY EXCLUDED FORM OPERATING COSTS ELSEWHERE IN THIS LEASE; (IX) COSTS OF ANY ITEMS TO THE EXTENT LANDLORD RECEIVES REIMBURSEMENT FROM INSURANCE PROCEEDS OR FROM A THIRD PARTY (SUCH PROCEEDS WILL BE DEDUCTED FROM OPERATING COSTS IN THE YEAR IN WHICH RECEIVED); (X) COSTS INCURRED DUE TO A VIOLATION BY LANDLORD OR ANY OTHER TENANT OF ANY OF THE TERMS AND CONDITIONS OF ANY LEASE OR LAW; (XI) OVERHEAD AND PROFIT INCREMENTS OR OTHER SUMS PAID TO SUBSIDIARIES, AFFILIATES, OR OTHER PARTIES RELATED TO LANDLORD, OR TO LANDLORD'S ASSET MANAGER OR PROPERTY MANAGER (FOR ITEMS OTHER THAN THE PROPERTY MANAGEMENT FEE) FOR SERVICES, SUPPLIES OR OTHER MATERIALS, TO THE EXTENT THAT THE COST OF THE SERVICES, SUPPLIES OR MATERIALS EXCEED THE COSTS THAT WOULD HAVE BEEN PAID HAD THE SERVICES, SUPPLIES OR MATERIALS BEEN PROVIDED BY UNAFFILIATED PARTIES ON A COMPETITIVE BASIS; (XII) ADVERTISING OR PROMOTIONAL EXPENDITURES; AND, (XIII) SEPARATELY IDENTIFIABLE AND DIRECT COSTS INCURRED IN THE DAY TO DAY OPERATION OF THE PARKING FACILITIES; EXCLUDING ANY PORTION OF THE PROPERTY MANAGEMENT FEE ATTRIBUTABLE TO GROSS PARKING REVENUES. For purposes of this Lease, a new interpretation shall mean any interpretation, enforcement or application of a law enacted prior to the Commencement Date that imposes requirements with respect to the Building that Landlord in the exercise of sound business judgment and good faith at the time of Landlord's execution of this Lease would not have deemed applicable to the Building.

(iii) "Year" shall mean the calendar year.

(C) ESTIMATED COSTS:

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At the beginning of each year after the Base Year, Landlord shall furnish Tenant a written statement of estimated Operating Costs and Taxes for such year; a calculation of the amount, if any, by which such estimated Operating Costs and Taxes will exceed the relevant Base Amounts; and a calculation of Tenant's Pro Rata Share of any such amount. Tenant shall pay one-twelfth (1/12) of that amount as Additional Rent for each month during the year. If at any time during the year Landlord reasonably believes that the actual Operating Costs or Taxes will vary from such estimated Operating Costs or Taxes by more than five percent (5%), Landlord may by written notice to Tenant revise the estimate for such year, and Additional Rent for the balance of such year shall be paid based upon such revised estimates.

(D) ACTUAL COSTS:

Within ninety (90) days after the end of each year after the Base Year or as soon thereafter as practicable, Landlord shall deliver to Tenant a written

statement setting forth Tenant's Pro Rata Share of the actual Operating Costs and Taxes in excess of the Base Amounts during the preceding year. If the actual Operating Costs in excess of the Base Amount or actual Taxes in excess of the Base Amount, or both, exceed the estimates for each paid by Tenant during the year, Tenant shall pay the amount of such excess to Landlord as Additional Rent within thirty (30) days after receipt of such statement. If the actual Operating Costs in excess of the Base Amount or actual Taxes in excess of the Base Amount, or both, are less than the amount paid by Tenant to Landlord, then the amount of such overpayment by Tenant shall be, at Landlord's option, credited against any amounts owed by Tenant under this Lease, refunded by check to Tenant, or credited against the next Rent payable by Tenant hereunder. Notwithstanding any other provision of this Section 10, Tenant shall not receive any credit or offset to that extent against any other amount payable under this Lease to the extent actual Operating Costs or Taxes are less than the applicable Base Amount.

(E) RECORDS AND ADJUSTMENTS:

Landlord shall keep records showing all expenditures made in connection with Operating Costs and Taxes, and such records shall be available for inspection by Tenant within 60 days after receipt of the statement of actual costs; Landlord and Tenant agree the results of any such audit or review shall remain confidential. Tenant hereby waives any right to any adjustment of sums paid under this Section 10 unless a claim in writing specifying the reasons therefor is delivered to Landlord no later than TWELVE (12) months after the end of the year for which the sums were paid. Operating Costs and Taxes shall be prorated for any portion of a year at the beginning or end of the term of this Lease. Notwithstanding this Section 10, the Rent payable by Tenant shall in no event be less than the Rent specified in Section 1(h) hereof.

(F) PERSONAL PROPERTY TAXES:

Tenant shall pay all personal property taxes with respect to property of Tenant located on the Premises or in the Building. "Property of Tenant" shall include all improvements which are paid for by Tenant and "personal property taxes" shall include all property taxes assessed against the property of Tenant, whether assessed as real or personal property.

11. CARE OF PREMISES:

Landlord shall perform all normal maintenance and repairs reasonably determined by Landlord as necessary to maintain the Premises and the Building as a first-class office building; provided that Landlord shall not be required to maintain or repair any property of Tenant or any appliances (such as refrigerators, water heaters, microwave ovens, and the like) which are part of the Premises. Tenant shall take good care of the Premises. Tenant shall not make any alterations, additions or improvements ("Alterations") in or to the Premises, or make changes to locks on doors, or add, disturb or in any way change any plumbing or wiring (OTHER THAN LINES ADDRESSED SECTION 36) ("Changes") without first obtaining the written consent of Landlord, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED, and, where appropriate, in accordance with plans and specifications reasonably approved by Landlord. Any Alterations or Changes required to be made to Tenant's Premises by any amendment to any applicable building, health, safety, fire, nondiscrimination, or similar law or regulation ("law"), or any new law shall be made at Tenant's sole expense and shall be subject to the prior written consent of Landlord. Tenant shall reimburse Landlord for any reasonable sums expended for examination and approval of the architectural and mechanical plans and specifications of the Alterations

and Changes and direct OUT OF POCKET costs reasonably incurred during any inspection or supervision of the Alterations or Changes. All damage or injury done to the Premises or Building by Tenant or by any persons who may be in or upon the Premises or Building with the express or implied consent of Tenant, including but not limited to the cracking or breaking of any glass of windows and doors, shall be paid for by Tenant. LANDLORD SHALL PERFORM ANY IMPROVEMENTS TO THE BUILDING COMMON AREAS REQUIRED BY THE AMERICANS WITH DISABILITIES ACT AND SUCH IMPROVEMENTS SHALL BE TREATED AS ANY OTHER EXPENSE MANDATED BY GOVERNMENTAL JURISDICTION.

12. ACCESS:

Tenant shall permit Landlord and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same or for the purpose of cleaning, repairing, altering or improving the Premises or the Building. Upon reasonable notice, Landlord shall have the right to enter the Premises for the purpose of showing the Premises to prospective tenants within the period of one hundred eighty (180) days prior to the expiration or sooner termination of the Lease term.

13. DAMAGE OR DESTRUCTION:

(A) DAMAGE AND REPAIR:

If the Building is damaged by fire or any other cause to such extent that the cost of restoration, as reasonably estimated by Landlord, will equal or exceed thirty percent (30%) of the replacement value of the Building (exclusive of foundations) just prior to the occurrence of the damage, or if insurance proceeds sufficient for restoration are for any reason unavailable, then Landlord may no later than the sixtieth day following the damage, give Tenant a notice of election to terminate this Lease. In the event of such election, this Lease shall be deemed to terminate on the third day after the giving of said notice, and Tenant shall surrender possession of the Premises within a reasonable time thereafter, and the Rent and Additional Rent shall be apportioned as of the date of said surrender and any Rent and Additional Rent paid for any period beyond such date shall be repaid to Tenant. If the cost of restoration as estimated by Landlord shall amount to less than thirty percent (30%) of said replacement value of the Building and insurance proceeds sufficient for restoration are available, or if Landlord does not elect to terminate this Lease, Landlord shall restore the Building and the Premises (to the extent of improvements to the Premises originally provided by Landlord hereunder) with reasonable promptness, subject to delays beyond Landlord's control and delays in the making of insurance adjustments by Landlord, and Tenant shall have no right to terminate this Lease except as herein provided. To the extent that the Premises are rendered untenable, the Rent and Additional Rent shall proportionately abate. No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or of the Building. Landlord shall use its best efforts to effect such repairs promptly. NOTWITHSTANDING THE PROVISIONS OF SECTION 13(a) TO THE CONTRARY, WITHIN SIXTY (60) DAYS FOLLOWING THE DATE OF SUCH DAMAGE OR DESTRUCTION, LANDLORD SHALL GIVE NOTICE TO TENANT OF THE ESTIMATED DATE FOR COMPLETION OF SUCH REPAIRS WITH RESPECT TO THE PREMISES OR THE BUILDING. IF RESTORATION OF TENANT'S PREMISES OR THE BUILDING IS REASONABLY ESTIMATED TO EXCEED 180 DAYS FROM THE DATE OF THE CASUALTY, THEN FOLLOWING TENANT'S RECEIPT OF THE ESTIMATED RESTORATION DATE, TENANT SHALL HAVE THE OPTION TO TERMINATE THIS LEASE BY GIVING LANDLORD WRITTEN NOTICE OF TERMINATION WITHIN 30 DAYS FOLLOWING THE RECEIPT OF SUCH NOTICE BY TENANT FROM LANDLORD; SUCH TERMINATION TO BE EFFECTIVE 30 DAYS FOLLOWING LANDLORD'S RECEIPT OF SUCH TERMINATION NOTICE FROM TENANT.

(b) DESTRUCTION DURING LAST YEAR OF TERM:

In case the Building shall be substantially destroyed by fire or other cause at any time during the last twelve months of the term of this Lease, either Landlord or Tenant may terminate this Lease upon written notice to the

other party hereto given within sixty (60) days of the date of such destruction.

(c) TENANT IMPROVEMENTS:

Landlord will not carry insurance of any kind on any improvements paid for by Tenant or on Tenant's furniture or furnishings or on any fixtures, equipment, improvements or

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appurtenances of Tenant under this Lease and Landlord shall not be obligated to repair any damage thereto or replace the same.

14. WAIVER OF SUBROGATION:

Whether a loss or damage is due to the negligence of either Landlord or Tenant, their agents or employees, or any other cause, Landlord and Tenant do each hereby release and relieve the other, their agents or employees, from responsibility for, and waive their entire claim of recovery for (i) any loss or damage to the real or personal property of either located anywhere in the Building or on the Land, including the Building itself, arising out of or incident to the occurrence of any of the perils which are covered AND PAID by their respective insurance policies, and (ii) any loss resulting from business interruption at the Premises or loss of rental income from the Building, arising out of or incident to the occurrence of any of the perils which are covered by a business interruption insurance policy or loss of rental income insurance policy held by Landlord or Tenant. Each party shall use best efforts to cause its insurance carriers to consent to the foregoing waiver of rights of subrogation against the other party. Notwithstanding the foregoing, no such release shall be effective unless the aforesaid insurance policy or policies shall expressly permit such a release or contain a waiver of the carrier's right to be subrogated.

15. INDEMNIFICATION:

(a) Tenant shall indemnify and hold Landlord harmless from and against liabilities, damages, losses, claims, and expenses, including attorneys fees, arising FROM DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF ANY PERSON TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION, OR WILLFUL MISCONDUCT, of Tenant or its officers, contractors, licensees, agents, OR employees, in or about the Building or Premises or arising from any breach or default under this Lease by Tenant. The foregoing provisions shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the negligence of Landlord, or its officers, contractors, licensees, agents, employees, clients or customers or other tenants of the Building.

(b) Landlord shall indemnify and hold Tenant harmless from and against all liabilities, damages, losses, claims, and expenses, including attorneys' fees arising FROM DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF ANY PERSON TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION, OR WILLFUL MISCONDUCT, of Landlord or its officers, contractors, licensees, agents, OR employees, in or about the Building or Premises, or arising from any breach or default under this Lease by Landlord. Landlord shall not be liable for any loss or damage to persons or property sustained by Tenant or other persons, which may be caused by theft, or by any act or neglect of Tenant or any other tenant or occupant of the Building or any third parties.

16. INSURANCE:

(a) LIABILITY INSURANCE:

Tenant shall, throughout the term of this Lease and any renewal hereof, at its own expense, keep and maintain in full force and effect, a policy of commercial general liability (occurrence form) insurance, including contractual liability insuring Tenant's activities upon, in or about the Premises or the Building against claims of bodily injury or death or property damage or loss with a combined single limit of not less than Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate. Landlord and the Building manager shall be named as an additional insureds.

(b) PROPERTY INSURANCE:

Tenant shall, throughout the term of this Lease and any renewal thereof, at its own expense, keep and maintain in full force and effect, what is commonly referred to as "All Risk" or "Special" coverage insurance (excluding earthquake and flood) on Tenant's leasehold improvements in an amount not less than one hundred percent (100%) of the replacement value thereof.

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(c) INSURANCE POLICY REQUIREMENTS:

All insurance required under this Section 16 shall be with companies rated AX or better by A.M. Best or otherwise reasonably approved by Landlord. No insurance policy required under this Section 16 shall be cancelled or reduced in coverage except after forty-five (45) days prior written notice to Landlord, except after ten (10) days prior written notice to Landlord in the case of non-payment of premium.

(d) CERTIFICATE OF INSURANCE:

Tenant shall deliver to Landlord prior to the Commencement Date, and from time to time thereafter, copies of policies of such insurance or certificates evidencing the existence and amounts of same and evidencing Landlord and the Building manager as additional insureds thereunder. In no event shall the limits of any insurance policy required under this Section 16 be considered as limiting the liability of Tenant under this Lease. LANDLORD WILL PROVIDE A CERTIFICATE OF INSURANCE TO TENANT UPON TENANT'S REQUEST, PROVIDED TENANT REIMBURSES LANDLORD FOR ITS REASONABLE OUT-OF-POCKET COSTS INCURRED FOR PROVIDING SUCH CERTIFICATE.

(E) PRIMARY POLICIES:

All policies required under Section 16(a) shall be written as primary policies and not contributing to or in excess of any coverage Landlord may choose to maintain.

17. ASSIGNMENT AND SUBLETTING:

(A) ASSIGNMENT OR SUBLEASE:

Tenant shall not assign, mortgage, encumber or otherwise transfer this Lease nor sublet the whole or any part of the Premises without in each case first obtaining Landlord's prior written consent. SUCH consent shall not be unreasonably withheld, except: (1) Landlord may withhold its consent if in Landlord's judgment occupancy by any proposed assignee, subtenant, or other transferee (i) is not consistent with the maintenance and operation of a first-class office building due to the nature of the proposed occupant's business or manner of conducting business or its experience or reputation in the community, or (ii) is likely to cause disturbance to the normal use and

occupancy of the Building; (2) Landlord may withhold in its absolute and sole discretion consent to any mortgage, hypothecation, pledge, or other encumbrance of any interest in this Lease or the Premises by Tenant or any subtenant; (3) Landlord may withhold its consent to the extent it deems necessary to comply with any restriction on use of the Premises, the Building, or the Land contained in any lease, mortgage, or other agreement or instrument by which the Landlord is bound or to which any of such property is subject. No such assignment, subletting or other transfer shall relieve Tenant of any liability under this Lease. Consent to any such assignment, subletting or transfer shall not operate as a waiver of the necessity for consent to any subsequent assignment, subletting or transfer. Each request for an assignment or subletting must be accompanied by a Processing Fee of \$500 in order to reimburse Landlord for expenses, including attorneys fees, incurred in connection with such request ("Processing Fee"). Tenant shall provide Landlord with copies of all assignments, subleases and assumption instruments. TRANSFER OF STOCK OWNERSHIP OF TENANT SHALL NOT BE DEEMED TO BE AN ASSIGNMENT OR TRANSFER OF THIS LEASE.

(b) LANDLORD RIGHT TO TERMINATE PORTION OF LEASE:

[INTENTIONALLY DELETED]

(c) TENANT TRANSFER OF LEASE:

If a Tenant is a corporation or partnership, any transfer of this Lease by merger, consolidation or liquidation, shall constitute an assignment for the purpose of this Section. If Tenant is a

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partnership, conversion of Tenant to a limited liability company or partnership or to a corporation (or to another entity by which the parties in Tenant would be relieved of liability to any creditors of Tenant) shall constitute an assignment for purposes of this Section.

(d) ASSIGNEE OBLIGATIONS:

As a condition to Landlord's approval, any potential assignee otherwise approved by Landlord shall assume in writing all obligations of Tenant under this Lease and shall be jointly and severally liable with Tenant for rental and other payments and performance of all terms, covenants and conditions of this Lease.

(e) SUBLESSEE OBLIGATIONS:

Any sublessee shall assume all obligations of Tenant as to that portion of the Premises which is subleased and shall be jointly and severally liable with Tenant for rental and other payments and performance of all terms, covenants, and conditions of this Lease with respect to such portion of the Premises.

18. SIGNS:

Tenant shall not place or in any manner display any sign, graphics, or other advertising matter anywhere in or about the Premises or the Building at places visible (either directly or indirectly) from anywhere outside the Premises without first obtaining Landlord's written consent thereto, such consent to be at Landlord's sole discretion. Any such consent by Landlord shall be upon the understanding and condition that Tenant shall remove the same at the expiration or sooner termination of this Lease and Tenant shall repair any damage to the Premises or the Building caused thereby. Landlord shall not unreasonably withhold its consent to normal Tenant signage within the Premises which is consistent in Landlord's opinion with the Building's image and signage and graphics program. Signage other than Building directory or building standard

elevator lobby directory signage is at Tenant's sole expense.

19. LIENS AND INSOLVENCY:

(a) LIENS:

Tenant shall keep its interest in this Lease, the Premises, the Land and the Building free from any liens arising out of any work performed and materials ordered or obligations incurred by or on behalf of Tenant and hereby indemnifies and holds Landlord harmless from any liability from any such lien including without limitation, liens arising from ANY TENANT IMPROVEMENT WORK UNDERTAKEN BY TENANT. In the event any lien is filed against the Building, the Land or the Premises by any person claiming by, through or under Tenant, Tenant shall, upon request of Landlord and at Tenant's expense, immediately cause such lien to be released of record or furnish to Landlord a bond, in form and amount and issued by a surety reasonably satisfactory to Landlord, indemnifying Landlord, the Land and the Building against all liability, costs and expenses, including attorneys fees, which Landlord may incur as a result thereof. Provided that such bond has been furnished to Landlord, Tenant, at its sole cost and expense and after written notice to Landlord, may contest, by appropriate proceedings conducted in good faith and with due diligence, any lien, encumbrance or charge against the Premises arising from work done or materials provided to or for Tenant, if, and only if, such proceedings suspend the collection thereof against Landlord, Tenant and the Premises and neither the Premises, the Building nor the Land nor any part thereof or interest therein is or will be in any danger of being sold, forfeited or lost.

(b) INSOLVENCY:

If Tenant becomes insolvent or voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of Tenant, Landlord at its option may terminate this Lease and Tenant's right of possession under this Lease and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant in any bankruptcy, insolvency or reorganization proceeding.

20. DEFAULT:

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(a) CUMULATIVE REMEDIES:

All rights of Landlord herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law. In addition to the other remedies provided in this Lease, Landlord shall be entitled to restrain by injunction the violation or threatened violation of any of the covenants, agreements or conditions of this Lease.

(b) TENANT'S RIGHT TO CURE:

Tenant shall have a period of TEN (10) business days from the date of written notice from Landlord to Tenant within which to cure any default in the payment of Rent, Additional Rent and other sums due hereunder. Tenant shall have a period of THIRTY (30) days from the date of written notice from Landlord to Tenant within which to cure any other default hereunder; provided, however, that with respect to any such default capable of being cured by Tenant which cannot be cured within THIRTY (30) days, the default shall not be deemed to be uncured if Tenant commences to cure within THIRTY (30) days and for so long as Tenant is diligently pursuing the cure thereof.

(c) ABANDONMENT:

Abandonment shall be defined as an absence from the Premises of five (5) days or more while Tenant is in default or Landlord otherwise reasonably determines that Tenant has abandoned the Premises and its interest under this Lease. Any abandonment by Tenant shall be considered a default with no right to cure, allowing Landlord to re-enter the Premises as hereinafter set forth.

(d) LANDLORD'S REENTRY:

Upon abandonment or an uncured default of this Lease by Tenant, Landlord, in addition to any other rights or remedies it may have, at its option, may enter the Premises or any part thereof, and expel, remove or put out Tenant or any other persons who may be thereon, together with all personal property found therein; and Landlord may terminate this Lease, or it may from time to time, without terminating this Lease, relet the Premises or any part thereof for such term or terms (which may be for a term less than or extending beyond the term hereof) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, with the right to repair, renovate, remodel, redecorate, alter and change the Premises, Tenant remaining liable for any deficiency computed as hereinafter set forth. In the case of any default, reentry and/or dispossession all Rent and Additional Rent shall become due thereupon, together with such expenses as Landlord may reasonably incur for attorneys fees, advertising expenses, brokerage fees and/or putting the Premises in good order or preparing the same for re-rental, together with interest thereon as provided in Section 37(f) hereof, accruing from the date of any such expenditure by Landlord. No such re-entry or taking possession of the Premises shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention be given to Tenant.

(e) RELETTING THE PREMISES:

At the option of Landlord, rents received by Landlord from such reletting shall be applied first to the payment of any indebtedness from Tenant to Landlord other than Rent and Additional Rent due hereunder; second, to the payment of THE PRO RATA SHARE, BASED ON THE REMAINING TERM OF TENANT'S LEASE COMPARED TO THE TOTAL TERM OF THE NEW TENANT'S LEASE, OF any costs and expenses of such reletting and including, but not limited to, attorneys fees, advertising fees and brokerage fees, and to the payment of any repairs, renovations, remodeling, redecoration, alterations and changes in the Premises; third, to the payment of Rent and Additional Rent due and to become due hereunder, and, if after so applying said Rents there is any deficiency in the Rent or Additional Rent to be paid by Tenant under this Lease, Tenant shall pay any deficiency to Landlord monthly on the dates specified herein. Any payment made or suits brought to collect the amount of the deficiency for any month shall not prejudice in any way the right of Landlord to collect the deficiency for any subsequent month. The failure of Landlord to relet the Premises or any part or parts thereof shall not release or affect Tenant's liability hereunder, nor shall Landlord be liable for failure to relet, or in the event of reletting, for failure to collect the Rent thereof, and in no event shall Tenant be entitled to receive any excess of net Rents collected over sums payable by Tenant to Landlord hereunder. Notwithstanding any such reletting without termination, Landlord may at any time elect to terminate this Lease for such previous breach and default. Should Landlord terminate this Lease by reason of any default, in addition to any other remedy it may have, it may recover from Tenant the then present value of Rent and Additional Rent reserved in this Lease for the balance of the

Term, as it may have been extended, over the then fair market rental value of the Premises for the same period, plus all court costs and attorneys fees incurred by Landlord in the collection of the same.

(f) TRADE FIXTURES:

21. PRIORITY:

(a) Tenant agrees that this Lease shall be subordinate to any first mortgage or deed of trust now existing upon the Premises or the Building created by or at the instance of Landlord and to any and all advances to be made thereunder and to interest thereon and all renewals, , or extensions thereof ("Landlord's Mortgage"). Upon demand by Landlord or the holder of any Landlord's Mortgage ("Holder"), Tenant shall execute and deliver subordination and attornment agreements in form and substance satisfactory to such Holder. Notwithstanding the foregoing, upon demand of such Holder, such Landlord's Mortgage shall be subordinate to this Lease; provided, however, that in such event, notwithstanding such subordination, such Landlord's Mortgage shall be superior to this Lease with respect to (i) the right, claim and lien of the Landlord's Mortgage in, to and upon any award or other compensation for any taking by eminent domain of any part of the Premises or the Building and the right of disposition thereof in accordance with the provisions of the Landlord's Mortgage; and upon any proceeds payable under any policies of fire and rental insurance upon the Premises or the Building and to the right of disposition thereof in accordance with the terms of the Landlord's Mortgage; (ii) any lien, right or judgment which may have arisen at any time under the terms of the Lease; and (iii) such other matters as may be specifically reserved by the Holder of such Landlord's Mortgage in writing in connection with such subordination.

(b) Upon request Tenant shall attorn to the Holder of any Landlord's Mortgage or any person or persons purchasing or otherwise acquiring the Land, Building or Premises at any sale or other proceeding under any Landlord's Mortgage, PROVIDING THAT SUCH PERSON AGREES TO RECOGNIZE TENANT'S LEASE AND NOT DISTURB TENANT'S QUIET ENJOYMENT OF THE PREMISES UNDER THE LEASE. Tenant shall properly execute, acknowledge and deliver instruments which the holder of any Landlord's Mortgage may reasonably require to effectuate the provisions of this Section.

(c) IN THE EVENT ANY LANDLORD'S MORTGAGE IS HEREAFTER PLACED UPON THE PREMISES OR THE BUILDING BY OR AT THE INSTANCE OF LANDLORD, UPON THE REQUEST OF THE HOLDER THEREOF THIS LEASE SHALL BE SUBORDINATE TO SUCH MORTGAGE OR DEED OF TRUST AND TO ANY AND ALL ADVANCES THEREUNDER, INTEREST THEREON AND ALL RENEWALS, REPLACEMENTS, OR EXTENSIONS THEREOF, PROVIDED THAT SUCH HOLDER AND TENANT SHALL ENTER INTO AN AGREEMENT FOR SUBORDINATION, ATTORNMENT, AND NON-DISTURBANCE BY WHICH SUCH HOLDER SHALL AGREE TO RECOGNIZE THIS LEASE AND NOT DISTURB TENANT'S OCCUPANCY UNDER THIS LEASE AS LONG AS TENANT IS NOT IN DEFAULT HEREUNDER BEYOND ANY APPLICABLE PERIOD TO CURE, AND OTHERWISE UPON SUCH TERMS AND CONDITIONS AS ARE THEN CUSTOMARILY IN USE BY INSTITUTIONAL LENDERS IN LIKE CIRCUMSTANCES AND ARE REASONABLY ACCEPTABLE TO SUCH HOLDER AND TO TENANT. NOTWITHSTANDING THE FOREGOING, UPON THE DEMAND OF SUCH HOLDER, A SUBSEQUENT LANDLORD'S MORTGAGE SHALL BE SUBORDINATE TO THIS LEASE UPON THE TERMS AND CONDITIONS SET FORTH IN THE THIRD SENTENCE OF SECTION 21(A) ABOVE.

22. SURRENDER OF POSSESSION:

Subject to the terms of Section 13 relating to damage and destruction, upon expiration of the term of this Lease, whether by lapse of time or otherwise, Tenant shall promptly and peacefully surrender the Premises to Landlord in as good condition as when received by Tenant from Landlord or as thereafter improved, reasonable use and wear and tear AND CASUALTY DAMAGE AND DESTRUCTION excepted.

23. REMOVAL OF PROPERTY:

Tenant shall remove all of its movable personal property, telephone, data and computer cabling, and trade fixtures paid for by Tenant which can be removed without damage to the Premises at the

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expiration or earlier termination of this Lease, and shall pay Landlord any damages for injury to the Premises or Building resulting from such removal. All other improvements and additions to the Premises shall thereupon become the property of Landlord. NOTWITHSTANDING THE FOREGOING, UPON THE EXPIRATION OR SOONER TERMINATION OF THIS LEASE TENANT SHALL REMOVE ALL NON-STANDARD IMPROVEMENTS (E.G. SOUND STUDIO, RAISED FLOORING IN A COMPUTER ROOM, SERVERS, ETC.) MADE TO THE PREMISES BY TENANT; SUCH NON-STANDARD IMPROVEMENTS SHALL BE IDENTIFIED BY LANDLORD AND TENANT UPON COMPLETION OF PLANS FOR THE INITIAL PREMISES AND ANY FURTHER EXPANSIONS.

24. NON-WAIVER:

Waiver by Landlord or Tenant of any term, covenant or condition herein contained or any breach thereof shall not be deemed to be a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of any payment hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the amount so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such payment.

25. HOLDOVER:

If Tenant shall, with the written consent of Landlord, hold over after the expiration of the term of this Lease, such tenancy shall be deemed a month-to-month tenancy, which tenancy may be terminated as provided by applicable law. During such tenancy, Tenant agrees to pay to Landlord the greater of (a) the then quoted rates for similar space in the Building or (b) ONE HUNDRED TEN PERCENT (110%) of the Rent and Additional Rent in effect upon the date of such expiration as stated herein, and to be bound by all of the terms, covenants and conditions herein specified, so far as applicable. Acceptance by Landlord of Rent and Additional Rent after such expiration or earlier termination shall not result in a renewal of this Lease. The foregoing provisions of this Section 25 are in addition to and do not affect Landlord's right of re-entry or any rights of Landlord hereunder or as otherwise provided by law. If Tenant shall hold over after the expiration or earlier termination of this Lease without the written consent of Landlord, such occupancy shall be deemed an unlawful detainer of the Premises subject to the applicable laws of the state in which the Building is located and, in addition, Tenant shall be liable for any costs, damages, losses and expenses incurred by Landlord as a result of Tenant's failure to surrender the Premises in accordance with this Lease.

26. CONDEMNATION:

(a) ENTIRE TAKING:

If all of the Premises or such portions of the Building as may be required for the reasonable use of the Premises, are taken by eminent domain, this Lease shall automatically terminate as of the date title vests in the condemning authority and all Rent, Additional Rent and other payments shall be paid to that date.

(b) CONSTRUCTIVE TAKING OF ENTIRE PREMISES:

In the event of a taking of a material part of but less than all of the Building, where Landlord shall reasonably determine that the remaining portions

of the Premises cannot be economically and effectively used by it (whether on account of physical, economic, aesthetic or other reasons), or if, in the opinion of Landlord, the Building should be restored in such a way as to alter the Premises materially, Landlord shall forward a written notice to Tenant of such determination not more than sixty (60) days after the date of taking. The term of this Lease shall expire upon such date as Landlord shall specify in such notice but not earlier than sixty (60) days after the date of such notice.

(c) PARTIAL TAKING:

In case of taking of a part of the Premises, or a portion of the Building not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the Rent shall be equitably reduced based on the proportion by which the floor area of the Premises is reduced, such Rent reduction to be effective as of the date title to such portion vests in the condemning authority. If a portion

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of the Premises shall be so taken which renders the remainder of the Premises unsuitable for continued occupancy by Tenant under this Lease, Tenant may terminate this Lease by written notice to Landlord within sixty (60) days after the date of such taking and the term of this Lease shall expire upon such date as Tenant shall specify in such notice not later than sixty (60) days after the date of such notice.

(d) AWARDS AND DAMAGES:

Landlord reserves all rights to damages to the Premises for any partial, constructive, or entire taking by eminent domain, and Tenant hereby assigns to Landlord any right Tenant may have to such damages or award, and Tenant shall make no claim against Landlord or the condemning authority for damages for termination of the leasehold interest or interference with Tenant's business. Tenant shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Tenant may be put for Tenant's moving expenses, business interruption or taking of Tenant's personal property and leasehold improvements paid for by Tenant (not including Tenant's leasehold interest) provided that such damages may be claimed only if they are awarded separately in the eminent domain proceedings and not out of or as part of the damages recoverable by Landlord.

27. NOTICES:

All notices under this Lease shall be in writing and delivered in person or sent by registered or certified mail, or nationally recognized courier (such as Federal Express, DHL, etc.), postage prepaid, to Landlord and to Tenant at the Notice Addresses provided in Section 1(m) (provided that after the Commencement Date any such notice may be mailed or delivered by hand to Tenant at the Premises) and to the holder of any mortgage or deed of trust at such place as such holder shall specify to Tenant in writing; or such other addresses as may from time to time be designated by any such party in writing. Notices mailed as aforesaid shall be deemed given on the date of such mailing.

28. COSTS AND ATTORNEYS FEES:

If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Rent, Additional Rent or other payments hereunder or possession of the Premises, each party shall, and hereby does, to the extent permitted by law, waive trial by jury and the losing party shall pay the prevailing party a reasonable sum for attorneys fees in such suit, at trial

and on appeal, and such attorneys fees shall be deemed to have accrued on the commencement of such action.

29. LANDLORD'S LIABILITY:

Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Landlord are made and intended not as personal covenants, undertakings and agreements for the purpose of binding Landlord personally or the assets of Landlord except Landlord's interest in the Premises and Building, but are made and intended for the purpose of binding only the Landlord's interest in the Premises and Building, as the same may from time to time be encumbered. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted (EXCEPT FOR THE PURPOSE OF OBTAINING JURISDICTION OVER LANDLORD'S INTEREST IN THE BUILDING) or enforceable against Landlord or its partners or their respective heirs, legal representatives, successors, and assigns on account of the Lease or on account of any covenant, undertaking or agreement of Landlord in this Lease contained.

30. ESTOPPEL CERTIFICATES:

Tenant shall, from time to time, upon written request of Landlord, execute, acknowledge and deliver to Landlord or its designee a written statement prepared by Landlord stating: The date this Lease was executed and the date it expires; the date the term commenced and the date Tenant accepted the Premises; the amount of minimum monthly Rent and the date to which such Rent has been paid; and certifying to the extent true: That this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of agreement so affecting this Lease); that this Lease represents the entire agreement between the parties as to this leasing; that all conditions under this Lease to be performed by Landlord have been satisfied; that all required

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contributions by Landlord to Tenant on account of Tenant's improvements have been received; that on this date there are no existing claims, defenses or offsets which Tenant has against the enforcement of this Lease by Landlord; that the security deposit is as stated in the Lease; and such other matters as Landlord may reasonably request. It is intended that any such statement delivered pursuant to this paragraph may be relied upon by a prospective purchaser of Landlord's interest or the holder of any mortgage upon Landlord's interest in the Building. If Tenant shall fail to respond within FIFTEEN (15) days of receipt by Tenant of a written request by Landlord as herein provided, Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee and that this Lease is in full force and effect, that there are no uncured defaults in Landlord's performance, that the security deposit is as stated in the Lease, and that not more than one month's Rent has been paid in advance.

31. TRANSFER OF LANDLORD'S INTEREST:

In the event of any transfers of Landlord's interest in the Premises or in the Building, other than a transfer for security purposes only, AND PROVIDED THE TRANSFEREE AGREES WITH TENANT TO ASSUME AND PERFORM ALL OF LANDLORD'S OBLIGATIONS UNDER THE LEASE FROM AND AFTER THE DATE OF TRANSFER, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer and such transferee shall have no obligation or liability with respect to any matter occurring or arising prior to the date of such transfer. Tenant agrees to attorn to the transferee.

32. RIGHT TO PERFORM:

If Tenant shall fail to pay any sum of money, other than Rent and Additional Rent required to be paid by it hereunder, or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue for ten (10) days after notice thereof by Landlord, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. Any sums paid by Landlord hereunder shall be immediately due and payable by Tenant to Landlord and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment of sums due under this Section as in the case of default by Tenant in the payment of Rent.

33. QUIET ENJOYMENT:

Tenant shall have the right to the peaceable and quiet use and enjoyment of the Premises, subject to the provisions of this Lease, as long as Tenant is not in default hereunder.

34. CORPORATE AUTHORITY:

If Tenant is a corporation, each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant, in accordance with a duly adopted resolution of the Board of Directors of Tenant and in accordance with the bylaws of Tenant, and that this Lease is binding upon Tenant in accordance with its terms. At Landlord's request, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the Board of Directors of Tenant authorizing or ratifying the execution of this Lease.

35. HAZARDOUS MATERIALS:

(a) TENANT OBLIGATIONS:

(i) Tenant shall not dispose of or otherwise allow the release of any hazardous waste or materials in, on or under the Premises or the Building, or any adjacent property, or in any improvements placed on the Premises. Tenant represents and warrants to Landlord that Tenant's intended use of the Premises does not involve the use, production, disposal or bringing on to the Premises of any hazardous

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waste or materials, except only ordinary and general office supplies typically used in first-class downtown office buildings and only in such quantities or concentrations as allowed under applicable laws, rules and regulations. As used in this Section, the term "hazardous waste or materials" includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) pursuant to any statute, regulation, rule or ordinance now or hereafter in effect. Tenant shall promptly comply with all such statutes, regulations, rules and ordinances, and if Tenant fails to so comply Landlord may, after reasonable prior notice to Tenant (except in case of emergency) effect such compliance on behalf of Tenant. Tenant shall immediately reimburse Landlord for all costs incurred in effecting such compliance.

(ii) Tenant agrees to indemnify and hold harmless Landlord against any and all losses, liabilities, suits, obligations, fines, damages, judgements, penalties, claims, charges, cleanup costs, remedial actions, costs and expenses (including, without limitation, consultant fees, attorneys' fees and disbursements) which may be imposed on, incurred or paid by Landlord, or

asserted in connection with (i) any misrepresentation, breach of warranty or other default by Tenant under this Lease, or (ii) the acts or omissions of Tenant, or any subtenant or other person for whom Tenant would otherwise be liable, resulting in the release of any hazardous waste or materials.

(b) LANDLORD OBLIGATIONS:

Landlord represents to Tenant that, to the best of Landlord's knowledge, no hazardous waste or materials have been generated, stored or disposed of on the Premises other than in compliance with all applicable laws. Landlord will hold Tenant harmless from and indemnify Tenant against any actual costs resulting from any breach of this representation or resulting from the release of hazardous waste or materials on the Premises by Landlord or its employees, agents or contractors. Landlord shall not be responsible for any hazardous waste or materials resulting from the acts of other tenants or occupants of the Building or other third parties, or for consequential damages arising from the presence of any hazardous wastes or materials on the Premises or in the Building.

36. TELECOMMUNICATIONS LINES AND EQUIPMENT:

(a) LOCATION OF TENANT'S EQUIPMENT AND LANDLORD CONSENT:

(i) TENANT MAY INSTALL, MAINTAIN, REPLACE, REMOVE AND USE COMMUNICATIONS AND COMPUTER WIRES, CABLES AND RELATED DEVICES NECESSARY FOR THE OPERATION OF TENANT'S BUSINESS (COLLECTIVELY, THE "LINES") WHICH: CONNECT TO THE INTRABUILDING NETWORK CABLING ("INC"); INTERCONNECT TENANT'S PREMISES ON MULTIPLE FLOORS IN THE BUILDING; OR, IN THE ABSENCE OF INC ADEQUATE TO SERVICE TENANT'S BUSINESS, CONNECT TO LINES PROVIDED BY TENANT'S COMMUNICATIONS SERVICE PROVIDER, AND LANDLORD SHALL NOT ASSESS ANY SURCHARGES FOR ACCESS TO INSTALL SUCH LINES OTHER THAN PURSUANT TO EXHIBIT F. LANDLORD SHALL PROVIDE SPACE NECESSARY TO ACCOMMODATE THE LINES SUBJECT TO LANDLORD'S CONSENT RIGHTS AND ALL OTHER RIGHTS SPECIFIED HEREIN. TENANT MUST OBTAIN LANDLORD'S PRIOR WRITTEN CONSENT, WHICH CONSENT MAY NOT BE UNREASONABLY WITHHELD, FOR TENANT'S INITIAL WIRING PLAN FOR EACH FLOOR OF TENANT'S PREMISES AND FOR TENANT'S INITIAL WORK AND ALL SUBSEQUENT WORK IN THE BUILDING COMMON AREAS. TENANT SHALL LOCATE ALL ELECTRONIC TELECOMMUNICATIONS AND SWITCHING EQUIPMENT WITHIN THE PREMISES. TENANT'S REQUEST FOR CONSENT TO TENANT'S INITIAL WIRING PLAN FOR EACH FLOOR OF TENANT'S PREMISES AND TO TENANT'S INITIAL AND SUBSEQUENT WORK IN THE BUILDING COMMON AREAS SHALL CONTAIN DETAILED PLANS, DRAWINGS AND SPECIFICATIONS IDENTIFYING ALL WORK TO BE PERFORMED, THE TIME SCHEDULE FOR COMPLETION OF THE WORK, THE IDENTITY OF THE ENTITY THAT WILL PROVIDE SERVICE TO THE LINES AND THE

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IDENTITY OF THE ENTITY THAT WILL PERFORM THE PROPOSED WORK (WHICH ENTITY SHALL BE SUBJECT TO LANDLORD'S REASONABLE APPROVAL). LANDLORD SHALL HAVE FIVE (5) BUSINESS DAYS IN WHICH TO EVALUATE THE REQUEST AFTER IT IS SUBMITTED BY TENANT.

(ii) LANDLORD MAY CONSIDER THE FOLLOWING FACTORS IN MAKING ITS DETERMINATION OF CONSENT: (A) THE EXPERIENCE, QUALIFICATIONS AND PRIOR WORK PRACTICE OF THE PROPOSED CONTRACTOR AND ITS ABILITY TO PROVIDE SUFFICIENT INSURANCE COVERAGE FOR ITS WORK AT THE BUILDING; (B) WHETHER OR NOT THE PROPOSED WORK WILL ADVERSELY AFFECT IN A MATERIAL WAY THE OPERATION OF ANY THEN EXISTING LINES AT THE BUILDING; (C) WHETHER OR NOT TENANT IS IN DEFAULT OF ANY OF ITS OBLIGATIONS UNDER THIS LEASE; (D) WHETHER TENANT'S PROPOSED SERVICE PROVIDER IS WILLING TO ENTER INTO A TELECOMMUNICATIONS LICENSE AGREEMENT WITH LANDLORD, INCLUDING, BUT NOT LIMITED TO, THE PAYMENT OF REASONABLE MONETARY COMPENSATION FOR THE USE AND OCCUPATION OF THE BUILDING; AND (E) WHETHER THE WORK OR RESULTING LINES WOULD ADVERSELY AFFECT IN A MATERIAL WAY THE STRUCTURAL INTEGRITY OF THE LAND, BUILDING OR ANY SPACE IN THE BUILDING IN ANY MANNER. THE PARTIES AGREE THAT THE RATES SHOWN ON EXHIBIT F ARE REASONABLE CHARGES FOR A

SERVICE PROVIDER'S USE AND OCCUPATION OF THE BUILDING. LANDLORD'S RATES SHALL NOT EXCEED THE RATES GENERALLY CHARGED BY CLASS A BUILDINGS IN SEATTLE. TENANT AND ITS SERVICE PROVIDERS SHALL NOT BE REQUIRED BY LANDLORD TO PAY COMPENSATION FOR LINES WHICH INTERCONNECT TENANT'S PREMISES.

(iii) LANDLORD'S CONSENT TO TENANT'S INITIAL WIRING PLANS FOR EACH FLOOR OF TENANT'S PREMISES, AND FOR TENANT'S WORK IN THE BUILDING COMMON AREAS OR TENANT'S CONTRACTOR, OR REQUIREMENTS CONCERNING, THE LINES OR ANY EQUIPMENT RELATED THERETO, THE PLANS, SPECIFICATIONS OR DESIGNS RELATED THERETO, THE CONTRACTOR OR SUBCONTRACTOR, OR THE WORK PERFORMED HEREUNDER, SHALL NOT BE DEEMED A WARRANTY AS TO THE ADEQUACY THEREOF, AND LANDLORD HEREBY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR THE SAME. LANDLORD DISCLAIMS ALL RESPONSIBILITY FOR THE CONDITION OR UTILITY OF THE LINES AND MAKES NO REPRESENTATION REGARDING THE SUITABILITY OF THE LINES FOR TENANT'S INTENDED USE.

(iv) TENANT SHALL (A) PAY ALL COSTS IN CONNECTION WITH TENANT'S WORK ON THE LINES; (B) COMPLY WITH ALL REQUIREMENTS AND CONDITIONS OF THIS SECTION; (C) USE, MAINTAIN AND OPERATE THE LINES AND RELATED EQUIPMENT IN ACCORDANCE WITH AND SUBJECT TO ALL LAWS GOVERNING THE LINES AND EQUIPMENT.

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TENANT SHALL FURTHER INSURE THAT (I) TENANT'S CONTRACTOR COMPLIES WITH THE PROVISIONS OF THIS SECTION AND LANDLORD'S REASONABLE REQUIREMENTS GOVERNING ANY WORK PERFORMED; (II) TENANT'S CONTRACTOR PROVIDES ALL INSURANCE REQUIRED BY LANDLORD; (III) ANY WORK PERFORMED SHALL COMPLY WITH ALL LAWS; AND (IV) AS SOON AS THE WORK IS COMPLETED, TENANT SHALL SUBMIT "AS-BUILT" DRAWINGS TO LANDLORD.

[INTENTIONALLY OMITTED]

(b) LANDLORD'S COMMON SPACES:

LANDLORD SHALL PROVIDE ALL ACCESS FOR THE LINES THROUGH BUILDING COMMON SPACES NECESSARY FOR TENANT TO INSTALL THE LINES. LANDLORD WILL PERMIT TENANT ACCESS TO THE LINES TO ALLOW TENANT TO INSTALL, INSPECT, MAINTAIN AND REPAIR THE LINES IN THE COMMON AREAS, FOLLOWING REASONABLE NOTICE FROM TENANT TO LANDLORD'S MANAGEMENT OFFICE AND SUBJECT TO LANDLORD'S CONSENT RIGHTS AND ALL OTHER RIGHTS SPECIFIED HEREIN.

(c) INDEMNIFICATION:

In addition to any other indemnification obligations under this Lease, Tenant shall indemnify and hold harmless Landlord and its employees, agents, officers, and contractors from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in any way related to the acts and omissions of Tenant, Tenant's officers, directors, employees, agents, contractors, subcontractors, subtenants, and invitees with respect to: (i) any Lines or equipment related thereto serving Tenant in the Building; (ii) any personal injury (including wrongful death) or property damage arising out of or related to any Lines or equipment related thereto serving Tenant in the Building; (iii) any lawsuit brought or threatened, settlement reached, or governmental order, fine or penalty relating to such Lines or equipment related thereto; and (iv) any violations or Laws or demands of governmental authorities, or any reasonable policies or requirement of Landlord, which are based upon or in any way related to such Lines or equipment. This indemnification and hold harmless agreement shall survive the termination of this Lease.

(d) LIMITATION OF LIABILITY:

Except to the extent arising from the negligence OF, BREACH OF THIS LEASE

BY, or willful misconduct of Landlord or Landlord's agents or employees, Landlord shall have no liability for damages arising from, and Landlord does not warrant that the Tenant's use of any Lines will be free from the following (collectively called "Line Problems"): (I) any shortages, failures, variations, interruptions, disconnections, loss or damage caused by the installation, maintenance, or replacement, use or removal of Lines by or for other tenants or occupants at the Building, by any failure of the environmental conditions or the power supply for the Building to conform to any requirement of the Lines or any associated equipment, or any other problems associated with any Lines by any other cause; (ii) any failure of any Lines to satisfy Tenant's requirements; or (iii) any eavesdropping or wire-tapping by unauthorized parties. Landlord in no event shall be liable for damages by reason of loss of profits, business interruption or other consequential damage arising from any Line Problems. Under no circumstances shall any Line Problems be deemed an actual or constructive eviction of Tenant, render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease.

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(e) ELECTROMAGNETIC FIELDS:

If Tenant at any time uses any equipment that may create an electromagnetic field exceeding the normal insulation ratings of ordinary twisted pair riser cable or cause radiation higher than normal background radiation, Landlord reserves the right to require Tenant to appropriately insulate the Lines therefore (including riser cables) to prevent such excessive electromagnetic fields or radiation.

37. GENERAL:

(a) HEADINGS:

Titles to Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

(b) SUCCESSORS AND ASSIGNS:

All of the covenants, agreements, terms and conditions contained in this Lease shall inure to and be binding upon the Landlord and Tenant and their respective, successors and assigns.

(c) PAYMENT OF BROKERS:

Landlord shall pay the commissions due those real estate brokers or agents named in Section 1(k). If Tenant has dealt with any other person or real estate broker with respect to leasing or renting space in the Building, Tenant shall be solely responsible for the payment of any fee due said person or firm and Tenant shall indemnify and hold Landlord harmless against any liability in respect thereto, including Landlord's attorneys' fees and costs in defense of any such claim.

(d) ENTIRE AGREEMENT:

This Lease contains all covenants and agreements between Landlord and Tenant relating in any manner to the leasing, use and occupancy of the Premises, to Tenant's use of the Building and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified or added to except in writing signed by Landlord and Tenant.

(e) SEVERABILITY:

Any provision of this Lease which shall be held invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

(f) OVERDUE PAYMENTS:

Tenant acknowledges that a late payment of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease. Such costs may include, but not be limited to, processing and accounting charges, and penalties imposed by terms of any contracts, mortgages or deeds of trust covering the Building. Therefore, in the event Tenant shall fail to pay any Rent, Additional Rent or other sums payable by Tenant under this Lease for five (5) days after TENANT'S RECEIPT OF LANDLORD'S WRITTEN NOTICE THAT such amount is PAST due, then Tenant shall pay Landlord, as Additional Rent, a late charge ("Late Charge") equal to 5% of such amount owing, but not in excess of the highest rate permitted by law. In addition to any Late Charges which may be incurred hereunder, any Rent, Additional Rent or other sums payable by Tenant under this Lease which are more than thirty (30) days past due, shall bear interest at a rate equal to FOUR PERCENTAGE POINTS ABOVE THE PRIME RATE OF INTEREST PUBLISHED OR ANNOUNCED FROM TIME TO TIME BY SEATTLE FIRST NATIONAL BANK OR ITS SUCCESSOR per annum but not in excess of the highest lawful rate permitted under applicable laws, calculated from the original due date thereof to the date of payment ("Overdue Fee"); provided, however, the minimum Overdue Fee shall be \$100.00.

(g) FORCE MAJEURE:

Except for the payment of Rent, Additional Rent and other sums payable by Tenant, time periods for Tenant's or Landlord's performance under any provisions of this Lease shall be extended for periods of time during which Tenant's or Landlord's performance is prevented due to circumstances beyond Tenant's or Landlord's reasonable control.

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(h) RIGHT TO CHANGE PUBLIC SPACES:

Landlord shall have the right at any time, without thereby creating an actual or constructive eviction or incurring any liability to Tenant therefor, to change the arrangement or location of such of the following as are not contained within the Premises or any part thereof: entrances, passageways, doors and doorways, corridors, stairs, toilets and other like public service portions of the Building. Nevertheless, in no event shall Landlord diminish any service, change the arrangement or location of the elevators serving the Premises, make any change which shall diminish the area of the Premises, make any change which shall interfere with access to the Premises or change the character of the Building from that of a first-class office building.

(I) GOVERNING LAW:

This Lease shall be governed by and construed in accordance with the laws of the State of Washington.

(J) BUILDING DIRECTORY:

Landlord shall maintain in the lobby of Building a directory which shall include the name of Tenant and any other names reasonably requested by Tenant in proportion to the number of listings given to comparable tenants of the Building.

(K) BUILDING NAME:

The Building shall be known by such name as Landlord may designate from time to time.

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IN WITNESS WHEREOF this Lease has been executed the day and year first above set forth.

TENANT: PROGRESSIVE NETWORKS, INC.
a Washington corporation

By:/s/ Andrew F. Sharpless

Its: SVP

TENANT CORPORATE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that on this 21st day of MARCH, 1996, before me, the undersigned, a notary public in and for the state of WASHINGTON, duly commissioned and sworn, personally appeared ANDREW F. SHARPLESS, to me known to be the SENIOR VICE PRESIDENT respectively, of Progressive Networks, Inc., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year in this certificate first above written.

Signature /s/ JUDITH K. HOYLE

Printed Name JUDITH K. HOYLE

Notary public in and for the state of WASHINGTON,
residing at SEATTLE

My appointment expires 11-6-99

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LANDLORD: WRIGHT RUNSTAD PROPERTIES L.P.
a Delaware limited partnership

By: WRIGHT RUNSTAD ASSET MANAGEMENT L.P.,
a Washington limited partnership

By: WRAM, Inc.
a Washington corporation

By: /s/ H. JON RUNSTAD

Its H. JON RUNSTAD

CHAIRMAN AND
CHIEF EXECUTIVE OFFICER

LANDLORD ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that I know or have satisfactory evidence that H. JON RUNSTAD, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the CHAIRMAN AND CEO of WRAM, Inc., a corporation, to me known to be the general partner of WRIGHT RUNSTAD ASSET MANAGEMENT L.P., a limited partnership, to me known to be the general partner of WRIGHT RUNSTAD PROPERTIES L.P., the limited partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation and partnerships for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal this 22nd day of March, 1996.

Signature /s/ CORLISS J. PERDAEMS

Printed Name CORLISS J. PERDAEMS

Notary public in and for the state of Washington,
residing at SEATTLE

My appointment expires 3/29/96

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</TEXT>
</DOCUMENT>
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<TYPE>EX-10.8
<SEQUENCE>13
<DESCRIPTION>SUBLEASE AGREEMENT BETWEEN REGISTRANT & LEGENT
<TEXT>

<PAGE> 1

Exhibit 10.8

THIS SUBLEASE (the "Sublease") is entered into as of the date set forth in Section 1.1(e) below, by and between the Sublandlord and the Subtenant set forth below.

W I T N E S S E T H

1. SUBLEASE SUMMARY AND DEFINITIONS

1.1. The Sublease provisions and definitions set forth in this SECTION 1.1 in summary form are solely to facilitate convenient reference by the

parties. If there is any conflict between this Section and any other provisions of this Sublease, the latter shall control.

<TABLE> <CAPTION>		
<S>	<C>	<C>
(a)	Sublandlord's Name and Address:	LEGENT CORPORATION C/O COMPUTER ASSOCIATES INTERNATIONAL, INC. 1 Computer Associates Plaza Islandia, N.Y. 11788-7000 Attn: Senior Vice President-Facilities
(b)	Sublandlord's State of Incorporation:	Delaware
(c)	Subtenant's Name and Address:	PROGRESSIVE NETWORKS, INC. 1111 Third Avenue, Suite 2900 Seattle, WA 98101 Attn: _____
(d)	Subtenant's State of Incorporation:	
(e)	Sublease Date:	March ____, 1996
(f)	Overlandlord's Name and Address:	Wright Runstad Properties L.P. 1111 Third Avenue, Suite 2730 Seattle, Washington 98101
(g)	Overlease:	Lease Agreement dated July 27, 1993
(h)	Unincorporated provisions of the Overlease:	Articles: 1(d), 1(e), 1(g), 1(h), 3(b), 3(c), 4, 8(a)(iii), 9(a)(iii), 36(c), 36(g) Exhibits: B, paragraphs 4, 5, 6, and 12 of Exhibit C.
</TABLE>		

1

<PAGE> 2

<TABLE> <CAPTION>		
<S>	<C>	<C>
(i)	Building:	1111 THIRD AVENUE SEATTLE, WASHINGTON
(j)	Premises:	17,244 comprising the entire 29th floor
(k)	Sublease Commencement Date:	April 1, 1996
(l)	Sublease Expiration Date:	October 31, 1998
(m)	Base Rent:	
</TABLE>		

<TABLE>
<CAPTION>

Yearly Periods	Annual Rent per Rentable Square Foot	Monthly Base Rent	Annual Base Rent
-----	-----	-----	-----
<S>	<C>	<C>	<C>
Sublease Term	\$12.50	\$17,962.50	\$215,550.00

</TABLE>

<TABLE>

<S>	<C>	<C>
(n)	Prepaid Base Rent:	\$17,962.50
(o)	Operating Expenses/taxes:	Included in Base Rent; Base Year - 1996 for increases
(p)	Subtenant's Proportionate Share:	3.26%
(q)	Electric Charge:	Included in Base Rent - See Article 14
(r)	Security Deposit:	\$215,550.00 - See Article 16 for terms.
(s)	Alterations:	"As Is"
(t)	Brokers:	For Sublandlord: Cushman & Wakefield For Subtenant: Martin Smith
(u)	Parking:	Per Overlease at Subtenant's cost.
(v)	Furniture:	See Article 21
(w)	Termination Right	On or after May 1, 1998 by payment of fee. See Article 22.

</TABLE>

2. SUBLEASE GRANT

2.1. By lease (hereinafter referred to as the "Overlease") described above, the

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Overlandlord leased to Sublandlord certain space (hereinafter called the "Leased Space") in the Building in accordance with the terms of the Overlease. A copy of the Overlease is annexed hereto as EXHIBIT A.

2.2. In consideration of the obligation of Subtenant to pay rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Sublandlord hereby leases to Subtenant and Subtenant hereby hires from Sublandlord, upon and subject to the provisions of this Sublease and the Overlease, the square feet of rentable area as set forth in SECTION 1.1 herein and as shown hatched on EXHIBIT B annexed hereto and made a part hereof (hereinafter called the "Premises").

3. SUBLEASE TERM

3.1. Subject to the other provisions hereof, this Sublease shall continue in full force and effect for a primary term beginning on the Sublease

Commencement Date and ending on the Sublease Expiration Date as defined above. Such term, as it may be extended or modified only by written agreement of the parties or pursuant to an express provision of this Sublease, is herein called the "Sublease Term."

4. RENT

4.1. Subtenant, in consideration of this Sublease agrees to pay to Sublandlord as rent ("Base Rent") the amounts set forth in SECTION 1.1 hereof. Base rent is payable in advance and without demand, at Sublandlord's office (or such other location as Sublandlord shall designate) by check in equal monthly installments, on the first day of each month during the Sublease Term without any set-off, off-set, abatement or reduction whatsoever. Subtenant's failure to receive an invoice from Sublandlord for the rent shall not relieve Subtenant from its obligation of timely payment hereunder. The Prepaid Base Rent shall be paid upon Subtenant's execution of this Sublease.

4.2. As used in this Sublease, "Rent" shall mean the Base Rent, the Operating Expense reimbursements pursuant to SECTION 1.1, and all other monetary obligations provided for in this Sublease to be paid by Subtenant, all of which constitute rental in consideration for this Sublease.

4.3. In the event the rent is not paid when due as aforesaid, interest shall accrue thereon at the lesser of 12% per annum or the maximum rate permitted by law. In addition, if the rent is not paid by the tenth day of any given month, Subtenant shall pay as a penalty to Sublandlord an additional amount equal to five percent (5%) of the rent which is due, but not less than \$100.

5. ASSIGNMENT OR UNDERLETTING

5.1. Subtenant shall not (a) assign this Sublease, nor (b) permit this Sublease to be

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assigned by operation of law or otherwise, nor (c) underlet all or any desk space therein to be occupied by any person(s), without first obtaining Overlandlord's consent and all other required consents to such assignment or subletting as set forth in and pursuant to the Overlease.

Notwithstanding anything hereinbefore contained in SECTION 5.1 hereof, in the event Subtenant desires Sublandlord's consent to an assignment of this Sublease or an underletting of all of the Premises, Subtenant by notice in writing (a) shall notify Sublandlord of the name of the proposed assignee or undertenant, furnish such information as to the proposed assignee's or undertenant's financial responsibility and standing as Sublandlord may require, and advise Sublandlord of the covenants, agreements, terms, provisions and conditions contained in the proposed assignment or underlease and (b) shall offer to vacate the Premises and to Surrender the same to Sublandlord as of a date (hereafter called the "Surrender Date") specified in said offer which shall be the last day of any calendar month during the term hereof, provided, however, that the Surrender Date shall not be earlier than the date occurring 120 days after the giving of such notice nor be later than the effective date of the proposed assignment or the commencement date of the term of the proposed underlease. Sublandlord may accept such offer by notice to Subtenant given within 60 days after the receipt of such notice from Subtenant. If Sublandlord accepts such offer, Subtenant shall surrender to Sublandlord, effective as of the Surrender Date, all Subtenant's right, title and interest in and to the entire Premises. If the Premises be so surrendered by Subtenant, this Sublease

shall be canceled and terminated as of the Surrender Date with the same force and effect as if the Surrender Date were the date hereinbefore specified for the expiration of the full term of this Sublease.

5.2. In the event Sublandlord does not accept such offer of Subtenant referred to in SECTION 5.1 hereof, Sublandlord covenants not to unreasonably withhold its consent to such proposed assignment or underletting by Subtenant of the Premises to the proposed assignee or undertenant on said covenants, agreements, terms, provisions and conditions set forth in notice to Sublandlord referred to in SECTION 5.1 hereof, provided that:

(a) Sublandlord shall have the right, upon five (5) days prior written notice to Subtenant, to require Subtenant thereafter to pay to Sublandlord a sum equal to: (i) one half of any rent or other consideration paid to Subtenant by any undertenant which is in excess of the fixed annual rent and additional rent then being paid by Subtenant to Sublandlord pursuant to the terms of this Sublease, and (ii) any other profit or gain realized by Subtenant from any such assignment or underletting in connection with any underletting; all sums payable hereunder by Subtenant shall be paid to Sublandlord as additional rent immediately upon receipt thereof by Subtenant and, if requested by Sublandlord, Subtenant shall promptly enter into a written agreement with Sublandlord setting forth the amount of additional rent to be paid to Sublandlord pursuant to this Section;

(b) There shall be no default by Subtenant under any of the terms, covenants

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and conditions of this Sublease at the time that Sublandlord's consent to any such assignment or underletting is requested and on the effective date of the assignment or the proposed underlease;

(c) Subtenant shall reimburse Sublandlord for any reasonable expenses that may be incurred by Sublandlord in connection with the proposed assignment or underlease, including without limitation the reasonable costs of making investigations as to the acceptability of a proposed assignee or undertenant and reasonable legal expenses incurred in connection with the granting of any requested consent to the assignment or underlease;

(d) Subtenant shall not be relieved of its obligations under this Sublease in the event of an assignment or subletting.

5.3. Any transfer of this Sublease by merger, consolidation or liquidation, or any change in the ownership of, or power to vote, the majority of its outstanding voting stock, shall not constitute an assignment for the purpose of this Section, so long as the resulting subtenant has a financial net worth, determined in accordance with generally accepted accounting practices, reasonably adequate to satisfy the obligations of Subtenant under this Sublease.

6. TERMS OF THE OVERLEASE

6.1. Except as herein otherwise expressly provided and except for the obligation to pay rent and additional rent under the Overlease, all of the terms, covenants, conditions and provisions in the Overlease are hereby incorporated in, and made a part of this Sublease, and such rights and obligations as are contained in the Overlease are hereby imposed upon the respective parties hereto; the Sublandlord herein being substituted for the Landlord in the Overlease, and the Subtenant herein being substituted for the Tenant named in the Overlease; provided, however, that the Sublandlord herein shall not be liable for any defaults by Overlandlord and, if Overlandlord is not the fee owner, the owner in fee of the land and Building of which the Premises are a part; provided however that Sublandlord shall use reasonably diligent efforts to cooperate with Subtenant in causing Overlandlord to cure its defaults and to perform its obligations under the Overlease. If the Overlease shall be terminated for any reason during the term hereof, then and in that event this Sublease shall thereupon automatically terminate and Sublandlord shall have no liability to Subtenant by reason thereof. Upon the termination of this Sublease, whether by forfeiture, lapse of time or otherwise, or upon the termination of Subtenant's right to possession, Subtenant will at once surrender and deliver up the Premises in good condition and repair, reasonable wear and tear excepted.

6.2. This Sublease is subject to, and Subtenant accepts this Sublease subject to, any amendments and supplements to the Overlease hereafter made between Overlandlord and Sublandlord, provided that any such amendment or supplement to the Overlease will not prevent

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or adversely affect the use by Subtenant of the Premises in accordance with the terms of this Sublease, increase the obligations of Subtenant or decrease its rights under the Sublease or in any other way materially adversely affect Subtenant. Sublandlord shall notify Subtenant of any such amendments or supplements which affect Subtenant.

6.3. This Sublease is subject and subordinate to the Overlease and, to the same extent as the Overlease is subject and subordinate, to all ground or underlying leases and to all mortgages which may now or hereafter affect such leases or the real property of which the Premises are a part and all renewals, modifications, replacements and extensions of any of the foregoing. This SECTION 6.3 shall be self-operative and no further instrument of subordination shall be required. To confirm such subordination, Subtenant shall execute promptly any certificate that Sublandlord may request.

7. CONDITION OF PREMISES

7.1. Subtenant has examined the Premises, is aware of the physical condition thereof, and agrees to take the same "as is" (unless otherwise provided in SECTION 15 herein) with the understanding that there shall be no obligation on the part of Sublandlord to incur any expense whatsoever in connection with the preparation of the Premises for Subtenant's occupancy thereof. Any work performed by Subtenant shall be in accordance with the terms of the Overlease and SECTION 15 herein.

8. USE OF PREMISES

8.1. Subtenant agrees that the Premises shall be occupied only as executive, administrative and general offices for Subtenant's business.

9. CONSENT OF OVERLANDLORD

9.1. This Sublease is conditioned upon the consent thereto by

Overlandlord which consent shall be evidenced by Overlandlord's signature appended hereto or a separate consent in the form utilized by Overlandlord for such purposes. Subtenant shall be solely responsible for any fees or charges imposed by the Overlandlord in connection with the obtaining of such consent. Provided Overlandlord's consent does not materially affect the terms of this Sublease, Subtenant shall immediately execute any documents requested by Overlandlord in order to obtain Overlandlord's approval.

9.2. Sublandlord makes no representation with respect to obtaining Overlandlord's approval of this Sublease and, in the event that Overlandlord notifies Sublandlord that Overlandlord will not give such approval, Sublandlord will so notify Subtenant and, upon receipt of such notification by Sublandlord of the disapproval by Overlandlord, this Sublease shall be deemed to be null and void and without force or effect, and Sublandlord and Subtenant shall have no further obligations or liabilities to the other with respect to this Sublease.

9.3. Except as otherwise specifically provided herein, wherever in this Sublease

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Subtenant is required to obtain Sublandlord's consent or approval, Subtenant understands that Sublandlord may be required to first obtain the consent or approval of Overlandlord. If Overlandlord should refuse such consent or approval in spite of Sublandlord's reasonably diligent efforts to obtain such consent or approval, Sublandlord shall be released of any obligation to grant its consent or approval whether or not Overlandlord's refusal, in Subtenant's opinion, is arbitrary or unreasonable.

10. DEFAULT

10.1. Subtenant acknowledges that the services to be rendered to the Premises are to be rendered by Overlandlord. Anything in this Sublease to the contrary notwithstanding, if there exists a breach by Sublandlord of any of its obligations under this Sublease because of a corresponding breach by Overlandlord under the Overlease of its obligations under the Overlease, then and in such event, Subtenant's sole remedy against Sublandlord in the event of any breach of obligations under this Sublease shall be the right to pursue a claim in the name of Sublandlord against Overlandlord, and Sublandlord agrees that it will, at Subtenant's expense, cooperate with Subtenant in the pursuit of such claim.

10.2. Anything contained in any provisions of this Sublease to the contrary notwithstanding, Subtenant agrees, with respect to the Premises, to comply with and remedy any default claimed by Overlandlord and caused by Subtenant, within the period allowed to Sublandlord as tenant under the Overlease, even if such time period is shorter than the period otherwise allowed in the Overlease, due to the fact that notice of default from Sublandlord to Subtenant is given after the corresponding notice of default from Overlandlord. Sublandlord agrees to forward promptly to Subtenant by facsimile, upon receipt thereof by Sublandlord, a copy of each notice of default received by Sublandlord in its capacity as tenant under the Overlease. Subtenant agrees to forward promptly to Sublandlord by facsimile, upon receipt thereof, copies of any notices received by Subtenant with respect to the Premises from Overlandlord or from any governmental authorities.

10.3. If and whenever there shall occur any event of default of this Sublease, which Subtenant fails to cure after ten (10) days notice of default in the event of a monetary default and thirty (30) days notice in the event of a non-monetary default, Sublandlord may, at Sublandlord's option, in addition to any other remedy or right given under the Overlease or by law or equity, do any one or more of the following:

(a) Terminate this Sublease without notice to Subtenant, in which event Subtenant shall immediately surrender possession of the Premises to Sublandlord;

(b) Terminate Subtenant's right to possession of the Premises under this Sublease without terminating the Sublease itself, by written notice to Subtenant, in which event Subtenant shall immediately surrender possession of the Premises to Sublandlord;

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(c) Enter upon and take possession of the Premises and expel or remove Subtenant and any other occupant therefrom, with or without having terminated this Sublease;

(d) Alter locks and other security devices at the Premises with or without having terminated this Sublease or Subtenant's right to possession under the Sublease;

(e) Enter upon the Premises, and do whatever Subtenant is obligated to do under the terms of this Sublease; and Subtenant agrees to reimburse Sublandlord on demand for any direct or indirect expenses which Sublandlord or Overlandlord may incur in thus effecting compliance with Subtenant's obligations under this Sublease, and Subtenant further agrees that Sublandlord shall not be liable for any damages resulting to Subtenant from such action.

10.4. It is hereby expressly stipulated by Sublandlord and Subtenant that any of the above listed actions including, without limitation, termination of this Sublease, termination of Subtenant's right to possession, and re-entry by Sublandlord, will not affect the obligations of Subtenant for the unexpired Sublease Term, including the obligations to pay unaccrued monthly rentals and other charges provided in this Sublease for the remaining portion of the Sublease Term. If an event of default occurs, Sublandlord is entitled to seek damages, to seek specific performance, to recover possession of the Premises by agreement with Subtenant or by an unlawful detainer action, and any other remedies set forth in the Overlease, or otherwise available to Sublandlord at law or in equity.

10.5. Exercise by Sublandlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Subtenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Sublandlord and Subtenant. No lawful exercise of dominion by Sublandlord over the property of Subtenant or others at the Premises shall be deemed unauthorized or constitute a conversion, Subtenant hereby consenting, after any event of default, to any lawful exercise of dominion over Subtenant's property within the Premises. All claims for damages by reason of such re-entry and/or repossession and/or alteration of locks or other security devices pursuant to a judgment obtained in an unlawful detainer action are hereby waived, as are all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestration proceedings or other legal process.

11. SUBLANDLORD REPRESENTATION

11.1. Sublandlord represents and warrants (a) that it is the holder of the interest of the tenant under the Overlease, and (b) that the Overlease is in full force and effect, and (c) that Sublandlord will pay all Base Rent and

Additional Rent owed by it to Overlandlord under the Overlease in a timely manner.

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12. BROKERS

12.1. Subtenant covenants, represents and warrants that Subtenant has had no dealings or communications with any broker or agent in connection with the consummation of this Sublease other than those set forth in SECTION 1.1 hereof, and Subtenant covenants and agrees to pay, hold harmless and indemnify Sublandlord from and against any and all cost, expense (including reasonable attorneys' fees) or liability for any compensation, commissions or charges claimed by any broker or agent other than such brokers with respect to this Sublease or the negotiation thereof. Sublandlord shall pay all fees and commissions owed to Cushman & Wakefield and to Martin Smith, Inc.

13. OPERATING EXPENSES/TAXES

13.1. All charges for standard Operating Expenses and Property Taxes, as defined in the Overlease, incurred during normal business hours for the Base Year set forth in Subsection 1.1(o) hereof shall be included in the rent paid herein. Any additional charges attributable to increases in operating expenses and taxes above Base Year amounts and charged by Overlandlord shall be paid by Subtenant to Sublandlord as additional rent upon receipt of an invoice for such charges.

14. ELECTRIC CHARGE

14.1. All charges for standard electric incurred during normal business hours are included. Any additional charges will be paid by Subtenant.

15. ALTERATIONS

15.1. In the event Subtenant is permitted to perform alterations in the Premises hereunder, Subtenant may make no changes, alterations, additions, improvements or decorations in, to or about the Premises without submitting detailed plans and construction schedules to Overlandlord and Sublandlord and receiving Overlandlord's prior written consent to such plans. Subtenant shall make no changes, alterations, additions, improvements or decorations which would result in Overlandlord charging Sublandlord for the cost of same, including any removal costs associated therewith and Subtenant shall comply with all laws and regulations relating to such construction including, but not limited to, receipt of certificates of occupancy, permits and ADA requirements, and shall be responsible for all costs associated therewith. Sublandlord may impose reasonable guidelines as may be necessary to protect its occupancy and rights provided in the Overlease, including placing reasonable restrictions on times when certain types of work may be performed in order to prevent undue intrusion and noise to Sublandlord or other tenants in the Premises.

16. SECURITY DEPOSIT

16.1. As security for the faithful performance and observance by Subtenant of the terms, provisions, covenants and conditions of this Sublease, Subtenant is simultaneously herewith delivering to Sublandlord's parent corporation, Computer Associates International, Inc., a check in the amount set forth in SECTION 1.1. The security deposit will be held by Computer

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Associates International, Inc. in an interest bearing account. After September, 1996, the monthly rent will be drawn by Sublandlord from the security deposit in lieu of Subtenant's payments, until July 31, 1997. Rent for August, 1998 shall be drawn from the security deposit. The last month of rent will remain in the account and PROGRESSIVE NETWORK SUBLEASE as of March 18, 1996 will be applied towards the monthly rent for the last month of the Sublease Term or earlier termination. The security deposit shall bear 6% interest, which interest shall be remitted to Subtenant at the expiration or earlier termination of this Sublease, less any amounts applied to cure Subtenant's defaults.

16.2. In the event Subtenant defaults in respect of any of the terms, provisions, covenants and conditions of this Sublease, including, but not limited to, the payment of annual fixed rent and additional rent, Sublandlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any annual fixed rent and additional rent or any other sum as to which Subtenant is in default or for any sum which Sublandlord may expend or may be required to expend by reason of Subtenant's default in respect of any of the terms, provisions, covenants, and conditions of this Sublease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord.

16.3. In the event that Subtenant defaults in respect of any of the terms, provisions, covenants and conditions of the Sublease and Sublandlord utilizes all or any part of the security but does not terminate this Sublease as provided herein, Sublandlord may in addition to exercising its rights as provided in SECTION 16.2, retain the unapplied and unused balance of the principal amount of the security as security for the faithful performance and observance by Subtenant thereafter of the terms, provisions and conditions of this Sublease and may use, apply or retain the whole or any part of said balance to the extent required for payment of rent, additional rent, or any other sum as to which Subtenant is in default or for any sum which Sublandlord may expend or be required to expend by reason of Subtenant's default in respect of any of the terms, covenants, and conditions of this Sublease. In the event Sublandlord applies or retains any portion or all of the security delivered hereunder, Subtenant shall forthwith restore the amount so applied or retained so that at all times the amount deposited shall be no less than the security required by SECTION 16.2.

16.4. Provided Subtenant is not then in default of any of the terms, provisions, covenants and conditions of this Sublease, the security deposit, less any amounts paid to Sublandlord as provided in Sections 16.1, 16.2 and 16.3, shall be returned to Subtenant (i) after the Sublease Expiration Date and after delivery of entire possession of the Premises to Overlandlord, or (ii) upon Sublandlord's receipt of an equivalent amount of security from an assignee or undertenant pursuant to an assignment or underletting permitted by SECTION 5 of this Sublease, or (iii) upon the termination of this Sublease pursuant to Article 22 hereof. In the event of an assignment of the Overlease by Sublandlord, Sublandlord shall have the right to transfer any interest it may have in the security to the assignee and Sublandlord shall thereupon be released by Subtenant from all liability for the return of such security, provided such assignee

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assumes any responsibilities of Sublandlord with respect to such security, and Subtenant agrees to look solely to the new sublandlord for the return of said security; and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new sublandlord. Subtenant further covenants that it will not assign or encumber or attempt to assign or encumber (except to an assignee of Subtenant's interest in this Sublease) the monies deposited herein as security and that neither Sublandlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

17. QUIET ENJOYMENT

17.1. So long as Subtenant pays all of the rent and additional rent due under this Sublease and performs all of Subtenant's other obligations hereunder, Subtenant shall peacefully and quietly have, hold and enjoy the Premises subject, however, to the terms, provisions and obligations of this Sublease and the Overlease.

17.2. In the event Subtenant does not completely vacate the Premises by the Sublease Expiration Date or earlier termination of this Sublease, Subtenant shall indemnify and hold harmless Sublandlord in respect of any and all holdover charges or penalties imposed under the Overlease upon Sublandlord in respect of the entire Leased Space and in respect of any and all costs, liabilities or expenses (including attorneys fees) suffered by Sublandlord in respect of same, as and when such costs, liabilities or expenses are incurred. In this regard, Subtenant shall, if requested by Sublandlord, in Sublandlord's sole discretion, defend Sublandlord against any action or proceeding brought against Sublandlord which arises out of said holdover.

18. INTENTIONALLY OMITTED

19. NO WAIVER

19.1. The failure of Sublandlord to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Sublease or of any of the Rules and Regulations set forth or hereafter adopted by Sublandlord, shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Sublandlord of rent with knowledge of the breach of any covenant of this Sublease shall not be deemed a waiver of such breach and no provision of this Sublease shall be deemed to have been waived by Sublandlord unless such waiver be in writing signed by Sublandlord. No payment by Subtenant or receipt by Sublandlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the earliest stipulated base rent, additional rent or other charge, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Sublandlord may accept such check or payment without prejudice to Sublandlord's right to recover the balance of such base rent, additional rent or other charge, or pursue any other remedy in this Sublease provided. No act or thing done by Sublandlord or Sublandlord's agents during the term hereby demised shall be deemed an acceptance of a surrender of the demised premises and no agreement to accept such surrender shall be valid

unless in writing signed by Sublandlord. No employee of Sublandlord or Sublandlord's agent shall have any power to accept the keys of the demised premises prior to the termination of the Sublease and the delivery of keys to

any such agent or employee shall not operate as a termination of the Sublease or a surrender of the demised premises.

20. NOTICES

20.1. Any notice, demand or communication which, under the terms of this Sublease or under any statute or municipal regulation must or may be given or made by the parties hereto, shall be in writing and given or made by mailing the same by registered or certified mail, return receipt requested to the address and person designated in Section 1.1 (a) and (c) herein.

Either party, however, may designate such new or other address to which such notices, demands or communications thereafter shall be given, made or mailed by notice (given in the manner prescribed herein). Any such notice, demand or communication shall be deemed given or served, as the case may be, on the date of the posting thereof. In the event Subtenant's address is not set forth above, notice to Subtenant shall be deemed sufficient if sent to the Premises.

21. FURNITURE

21.1. Subtenant shall be entitled to use the existing furniture located in the Premises as of the Sublease Date (the "Furniture") at no additional charge. At the end of the Sublease Term, Subtenant shall purchase the Furniture from Sublandlord by paying to Sublandlord the sum of \$100.00, at which time title to the Furniture, in its "as is" condition, will be transferred to Subtenant.

22. TERMINATION RIGHT

22.1. Subtenant may, provided Subtenant is not then in default under this Sublease, terminate this Sublease in accordance with the terms and payment of the fees set forth in paragraph 1 of the First Amendment to Lease Agreement between Overlandlord and Landlord, provided that Subtenant gives Sublandlord nine (9) months plus ten (10) business days prior written notice of such termination, notwithstanding the nine (9) month provision referenced therein.

23. MISCELLANEOUS

23.1. Where applicable, Subtenant shall be responsible for all additional costs incurred as a result of this Sublease including, but not limited to, security cards, keys and parking cards.

23.2. This Sublease may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

23.3. This Sublease shall not be binding upon Sublandlord unless and until it is signed

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by Sublandlord and delivered to Subtenant. This SECTION 21.3 shall not be deemed to modify the provisions of SECTION 9 hereof.

23.4. This Sublease constitutes the entire agreement between the parties and all representations and understandings have been merged herein.

23.5. This Sublease shall inure to the benefit of all of the parties hereto, their successors and (subject to the provisions hereof) their assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals
of the day and year first above written.

ATTEST: LEGENT CORPORATION, Sublandlord
/s/ [SIG] By /s/ PETER A. SCHWARTZ

ATTEST: PROGRESSIVE NETWORKS, INC., Subtenant
/s/ JUDITH HOYLE By /s/ ANDREW S. SHARPLESS

ACKNOWLEDGED AND AGREED:

Wright Runstad Properties L.P., Overlandlord

By _____

STATE OF NEW YORK

COUNTY OF SUFFOLK SUFFOLK ,ss:

BEFORE ME, a Notary Public in and for the said State and County,
personally appeared PETER A. SCHWARTZ, who acknowledged the signing of the

foregoing document and that the same is the free act and deed of such signatures
(and if a corporation or a partnership and the officers or partners signing the
same) for the uses and purposes therein mentioned.

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IN WITNESS WHEREOF, I have hereunto signed my name and affixed my
official seal on the 18th day of March, 1996.

/s/ ANNE M. JONES

Notary Public

My Commission Expires _____

[Notary Seal]

STATE OF WASHINGTON
COUNTY OF _____, ss:

BEFORE ME, a Notary Public in and for the said State and County, personally appeared _____, who acknowledged the signing of the foregoing document and that the same is the free act and deed of such signatures (and if a corporation or a partnership and the officers or partners signing the same) for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my official seal on the ____ day _____, of 1996.

Notary Public

My Commission Expires _____

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Consent By Lessor

The undersigned, the Overlandlord, joins in the execution of this Sublease solely to evidence its consent to the subletting of the Premises described herein, as such consent is required pursuant to the Overlease. However, by this consent Overlandlord does not approve or disapprove this Sublease, and neither the execution of this Sublease nor anything done pursuant to the provisions thereof shall be deemed or construed to modify the Overlease. It is understood that Legent Corporation remains liable for its obligations under the Overlease. This consent shall not be deemed to increase the obligations or liabilities of the Overlandlord, nor to reduce the Overlandlord's rights and remedies under the Overlease. This consent shall not be deemed a consent to any other or further subletting.

LANDLORD: WRIGHT RUNSTAD PROPERTIES L.P.
a Delaware limited partnership

By: WRIGHT RUNSTAD ASSET MANAGEMENT L.P.,
a Washington limited partnership

By: WRAM Inc.
a Washington corporation

By: /s/ DOUGLAS E. NORBERG

Its President

LANDLORD ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

THIS IS TO CERTIFY that I know or have satisfactory evidence that Douglas E. Norberg is the person who appeared before me, and said person acknowledged

that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of WRAM Inc., a corporation,

to me known to be the general partner of WRIGHT RUNSTAD ASSET MANAGEMENT L.P., a limited partnership, to me known to be the general partner of WRIGHT RUNSTAD PROPERTIES L.P., the limited partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation and partnerships for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal this 21st day of March, 1996.

Signature /s/ JUDITH K. HOYLE

Printed Name Judith K. Hoyle

Notary public in and for the State of Washington,
residing at Seattle

My appointment expires 11-6-99

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<SEQUENCE>14
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<TEXT>

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Exhibit 10.9

ANTENNA SITE LICENSE AGREEMENT

This License Agreement (the "Agreement") is made as of this 12th day of August, 1997, between Wright Runstad & Company, a Washington corporation, with its principal office at 1111 Third Avenue, Suite #2730, Seattle, Washington 98101 ("Licensor"), and Progressive Networks, a Washington corporation, with its principle office at 1111 Third Avenue, Suite 2900, ("Licensee").

RECITALS

A. Licensor is the owner of the building commonly known as 1111 Third Avenue Building, located at the address of 1111 Third Avenue, Seattle, Washington, and more particularly described as Lots 2,3, 6 and 7: Block 14, C.D. Boren's Addition, City of Seattle, King County, State of Washington in the records of King County, State of Washington. (the "Building").

B. Licensee represents and warrants to Licensor that Licensee is authorized to operate a rooftop antenna and associated equipment for telecommunications purposes from the Building under the conditions described herein.

C. Licensee desires access to, and limited use of, specified portions of the roof and interior spaces of the Building for the purpose of installing, maintaining, and operating the roof-mounted antenna system that is specified

below and that can be briefly described as, and is further detailed in Exhibit G, attached hereto and incorporated by reference:

C-band satellite receiving system to provide reception of video and audio signals for the purpose of enabling live re-transmission of those signals over the internet.

This system shall consist solely of:

i) antenna equipment and related cabling elements with the size, engineering structure, broadcast frequencies, and operating characteristics specified in Exhibit A ("Antenna Characteristics") and with the physical space and access requirements specified in Exhibit B ("Rooftop Plan"),

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ii) related cabling systems with the physical, bandwidth, and signal transfer characteristics specified in Exhibit C ("Pathway Needs"), and

D. Licensors are the Landlord and Licensee is the Tenant pursuant to that Lease Agreement (the "Lease") dated March 4, 1996 for certain premises located in the Building.

This system is collectively referred to herein as the "Antenna Facilities" and shall consist solely of those elements specified in Exhibits A, B, C, and D, attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensee and Licensors agree as follows:

1. Grant

(a) Licensors hereby grants permission (the "License") to Licensee to install, maintain, operate and remove the Antenna Facilities (at its sole expense and risk) upon the Rooftop Space, in the Pathway to be designated by Licensors, and in the Equipment Room.

(b) The License granted herein is not exclusive. Licensors hereby reserves the right to grant, renew or extend similar licenses to others.

(c) Licensors and Licensee acknowledge and agree that the relationship between them is solely that of independent contractors, and nothing herein shall be construed to constitute the parties as employer/employee, partners, joint ventures, co-owners, or otherwise as participants in a joint or common undertaking. Neither party, nor its employees, agents, or representatives, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other. Licensee hereby accepts and assumes full and exclusive liability for, and shall hold Licensors harmless from, the Payment of all contributions required under state and federal law providing for state and federal payroll taxes or contributions for unemployment insurance or old age pensions, or annuities which are measured by wages, salaries, or other remuneration paid to Licensee or by Licensee to its employees for any and all activities in connection with this Agreement.

(d) Licensee's Antenna Equipment is to be installed, maintained, operated and removed by Licensee, in and from the Rooftop Spaces, the Pathway, and the Equipment Room, as described in Exhibits A, B, C and D, attached hereto. Licensors shall not be liable for damage to Licensee's Antenna Equipment or for theft, misappropriation or loss thereof, unless due to the negligence or willful misconduct of Licensors, its employees or agents.

(e) Licensors shall have the absolute right to limit the type, size and location of Licensee's future Antenna Equipment located in or on the

Building, and may, at Licensors's

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expense, relocate Licensee's Antenna Equipment or require Licensee to relocate Licensee's Antenna Equipment in the Building or upon the rooftop from time to time during the term of this Agreement in its sole, reasonable discretion. Should such a request be made, Licensors agrees to allow Licensee reasonable time, not to exceed ninety (90) days for such relocation, or one hundred twenty (120) days if begun within ninety (90) days but not yet completed within ninety (90) days. Licensors shall allow Licensee to perform a standard cut-over procedure, if required by said relocation, which will insure that the relocated equipment is operational for service prior to discontinuing service from old service location.

(f) Licensors shall provide approximately 515.5 square feet of floor space upon the rooftop in the location designated on Appendix B (Rooftop Plan) and shall provide physical access to that space to the degree specified as necessary on Appendix B.

(g) Licensors shall provide Licensee with access to, and use of, riser shafts, and conduits (the "Pathway") to the degree necessary to install and maintain the cabling systems designated in Exhibit C (Pathway Needs).

(h) Licensee is expressly forbidden to use its equipment located within the Building to program or control the operations of any other antenna located upon other properties without the express written permission of the Licensors. Additional fees may be required, as agreed to between the parties, for using Licensee's Antenna Facilities as a control point for other properties outside the Building.

(i) Licensors makes no warranty or representation that the Rooftop, the Pathways within the Building, and the Equipment Room are suitable for the Licensee's use, it being assumed that Licensee has satisfied itself thereof. Licensee has inspected the Rooftop, the Pathways within the Building and the Equipment Room and accepts the same "as is" and agrees that Licensors is under no obligation to perform any work or provide any materials to prepare the Equipment Room or the Building for Licensee.

2. Fees

Licensee shall pay to Licensors according to the following equipment schedule:

Equipment:	(4) 12-foot diameter dish	\$840.00 mo. (each)
	(1) 10-foot diameter dish	\$700.00 mo.
	(1) 1.2 m dish	\$400.00 mo.

(a) Base License Fee: Licensee shall pay to Licensors an annual fee of Fifty Three Thousand Five Hundred Twenty, (\$53,520.00), each year of the agreement, adjusted annually on the commencement date by the percentage increase in the Consumer Price Index (CPI) over the rate in the prior year, but which increase shall not be less than 5% nor more than 10% in any given year. The annual fee shall be payable in advance in twelve (12) monthly payments,

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or part thereof, commencing on the date herein shown as the date of this Agreement. All payments shall be made to Licensors at the address given in Section 18 of this Agreement. Licensors and Licensee agree to use their good faith efforts to refrain from disclosing the financial terms of this agreement. Either party may disclose the financial terms of this agreement to persons other than those employees, consultants and advisors when required by law, regulation,

or prior agreement or for purposes of a stock sale or asset sale. No recourse, action or penalty shall be associated with the good faith effort of non-disclosure herein embodied.

(b) Modified License Fee: The Base License Fee set out in this section is based upon the type and quantity of service currently expected to be provided by the Antenna Facilities described in Exhibits A and C, including the frequencies, bandwidth, and compression technologies designated in that Exhibits A and C. Changes in the type and quantity of service provided by the Antenna Facilities may increase the value of the Antenna Facilities in the future. To the degree that such changes in type and quantity of service are material, Licensors and Licensee understand and mutually agree that such an increase in the expected value of the Antenna Facilities may be reflected in an adjustment to the Base License Fee. Such an adjustment may be defined at the time at which Licensors seek Licensee's approval for modifications to the Antenna Facilities described in Attachments A or C.

3. Term

The term hereof shall commence as of the day first written above ("Commencement Date"). The term hereof shall be coterminous with the Main Lease between Progressive Networks, Inc. and Wright Runstad & Company, beginning on the Commencement Date, subject to extension or earlier termination in accordance with the provisions hereof.

The Licensee reserves the right to cancel this Agreement at any time upon giving ninety (90) days written notice to the Licensors. If Licensee elects to remove any or all of the Antenna Facilities equipment, the annual fee will be reduced by the corresponding fee as defined in this agreement.

4. Use

Licensee shall use the Antenna Facilities solely for the purposes of providing the services detailed in Exhibit A of this Agreement and which it has received all necessary approvals from either the local public utility governing body, or the Federal Communications Commission (the "FCC"). For these sole purposes Licensee, subject to the following two sentences, grants Licensors the right to install, maintain, operate, replace, and remove equipment including cabinets, racks, conduits, and/or cables, and antennas.

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5. Electric Utilities

Licensee shall pay the costs associated with installation of a separate electrical panel and meter for the Antenna Facilities and shall be responsible for the electrical costs attributable to such Facilities. Licensors shall use reasonable efforts to notify Licensee in advance of any planned utility outages which may interfere with Licensee's use. Licensee further agrees that the Licensors have no obligation or responsibility to provide emergency or "backup" power to Licensee, and Licensee acknowledges that any such provision of emergency or "backup" power shall be the sole responsibility of Licensee.

6. Construction

(a) Prior to the commencement of any work, Licensee shall, at its sole cost and expense, prepare and deliver to Licensors working drawings, plans and specifications (Exhibits A, B, C, and D) detailing the location and size of the Licensee's Antenna Facilities and specifically describing the proposed construction and work. No work shall commence until Licensors has approved, in writing, Exhibits A, B, C and D. Such approval will not be unreasonable withheld, conditioned or delayed. Approval or disapproval and required changes shall be delivered to Licensee within 20 working days after the receipt of such plans from Licensee.

(b) Licensee will ensure that the installation, maintenance and operation of Licensee's Antenna Facilities will not penetrate the rooftop and in no way damage the Building, interfere with the use of the Building or interfere with the operation of communications devices by Licensor or by other pre-existing lessees or licensees of the Licensor. In order to avoid such interference, Licensee shall, at its own expense, prepare and conduct an evaluation of the potential for such interference before installing and operating the Antenna Facilities, and shall submit a copy of such findings to Licensor within ten days. In addition, following the installation of the Antenna Facilities, Licensee shall, at its own expense, prepare and conduct an evaluation of the potential for such interference within ninety-six (96) hours if requested to do so by Licensor, whether upon Licensor's own behalf or as a result of concerns expressed by any pre-existing lessees or licensees. Licensor shall have the right to engage outside consultants to resolve interference issues arising between Licensees operating equipment on the roof, and between Licensor's Licensees and off premises operators. Licensor shall have the absolute right to require all its Licensees to implement any such consultant's recommendations for resolution of interference problems. If such damage or interference is occurring, Licensee shall correct the same within seventy-two (72) hours of receipt of written notice thereof. Licensor reserves the right to disconnect power to any such Licensee's Equipment which Licensee fails to correct after proper notification and waiting period.

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(c) At the conclusion of the License term, Licensee agrees, at its sole cost and expense, if requested by Licensor, to refinish any damaged surface of the Building that may have been involved in any or all parts of the installation of the Antenna Facilities proposed hereunder and which have been damaged by Licensee, or any of its agents, representatives, employees, contractors, subcontractors, or invitees, excepting damage caused by ordinary wear and tear or by others.

(d) Licensee warrants that the installation of Licensee's Equipment shall be in strict compliance with Exhibits A, B, C and D as attached hereto, or as they may be amended from time to time.

(e) Licensee agrees that installation and construction shall be performed in a neat, responsible, and workmanlike manner, using generally accepted construction standards.

(f) Licensee shall obtain, at its sole cost and expense, prior to construction and work, any necessary federal, state, and municipal permits, licenses and approvals, copies of which to be delivered to Licensor prior to commencement of construction and work.

(g) In addition to the commitment not to interfere with communications equipment set out in sub-section (b) above, Licensee shall not disrupt, adversely affect or interfere with other providers of services in the Building or with any occupant's use and enjoyment of its leased or licensed premises or the common areas of the Building. Licensee shall correct such interference within three (3) days after receiving written notice of such interference and after such interference has been positively identified as being caused by Licensee's agents or its Antenna Facilities.

(h) Licensee shall have the right to amend Exhibits A, C and D, from time to time, with the express written consent of Licensor for the purpose of serving additional occupants of the building. Such consent shall not be unreasonably withheld, conditioned or delayed by Licensor; however, the parties recognize that, in the event of changes that will materially increase the value of the Antenna Facilities, such consent may be withheld pending agreement upon the terms of modifications to the Base License Fee, as contemplated in Section 2(b) above. Following Licensor's consent to amendment of Exhibits A, C and D,

all terms and conditions of this Construction Section (Section 6) shall apply.

7. Licensee's Covenants

(a) Licensee agrees to maintain Licensee's Antenna Facilities in proper operating condition and to maintain the same in satisfactory condition as to safety. Cost of maintenance and repair to Licensor's Equipment Room, and other portions of the Building shall be borne by Licensor unless damage thereto is caused by Licensee, in which case Licensor shall repair such damage and Licensee shall reimburse Licensor of all reasonable costs and expenses incurred in such repair.

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(b) Licensee agrees to comply with all applicable Rules and Regulations of the Federal Communications Commission and applicable codes and regulations of the city, county and state pertaining to the installation and operation of Licensee's Antenna Facilities. Licensee further agrees to comply with and all applicable health and safety rules specified for radio frequency radiation by any of the above mentioned authorities, and shall placard for safety warnings wherever so applicable.

(c) Licensee understands and agrees that the structural integrity of the load bearing capability of the roof of the Building, the moisture resistance of the Building membrane, and the ability of Licensor to use all parts of the roof of the building are of critical importance to Licensor. Licensee therefore agrees that the specifications and plans that it will provide shall be of sufficient specificity to ensure that these concerns are protected, and Licensee further agrees and commits that the actual installation of Licensee's Antenna Facilities shall be in accordance with those specifications. Licensee agrees there shall be no rooftop penetrations, as specified by the attached plans as approved by Licensor. Installation is subject to approval by Licensor's structural engineer regarding load bearing capacities and other structural parameters of the weight and wind load of Licensee's equipment and facilities.

(d) Licensee, through its designated and approved employees and contractors, shall be solely responsible for the maintenance and care of the Antenna Facilities and shall maintain the Antenna Facilities in a clean, sanitary and safe condition and in good repair and free of any defects at all times during this Lease. Licensee, at its sole expense and risk, shall ensure that a physical inspection of the rooftop portion of the Antenna Facilities occurs at intervals of no more than 12 months and that this inspection includes a survey of structural integrity and a review and correction of any loose bolts, fittings or other appurtenances. Licensee shall provide a written certification of such inspections to Licensor not more than 10 days following each such inspection. In the absence of such a certification, Licensor shall have the right (but not the obligation) to conduct or arrange for such an inspection and corrective action and to charge Licensee for such costs.

(e) Licensee further understands and agrees that the aesthetic characteristics of the Building are of significant commercial importance to Licensor and, therefore, commits to ensuring that the installed appearance of the Antenna Facilities will be consistent with the specifications set forth in Exhibits A and B. Licensee further agrees that, at no time during the period of this License, will it use or permit the use of its Antenna Facilities in ways that are inconsistent with those plans (as they may from time to time be amended with the consent of Licensor) or for the display of advertising or other visual displays with significant aesthetic impacts.

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8. Access

(a) Licensor agrees that Licensee's authorized representatives shall have access to the Antenna Facilities at all times (with prior notifications as per (b) below), for the purposes of installing, maintaining, operating and repairing Licensee's Equipment, and Licensor further agrees to give Licensee ingress and egress to the Building Spaces during the term of this Agreement, including use of an elevator. It is agreed, however, that only authorized engineers, employees or properly authorized contractor, subcontractor, and agents of Licensee, other authorized regulatory inspectors, or persons under their direct supervision and control will be permitted to enter the Building Spaces, and only upon conditions set forth herein.

(b) Prior to any entry upon the Building Spaces, Licensee shall submit a written request to Licensor, substantially in the form attached hereto as Exhibit C, stating the name and company of the person(s) who will enter the Building Spaces, the reason for entry, and the expected duration of the visit.

(c) Permission for all entries upon the Building Spaces (including entries for maintenance and/or installation) must be received from Licensor in advance, unless such entry is of an emergency nature and permission cannot be obtained in a timely fashion. Licensor shall not be obligated to provide elevator service during emergency situations and under emergency conditions, which emergency situations and conditions shall be reasonably determined by Licensor.

(d) Licensee agrees to be responsible for any damage caused to the Building Spaces, Equipment Rooms, Pathways and/or any other property owned by Licensor or any lessee or licensee of Licensor which may be caused by Licensee or any of its agents or representatives. Licensee further agrees to keep to a minimum the number of personnel visiting the Building and the frequency of the visits.

(e) Licensee agrees to comply with all Building rules (Exhibit F), as adopted and altered by Licensor from time to time, and will cause its agents, employees, contractors, invitees and visitors to do so.

(f) Licensor shall have the right to enter Licensee's Rooftop and Equipment Room during any emergency which requires entry to Licensee's space. Licensor shall have the right to enter Licensee's Rooftop and Equipment Room at other such times as Licensor may require, provided however, Licensor will try, but not be obligated, to provide prior notice upon such non-emergency entrance into Licensee's Rooftop and Equipment Room.

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9. Insurance: As agreed to in main lease.

(a) Licensee shall maintain in force all required workers' compensation or other similar insurance pursuant to all applicable state and local statutes.

10. Indemnification: As agreed to in main lease.

Licensee shall exercise due care to avoid any action that may cause damage to any part of the Building or Licensor's other tenants.

11. Release and Waiver of Subrogation Rights

To the extent allowable under the laws and regulations governing the writing of insurance within the state in which the Building is located, Licensor and Licensee each release the other and their respective agents and employees from all liability to each other, or anyone claiming through or under them, by way of subrogation or otherwise, for any loss or damage to property

caused by or resulting from risks insured against under this Agreement, pursuant to insurance policies carried by the parties which are in force at the time of the loss or damage. Licensor and Licensee will each request its insurance carrier to include in policies provided pursuant to this Agreement an endorsement recognizing this waiver of subrogation. The waiver of subrogation endorsement need not be obtained if it incurs an additional cost for the affected policy, unless following written notice, the other party elects to pay that additional cost to obtain the waiver of subrogation endorsement. The provision of this Section 11 shall survive termination of this Agreement.

12. Liens

Licensee shall be responsible for the satisfaction or payment of any liens for any provider of work, labor, material or services claiming by, through or under Licensee. Licensee shall also indemnify, hold harmless and defend Licensor against any such liens, including the reasonable fees of Licensor's attorneys. Such liens shall be discharged by Licensee within thirty (30) days after notice of filing thereof by bonding, payment or otherwise, provided that Licensee may contest, in good faith and by appropriate proceedings any such liens. The provision of this Section 12 shall survive termination of this Agreement.

13. Renewal Options

Intentionally deleted.

14. Assignment and Subletting: As agreed to in main lease.

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15. Events of Default

The following events shall be deemed to be events of default under this Agreement:

(a) Licensee shall fail to pay any Fees or other sum or money due hereunder and such failure shall continue for a period of ten (10) days after receipt of written notification of such failure to pay.

(b) Licensee shall fail to comply with any other provision of this Agreement, after proper written notification of such failure and such failure shall continue for a period of thirty (30) days, in which event, Licensor may, at its option, terminate this Agreement without affecting its right to sue for any other damages to which Licensor may be entitled at law or in equity. In any suit or legal proceeding arising out of this Agreement or the underlying transaction the prevailing party shall be indemnified by the unsuccessful party for all reasonable expenses and costs incurred in such proceedings, including attorneys' fees.

(c) Interference caused by Licensee to pre-existing telecommunications equipment by the installation, operation, maintenance, repair or removal of Licensee's Antenna Facilities, to the extent that such interference is not insured in accordance with Section 6(b) above.

(d) Revocation of Licensee's permission to operate any element of the Antenna Facilities by any governing authority that is authorized by law to regulate Licensee's operation of such facilities.

(e) The filing or execution or occurrence of a petition in bankruptcy or other insolvency proceeding by or against Licensee; or an assignment for the benefit of creditors; or a petition or other proceeding by or against the Licensee for the appointment of a trustee, receiver or liquidator of Licensee or of any of the Licensee's property or a proceeding by any governmental authority for the dissolution or liquidation of Licensee.

(f) Licensor or Licensee shall be in default hereunder in the event Licensor or Licensee has not begun and pursued with reasonable diligence the cure of any failure of Licensor or Licensee to meet its obligations hereunder within thirty (30) days of receipt of written notice from the other party of the alleged failure to perform, except where other cure periods have been specifically described.

(g) The non-defaulting party shall have all rights available in equity or at law.

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16. Termination/Remedies

Upon occurrence of an Event of Default the non-defaulting party shall give written notice to the defaulting party, setting forth the nature of the Default. With respect to the payment of Fees due hereunder, Licensee shall have ten (10) days after receipt of written notice to cure the default. With respect to all other defaults, the defaulting party shall have thirty (30) days to cure such Default. If the defaulting party shall have failed to commence to cure the Default within the applicable cure period, the non-defaulting party may elect to terminate this Agreement, unless the defaulting party is actively and satisfactorily pursuing such remedy and more time is required, which additional time shall be granted to the curing party, whereupon the expiration of such time period Licensee shall forthwith remove its Antenna Facilities from the Building in a neat and orderly manner; and as of the date of such removal neither party shall have any claim against the other, except for claims that may have arisen prior to such termination and except for those provisions which expressly set forth that they shall survive the termination of this Agreement, this Agreement shall be deemed terminated and of no force and effect.

17. Notices

Any or all notices or demands by or from Licensor to Licensee, or Licensee to Licensor, shall be in writing and shall be deemed given upon (a) personal delivery to the addressee, (b) five (5) days after deposit into United States mail, postage prepaid, certified mail return receipt requested, or (c) one day after delivery to United States Postal Service Express Mail or similar overnight delivery service. Until notified of a different address, as provided herein, all notices shall be addressed to the parties as follows:

Licensor:

Wright Runstad & Company
1111 Third Avenue
Suite 2730
Seattle, Washington 98101

Licensee:

Progressive Networks
1111 Third Avenue
Suite 2900
Seattle, Washington 98101

18. No Implied Waiver

The waiver by Licensor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such terms, covenant, or condition for any subsequent breach of the same or any other term, covenant or condition herein contained.

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19. Subordination

Licensee accepts this License subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the land or the Building and to any renewals, modifications, consolidation,

refinancing, and extensions thereof, but Licensee agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this license on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. This provision is hereby declared to be self-operative and no further instrument shall be required to effect such subordination of this Agreement.

20. Attorney's Fees

In the event of any action filed in relation to this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorney's fees and other reasonable court costs.

21. Casualty Damage

As agreed to in main lease.

22. Hazardous Materials

(a) Licensee shall not install any hazardous substance or material into the Building. In the event that Licensee shall discover, uncover, disturb or otherwise reveal any existing hazardous materials within the Building, Licensee shall immediately stop any work in progress and report such findings to Licensor within twenty-four (24) hours. Licensee shall not conduct any further work in the reported area without Licensor's written approval.

(b) Licensee shall have three options upon discovery of hazardous material and cessation of work as described above; (1) Abate or remove, at its sole cost and expense, and in compliance with any applicable Federal, State, or Local rules and regulations, the hazardous material within the route or area needed by Licensee to complete its work, and only with the approval of Licensor; (2) Reroute its planned installation and Pathway designs to avoid such hazardous material areas; (3) Terminate this agreement according to the procedure set forth in Section 17 (Termination/Remedies).

(c) Licensee is hereby released and indemnified from any responsibility for hazardous materials preexisting within the Building and undisturbed by Licensee, or brought on the Premises, into the Building, on, in or under the land upon which the Building is located by any other tenant or by Licensor.

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23. Equipment to Remain Personalty

The Antenna Facilities shall remain personalty ("Personalty") of the Licensee notwithstanding the fact that it may be affixed or attached to the Building, and shall, during the term of this agreement, or any extension or renewal thereof, and upon termination thereof, belong to and be removable by Licensee.

24. Severability

If any part of any provision of this License or any other agreement, document or writing given pursuant to or in connection with this License shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, and the remaining terms and conditions shall be interpreted so as to give the greatest effect possible thereto.

25. Governing Law

The construction, interpretation and performance of this

Agreement shall be in accordance with the laws of the state in which the Building resides, and exclusive jurisdiction shall lie with the courts of that state.

26. Survival of Provisions

Any obligation of the parties relating to monies owed, as well as those provisions relating to limitations on liability and actions, shall survive termination or expiration of this Agreement.

27. Force Majeure

Whenever a period of time is herein prescribed for the taking of any action by Licensor or Licensee, Licensor or Licensee shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions, or any other cause whatsoever beyond the control of Licensor or Licensee.

28. Recordation

Licensee agrees not to record this License or any memorandum thereof unless required to do so by law (in which event Licensee agrees to execute, upon termination of this License, a recordable instrument evidencing such termination in form reasonably satisfactory to Licensor).

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29. Entire Agreement

The terms and conditions contained herein supersede all prior oral or written understandings between the parties and constitute the entire agreement between them concerning the subject matter of this Agreement. This Agreement shall not be modified or amended except by writing signed by authorized representatives of the parties.

30. Headings

The descriptive heading of the several paragraphs of this Agreement are inserted for convenience and ease of reference only and do not constitute part of this Agreement.

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IN WITNESS WHEREOF, Licensor and Licensee have executed this License in multiple original counterparts as of the day and year first above written.

LICENSOR: Wright Runstad Properties
 Limited Partnership, Owner

By: Wright Runstad & Co.

By: PATRICIA DALEO

 Patricia Daleo

Title: Property Manager

Date: 9-16-97

LICENSEE: Progressive Networks

By: MARK KLEBANOFF

Name: Mark Klebanoff

Title: Chief Financial Officer

Date: September 16, 1997

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<DESCRIPTION>AGREEMENT BETWEEN MICROSOFT & THE REGISTRANT
<TEXT>

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Exhibit 10.10

AGREEMENT BETWEEN MICROSOFT AND PROGRESSIVE NETWORKS ON MEDIA STREAMING TECHNOLOGY

This "Agreement" is entered into and effective as of June 17, 1997 (the "Effective Date") by and between MICROSOFT CORPORATION, a Washington corporation located at One Microsoft Way, Redmond, WA 98052 ("Microsoft") and PROGRESSIVE NETWORKS, INC., a Washington corporation located at 1111 Third Avenue, Suite 2900, Seattle, WA 98101 ("PN").

1. DEFINITIONS

- 1.1 "Standard Code" means all of the PN and third party code (subject to Section 2.2) used in PN's current version 4.0 streaming audio and video client and server products, including, but not limited to, PN Internal Tools, tools currently provided to third parties at no charge by PN [*] and including bug-fixes developed by PN during the one year following delivery by PN, for all operating system platforms, including but not limited to all versions of Microsoft Windows, all versions of UNIX, the Macintosh operating system, and the WebTV operating system. Standard Code shall not include code PN's "Splitter" products or its Player Plus software, nor shall it include future-developed technology for advertisement insertion, datatypes other than audio or video (which are not included in PN Clients or RA/RV Server), distributed networking (such as Splitter finding), tools which are value-add technology on top of base level encoders, billing and other value added technology (technology which is not required for Compatibility purposes). It is expressly understood that base level encoding and compression technology is part of the Standard Code; further, thinning and bandwidth negotiation are part of the Standard Code to the extent such technologies are used in PN's current version 4.0 streaming audio and video client and server products. Standard Code does not include added PN or third party hardware or software technology bundled with Standard Code as part of short term sales promotions.
- 1.2 "Internal Tools" means associated documentation, specifications, and tools developed by either party, necessary to build and create derivative works of the code.

- 1.3 [*]
- 1.4 "Term" means the three (3) year period commencing upon the Effective Date.
- 1.5 "Confidential Information" means: (i) any trade secrets relating to either party's product or service plans, designs, costs, prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; and (ii) the specific terms and conditions of this Agreement. "Confidential Information" shall not include information that: (i) is or becomes generally known or available, whether by publication, commercial use or otherwise, without restriction on disclosure and through no fault of the receiving party; (ii) is known and has been reduced to tangible form by the receiving party at the time of disclosure and is not subject to restriction; (iii) is independently developed or learned by the receiving party without reference to any Confidential Information of the disclosing party; and (iv) is lawfully obtained from a third party that has the right to make such disclosure.
- 1.6 "PN Clients" means PN's RealAudio and RealVideo standard player, versions 4.0.
- 1.7 "RA/RV Server" means PN's Easy Start RealAudio/RealVideo server software version 4.0, with 60 user stream capability.

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[*] denotes confidential treatment requested

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- 1.9 "Compatible" means audio/video client or server streaming software which interoperates with the PN Clients or the RA/RV Server (including current versions of the PN Clients and the RA/RV Server as of the date of a subsequent delivery of Standard Code), respectively, or as the parties may otherwise mutually agree. For purposes of this Agreement "interoperates" means the clients and servers of both parties will operate substantially as well with PN Clients and RA/RV Server (including current versions of the PN Clients and the RA/RV Server as of the date of a subsequent delivery of Standard Code) as with its own products.
2. LICENSE GRANTS
- 2.1 Non-Exclusive License to Standard Code. PN hereby grants to Microsoft a non-exclusive, perpetual, [*] worldwide, fully paid-up right and license to: (i) [*] (ii) reproduce, license, rent, lease, broadcast publicly display, transmit or otherwise distribute in any medium now known or hereafter devised (collectively, "Distribute") and have Distributed, to and by third parties, binary versions of the Standard Code [*]
- The foregoing license grants include a license under any current and future patents owned or licensable by PN to the extent necessary: (i) to exercise any license right granted herein; and (ii) to combine the Standard Code and/or derivative works thereof with any hardware and software.
- 2.2 [*]
- 2.3 Non-Exclusive License to PN Trademarks. PN hereby grants to Microsoft a non-exclusive, perpetual, irrevocable, worldwide, fully paid-up

right and license to use and sublicense the use of any "PN Marks" for identification of, or in conjunction with, or as part of Microsoft products which are

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[*] denotes confidential treatment requested

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Compatible. For purposes of this Section 2.3, "PN Marks" means PN trademarks and related logos for "Real Audio" and "Real Video." If Microsoft exercises its rights under Section 3.3, the PN Marks will also include those marks and associated logos which are used in connection with the applicable versions of the Compatible PN Clients and RA/RV Server.

PN agrees that it will license use of the PN Marks to third parties only for use with products that are Compatible. Microsoft may only sublicense the PN Marks for use in connection with third party products which are Compatible, and which comply with the PN quality control guidelines imposed on Microsoft under this Agreement. Microsoft will use good faith efforts to ensure that its sublicensees abide by PN's quality control guidelines, and will cooperate with PN to remedy any violation thereof by its sublicensees.

Microsoft agrees that it will comply with PN's trademark usage guidelines regarding the style and design of the PN Marks, which PN will deliver to Microsoft within two (2) weeks of the Effective Date. Microsoft agrees to cooperate with PN in facilitating PN's reasonable monitoring and review of the nature and quality of products and services bearing the PN Marks, and to supply PN with specimens of Microsoft's use of the PN Marks upon reasonable request Microsoft understands and agrees that the use of any PN Mark in connection with this Agreement shall not create any right, title or interest in or to the use of the PN Marks and that all such use and goodwill associated with the PN Marks will inure to the benefit of PN. [*]

2.4 [*]

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2.5 Distribution of RA/RV Server. Until Microsoft distributes a Compatible server product, Microsoft shall distribute the RA/RV Server [*] Microsoft's website shall provide cross-links to PN's website for additional information and support of the RA/RV Server. PN shall be solely responsible for RA/RV Server end user support and shall have the discretion to create appropriate support policies for end user support.

- 2.6 [*]
- 2.7 Support. During the Term, each party shall use commercially practical efforts to:
- (a) [*]
 - (b) Provide consistent points of contact at the program manager and executive level; and
 - (c) Provide each other reasonable level of technical support.
- PN will receive such information at such quarterly meetings and to the same extent provided to Microsoft's own internal streaming media operations.

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[*] denotes confidential treatment requested

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3. LICENSE FEE; DELIVERY; CONSULTING

- 3.1 Initial Delivery. On a date within thirty (30) days of signing this agreement, such date to be set by Microsoft at its sole discretion, PN shall make delivery to Microsoft of the Standard Code. At that time, PN shall deliver to Microsoft PN's latest version of the Standard Code, including any and all works in progress whether or not such works have been released by PN. PN shall also provide Microsoft with six (6) man-months of free consulting help by knowledgeable PN employee's to train Microsoft with respect to the Standard Code, including but not limited to how to build and create derivative works of the Standard Code.
- 3.2 License Fee. In consideration for the rights and licenses granted under this Agreement, Microsoft shall pay PN the sum of thirty million dollars (\$30,000,000). Of this amount, twenty million dollars (\$20,000,000) shall be paid [*] and ten million dollars (\$10,000,000) shall be paid [*]
- 3.3 [*]
- 3.4 Bug Fixes. PN shall deliver any bug fixes to the Standard Code on a quarterly basis in the twelve (12) months following the initial [*]
- 3.5 UNIX Port. Regardless of whether Microsoft exercises its rights to subsequent deliveries of Standard Code, PN shall deliver to Microsoft any UNIX port of Microsoft Code which PN makes which PN does not distribute or ceases to distribute. Such UNIX port shall be considered licensed royalty-free to Microsoft under the terms of Section 2.1.
4. PATENT ISSUES
- 4.1 Patent Covenant. PN covenants not to (a) sue or (b) bring, prosecute, assist or participate in any judicial, administrative or other proceedings of any kind against Microsoft or its licensees (including but not limited to OEMs and other distributors) for infringement of PN Patents which occurs during the Immunity Period on account of the manufacture, use, sale, importation, promotion or distribution of any Microsoft audio and video client and server streaming functionality

included in any Microsoft products and technology (except Foundry products and technology), regardless of whether such products and technology is marketed under a Microsoft trademark regardless of whether such products include Standard Code. "PN Patents" as used in this Section 4.1 means (i) any and all patents (other than design patents or the equivalent), or the inventions, ideas or applications thereof, worldwide, whether currently existing, or later developed, applied for, issued prior to the Term, or issuing during

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[*] denotes confidential treatment requested

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the Term, and under which patents (or the inventions, ideas or applications therefor) PN, or any of its Affiliates, now has or obtains during the Term, the ability or right to license or grant immunity from suit; and (ii) all extensions, divisionals, continuations, continuations-in-art, re-examinations and reissue patents of such patents, as well as patent applications thereof, to the extent rights attach to such applications. The "Immunity Period" shall commence upon the first to issue and shall terminate upon the last to expire, of any of the PN Patents (in any jurisdiction).

For purposes of this Section 4, "Foundry" means a product or technology manufactured, reproduced, sold, leased, licensed or otherwise transferred ("Transferred") by one party to this Agreement (the "Acting Party") to a third party, wherein the product or technology is (i) designed by or for a third Party without substantial input from the Acting Party and Transferred from the Acting Party to such third party or such third party's customers on an exclusive or substantially exclusive basis; or (ii) otherwise Transferred through or by the Acting Party for the purpose of circumventing any patent rights of the other Party to this Agreement.

- 4.2 Patent Covenant. Microsoft covenants not to (a) sue or (b) bring, prosecute, assist or participate in any judicial administrative or other proceedings of any kind against PN or its licensees (including but not limited to OEMs and other distributors) for infringement of Microsoft Patents which occurs during the Immunity Period on account of the manufacture, use, sale, importation, promotion or distribution of any PN audio and video client and server streaming functionality included in any PN products and technology (except Foundry products and technology), regardless of whether such products and technology is marketed under a PN trademark regardless of whether such products include Microsoft Code. "Microsoft Patents" as used in this Section 4.2 means (i) any and all patents (other than design patents or the equivalent), or the inventions, ideas or applications thereof, worldwide, whether currently existing, or later developed, applied for, issued prior to the Term, or issuing during the Term and under which patents (or the inventions, ideas or applications therefor) Microsoft, or any of its Affiliates, now has or obtains during the Term, the ability or right to license or grant immunity from suit; and (ii) all extensions, divisionals, continuations, continuations-in-art re-examinations and reissue patents of such patents, as well as patent applications thereof, to the extent rights attach to such applications. The "Immunity Period" shall commence upon the first to issue and shall terminate upon the last to expire, of any of the Microsoft Patents (in any jurisdiction).

- 4.3 [*]

- 4.4 Covenants Personal and Non-Assignable. Each party agrees that the respective covenant granted to it in Section 4.1 or Section 4.2 is personal to it and may not be assigned, licensed or otherwise transferred by it in whole or in part, to any third party, whether under action of law or otherwise and including in connection with the insolvency or bankruptcy of such party.

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[*] denotes confidential treatment requested
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5. MEDIA FILE FORMAT AGREEMENT

Microsoft and PN shall work in good faith and use best efforts to conclude, within ten (10) business days, the agreement currently being negotiated to align media file formats and client technology.

6. [*]

6.1 [*]

6.2 [*]

6.3 [*]

7. INVESTMENT

- 7.1 Non-Voting Preferred Stock. PN agrees to sell to Microsoft, and Microsoft agrees to purchase from PN, three million, three hundred thirty-eight thousand, three hundred seventy-four (3,338,374) shares of non-voting preferred stock of PN at a per share price of eight dollars and ninety-nine cents (\$8.99). These shares are convertible into voting or non-voting common stock (at Microsoft's option) of PN.

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[*] denotes confidential treatment requested
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These preferred shares will have terms and rights and preferences comparable to existing preferred shares of PN.

- 7.2 Warrant. Simultaneously with the purchase of the preferred shares set forth in Section 7.1, PN will grant to Microsoft a warrant to purchase three million, seven hundred nine thousand, three hundred and five (3,709,305) shares of non-voting preferred stock of PN, convertible into voting or non-voting common stock (at Microsoft's option) of PN. The purchase price of each share under the warrant shall equal thirteen dollars and forty-eight cents (\$13.48), subject to standard adjustments for stock splits, stock dividends, reclassifications or reorganizations. The warrant shall have a term of two and one-half (2.5) years. In the event of an initial public offering ("IPO") of PN, the warrant shall either be exercised by Microsoft on or before the date of the IPO or shall expire.

- 7.3 Board of Directors. So long as Microsoft holds no less than (i)

3,338,374 shares of preferred stock (or common stock issued upon the conversion of the preferred shares), or (ii) five percent (5%) of the fully-diluted shares of PN, Microsoft shall have the right in its sole discretion to have either (a) a Microsoft representative appointed to the PN Board of Directors, or (b) a Microsoft representative appointed as an observer to the PN Board of Directors. PN shall have the right to approve such board member or observer, provided such approval shall not be unreasonably withheld or delayed.

- 7.4 Approvals. Microsoft acknowledges that (i) PN's obligations under this Section 7 are conditioned upon receiving certain shareholder approvals and (ii) the warrant in Section 7.2 and all shares to be purchased by Microsoft pursuant to this Section 7 will not have been registered under the Securities Act of 1933, as amended, and therefore may be issued and sold only upon Microsoft making such representations and warranties as are customary in connection with the purchase of restricted stock. Microsoft agrees to make such customary representations and warranties. PN will use its reasonable best efforts to obtain any necessary shareholder approvals identified by this Section 7.4. In the event PN is unable to obtain such shareholder approval(s) by 5 p.m., June 23, 1997, PN shall propose to Microsoft alternative terms which do not require shareholder approval. If Microsoft does not agree to such alternative terms, this Agreement shall terminate. If Microsoft does agree to such alternative terms, then notwithstanding such agreement by Microsoft and if PN convinces its shareholders within twenty-five (25) days to accept the original transaction, then the original terms shall apply. Absent such shareholder approval of the original terms, the alternative terms proposed by PN and agreed to by Microsoft shall be the basis of the Agreement. Upon such termination, then notwithstanding anything to the contrary herein (including but not limited to Section 11.5), this Agreement shall terminate as though the parties never executed the Agreement.
- 7.5 Definitive Agreements. Each party will use all reasonable efforts to negotiate and close on any and all necessary agreements and approvals required to perfect the investment set forth in this Section 7 within thirty (30) days of the Effective Date.
- 7.6 Due Diligence. Microsoft's obligation to purchase preferred shares of PN is subject to the satisfactory completion of due diligence by Microsoft. PN will make available to Microsoft documents and information as reasonably requested, so that Microsoft can perform a full investigation of PN's business and legal conditions. Microsoft will complete its due diligence within seven (7) days of notification by PN that PN has collected and made available to Microsoft all the due diligence materials requested by Microsoft.
- 7.7 Regulatory Approval. The parties acknowledge that a material consideration of this Agreement is the ability to implement and conclude the Agreement expeditiously. If, by 5 p.m., June 23, 1997, either party, in its sole discretion, determines that any required government or regulatory approvals (solely with respect to this Agreement and not in combination with any other proposed or actual transaction) could cause unacceptable delay in successfully implementing and concluding the Agreement expeditiously, either party may terminate this Agreement. Upon such termination, then notwithstanding anything to the contrary herein (including but not limited to Section 11.5), this Agreement shall terminate as though the parties never executed the Agreement.

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8. CONFIDENTIALITY; ANNOUNCEMENTS

8.1 Announcement. The parties will announce their relationship under this Agreement within thirty (30) days of the Effective Date. The precise timing and content of any announcement of this Agreement must be jointly agreed upon, but both parties will acknowledge the nature of Microsoft's distribution of PN's technology, the fact of Microsoft's investment in PN, and other matters of strategic importance agreed to by the parties. [*] Upon such termination, then notwithstanding anything to the contrary herein (including but not limited to Section 11.5), this Agreement shall terminate as though the parties never executed the Agreement.

8.2 Restrictions on Use and Disclosure. Each party shall protect the other's Confidential Information from unauthorized dissemination and use with the same degree of care that such party uses to protect its own like information. Neither party will use the other's Confidential Information for purposes other than those necessary to directly further the purposes of this Agreement. Each party will use its best efforts not to disclose to third parties the other's Confidential Information without the prior written consent (except with respect to source code as set forth in Section 2.1) of the other party. Except as expressly provided in this Agreement, no ownership or license rights are granted in any Confidential Information.

9. [*]

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10. [*]

10.1 [*]

10.2 [*]

11. TERMINATION

11.1 Term. Unless earlier terminated in accordance with Section 11.2, this Agreement shall commence upon the Effective Date and continue in full force and effect through the Term.

11.2 Termination By Either Party For Cause. Either party may suspend performance and/or terminate this Agreement immediately upon written notice at any time if the other party is in material breach of Section 8.2 and fails to cure that breach within five (5) days after written notice thereof.

- 11.3 Dispute Resolution. If the a party is in material breach of any material warranty, term, condition or covenant of this Agreement other than those contained in Section 8.2, such party shall cure that breach within forty-five (45) after written notice thereof. If a party contests or disputes that material breach has so occurred, the parties shall submit any dispute to structured negotiation as follows:
- (a) Coverage. Other than actual or imminent material breaches of Section 8.2, any dispute between the parties with respect to this Agreement shall be submitted for structured negotiation. The commencement, and any resolution reached as a result, of any dispute resolution under Section 11.3 shall be considered Confidential Information and protected under Section 8.
 - (b) Structured Negotiation. Either party may invoke this procedure by giving written notice to the other party designating a corporate officer with appropriate authority to be its representative in negotiations relating to the dispute. Upon receipt of such notice, the other party shall, within five (5) business days, designate a corporate officer with similar authority to be its

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[*] denotes confidential treatment requested
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representative. The designated officers shall, following whatever investigation each deems appropriate, but no event later than twenty (20) business days after the original notice, enter into discussions concerning the dispute. If within an additional twenty (20) business days of their initial meeting, the representatives do not resolve the dispute, either party may submit the matter to binding arbitration under Section 11.3(c).

- (c) Binding Arbitration. Any dispute not settled by the parties by structured negotiation (other than actions for injunctive relief including specific performance) shall be submitted only to binding arbitration. The arbitration will be conducted in accordance with the procedures in this document and the Arbitration Rides for Commercial Arbitration Rules of the AAA ("AAA Rules"). In the event of a conflict with such rules, the provisions of this Agreement will control.

The arbitration shall take place in Seattle, Washington, before a panel of three arbitrators appointed as follows: each party shall select a single arbitrator, and the two (2) selected arbitrators shall mutually agree upon a third. The arbitrators selected shall have knowledge and experience in the computer software business. The arbitrators shall rule on the dispute by issuing a written opinion setting forth findings of fact and the rationale for their decision within thirty (30) days after the close of hearings. The decision rendered by the arbitrators shall be final and binding and may be entered as a judgment in any court of competent jurisdiction. The arbitrator(s) shall control the scheduling so as to process the matter expeditiously. The times specified in this section may be extended upon mutual agreement of the parties by the arbitrators upon a showing of

good cause.

Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide and be bound by these procedures.

All aspects of the arbitration shall be treated as Confidential Information.

Unless provided otherwise in the Agreement, the arbitrators may not award non-monetary or equitable relief of any sort. They will have no power to award damages inconsistent with the Agreement. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrators have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.

The parties may submit written briefs. Discovery shall be controlled by the arbitrators and shall be permitted as follows: each party may submit in writing to a party, and that party shall so respond, to a maximum of any combination of thirty-five (35) (none of which may have subparts) of interrogatories, demands to produce documents, and requests for admission.

Each party shall bear its own costs of the arbitration. A party seeking discovery shall reimburse the responding party the costs of production of documents (to include search time and reproduction costs). The parties shall equally split the fees of the arbitration and the arbitrators.

11.4 Effect of Termination.

- (a) Neither party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms.
- (b) Any end user licenses already validly granted by PN as the effective date of termination shall not be affected and shall survive termination.

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11.5 Survival. In the event of termination or expiration of this Agreement for any reason, Sections 2.1 (provided that Microsoft has paid the applicable license fees set forth in Section 3), 2.2, 2.4(c), 3.2 (to the extent fees are due and owing), 4, 8.2, 9, 10, 11, 12 and 13 shall survive termination.

12. LIMITATION OF LIABILITIES

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. GENERAL

- 13.1 Notices. All notices and requests in connection with this Agreement shall be deemed given as of the day they are received either by messenger, delivery service, or in the United States of America mails, postage prepaid, certified or registered, return receipt requested, and addressed as follows:

To PN:

Progressive Networks, Inc.
1111 Third Avenue, Suite 2900
Seattle, WA 98101
Attention: General Counsel

Phone: (206) 674-2213

Fax: (206) 674-2695

To Microsoft:

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399
Attention:

Phone: (425) 882-8080

Fax: (425) 936-7329

Copy to:

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399
Attention: Law & Corporate Affairs

Fax: (206) 936-7409

or to such other address as a party may designate pursuant to this notice provision.

- 13.2 Independent Contractors. PN is an independent contractor for Microsoft and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, or a joint venture between the parties.
- 13.3 Taxes. In the event taxes are required to be withheld on payments made under this Agreement by any U.S. (state or federal) or foreign government, Microsoft may deduct such taxes from the amount owed PN and pay them to the appropriate taxing authority. Microsoft shall in turn promptly secure and deliver to PN an official receipt for any taxes withheld. Microsoft will use reasonable efforts to minimize such taxes to the extent permissible under applicable law.
- 13.4 Governing Law. This Agreement shall be governed by the laws of the State of Washington as though entered into between Washington residents and to be performed entirely within the State of Washington, and PN consents to jurisdiction and venue in the state and federal courts sitting in the State of Washington. In any action or suit to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees.

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- 13.5 Assignment. This Agreement shall be binding upon and inure to the benefit of each party's respective successors and lawful assigns; provided, however, that PN may not assign this Agreement, in whole or in part, without the prior written approval of Microsoft. For purposes of this Agreement, a merger, consolidation, or other corporate reorganization, or a transfer or sale of any or all of a party's stock, or of all or substantially all of its assets shall be deemed to be an

assignment; provided, however, that an IPO of PN stock shall not be considered an assignment.

- 13.6 Construction. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party.
- 13.7 Entire Agreement. This Agreement does not constitute an offer by Microsoft and it shall not be effective until signed by both parties. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and merges all prior and contemporaneous communications. It shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed on behalf of PN and Microsoft by their respective duly authorized representatives.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date written above.

MICROSOFT CORPORATION	PROGRESSIVE NETWORKS

By: [s] Paul Martiz	By: [s] Rob Glaser

Name (Print): Paul Martiz	Name (print): Rob Glaser

Title: Group VP, Applications & Platforms	Title: CEO

Date: 6/17/97	Date: 6-17-97

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[*] denotes confidential treatment requested
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 <TEXT>
 <PAGE> 1

Exhibit 10.11

Bruce Jacobsen
15309 Earlham St.
Pacific Palisades, CA 90272

February 16, 1996

Dear Bruce:

I am extremely pleased to confirm in writing the terms of your employment at Progressive Networks that we agreed to on January 16th, 1996.

Your title will be President and Chief Operating Officer. This is a full-time, exempt, regular position with Progressive Networks, carrying the standard Progressive Networks benefits. Your salary will be \$135,000 per year. Your benefits include, together with those required by law, coverage by a medical, prescription and long term disability insurance plan, and participation in a 401(k) plan, selected by Progressive Networks (PN).

You will also earn equity in PN under the terms of PN's staff stock option plan. Today PN has a total of 23,527,446 shares outstanding, counting all shares available in our option plan. You will receive two grants of options on shares, Grant A and Grant B:

- Grant A is options on 705,823 shares, and is subject to PN's standard vesting schedule and all other provisions contained in the Plan with one exception related to the treatment of these shares in the event of an Approved Transaction or Control Purchase (as defined in the PN Stock Option Plan) of PN. This exception is described below.
- Grant B is options on 470,544 shares and is subject to the provisions contained in the Plan, the exception described below, and the following additional exceptions: Grant B vests fully two years from your start date with PN. 50% of Grant B vests one year from your start date with PN. In the event your employment is terminated by PN (and not voluntarily by you) Grant B immediately vests fully.
- In the event of an Approved Transaction or Control Purchase (as defined in the PN Stock Option Plan) of PN, you have the right to have the vesting of your Grant A options be accelerated by one year, and to have your Grant B options vest immediately, both upon the closing of such a Transaction or Purchase. This right does not prevent you from instead choosing to participate in any acceleration of vesting which the Board may provide under terms of the Plan.

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The above grants are subject to the approval of the Board of Directors of PN; since I have received verbal agreement from the board on this matter, I believe this agreement to be merely a formality.

You will also receive the standard holidays each year (e.g. The Fourth of July, New Years Day, etc...), on a schedule to be determined by PN. You will also receive fifteen days paid vacation per year. These vacation days are earned at the rate of 1.25 days for each month worked. You will also earn one paid sick day for each month worked. After January 1st of each year, you are eligible to take the full annual vacation benefit to be earned in that year, subject to reasonable advance planning. You are also eligible, as of January 1st, should your ill health require it, to take the full sick day benefit to be earned in that year. Vacation earned but not taken in excess of fifteen days cannot be

carried over into a new calendar year. Sick days earned but not taken cannot be carried over into a new calendar year. Should your employment with Progressive Networks end, your final paycheck will be adjusted to account for any positive or negative vacation day balance and for any sick days taken but not earned.

One month after the start of your employment with PN, PN will reimburse you for the actual costs of finding a new home, temporary accommodations, and relocating to Seattle, up to a maximum of \$8500.

All inventions, discoveries, improvements to existing technology, and computer software which you conceive, develop, or first actually reduce to practice, either alone or with others, during your employment at PN (collectively, the "Inventions"), is work for hire, and ownership of any intellectual property arising from or related to the Inventions shall be the sole and exclusive property of PN. If for any reason the Inventions or any portion thereof is deemed not to be a work made for hire, then you hereby irrevocably, absolutely and unconditionally assign to PN (a) all of your right, title and interest in and to the Inventions or portion thereof (whether arising under patent law, copyright law, trade secret law, or otherwise), including to the extent applicable, but not limited to, the exclusive rights enumerated in 17 U.S.C. Section 106, and all extensions and renewals thereof, and (b) all moral rights with respect to the Inventions, including but not limited to any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications relating to the Inventions. All duties performed by you for PN and all communications between you and PN are subject to the Agreement Restricting Use and Disclosure of Proprietary and Confidential Information (the "Non-Disclosure Agreement") previously executed by you and PN.

NOTICE: THIS AGREEMENT DOES NOT APPLY TO AN INVENTION FOR WHICH NO EQUIPMENT, SUPPLIES, FACILITIES OR TRADE SECRET INFORMATION OF PN WAS USED AND WHICH WAS DEVELOPED ENTIRELY ON YOUR OWN TIME, UNLESS (A) THE INVENTION RELATED (1) DIRECTLY TO THE BUSINESS OF PN, OR (2) TO PN'S ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT, OR (B) THE INVENTION RESULTS FROM ANY WORK PERFORMED BY YOU FOR PN.

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This offer is contingent on you providing evidence of employability as required by federal law. This offer is valid until February 29, 1996.

On both a personal and a professional level I'm very excited about the prospect of you joining Progressive Networks. I look forward to a long and mutually rewarding work relationship.

Sincerely,

/s/ ROB GLASER

- - - - -

Rob Glaser
Chairman & CEO
Progressive Networks

I have read and agree to the above terms of employment, which represent a full, complete and fair statement of the offer of employment made to me by Progressive Networks.

Bruce Jacobsen

/s/ BRUCE JACOBSEN

- - - - -

Date: 2/16/96

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<DOCUMENT>
<TYPE>EX-10.12
<SEQUENCE>17
<DESCRIPTION>OFFER LETTER DATED MAY 2, 1995
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<PAGE> 1

Exhibit 10.12

[PROGRESSIVE NETWORKS LETTERHEAD]

James Wells
8405 Southeast 47th Place
Mercer Island, Washington 98040

May 2, 1995

Dear James:

As you know, I am extremely pleased to offer you employment at Progressive Networks as Vice President, Sales and Service.

This offer is for a full-time, exempt, regular position with Progressive Networks, carrying the standard Progressive Networks benefits. Your salary will be \$90,000 per year. Your benefits include, together with those required by law, coverage by a medical, prescription and long term disability insurance plan selected by Progressive Networks (PN).

You will also earn equity in PN under the terms of PN's staff stock option plan. Your grant is options on 275,000 shares, and is subject to the vesting and all other provisions contained in the plan.

You will also have the opportunity to earn a performance-based bonus. You will first become eligible for this bonus, which will be in the range of 25-33% of salary, after PN has begun to earn sales revenues. The bonus will be payable every six months, and will hinge on your performance against both revenue and management goals in the two quarters (with equal weighting given to each set of goals). After PN has become profitable, we will consider whether changes in the bonus plan are desirable.

You will also receive the standard holidays each year (e.g. The Fourth of July, New Years Day, etc...), on a schedule to be determined by PN. You will also receive ten days paid vacation per year. In your first year, these vacation days are earned at the rate of one day per month worked after your first two months of employment. In subsequent years, these vacation days are earned at the rate of .83 days for each month worked. You will also earn one paid sick day for each month worked. After January 1st of each year, you are eligible to take the full annual vacation benefit to be earned in that year, provided it is scheduled in advance with me. You are also eligible, as of January 1st, should your ill health require it, to take the full sick day benefit to be earned in that year. Vacation earned but not taken in excess of ten days a year cannot be carried over into a new calendar year. Sick days earned but not taken cannot be carried over into a new calendar year. Should your employment with Progressive Networks

end, your final paycheck will be adjusted to account for any positive or negative vacation day balance and for any sick days taken but not earned.

All inventions, discoveries, improvements to existing technology, and computer software which you conceive, develop, or first actually reduce to practice, either alone or with others, during your employment at PN and for three (3) months thereafter (collectively, the "Inventions"), is work for hire, and ownership of any intellectual property arising from or related to the Inventions shall be the sole and exclusive property of PN. If for any reason the Inventions or any portion thereof is

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deemed not to be a work made for hire, then you hereby irrevocably, absolutely and unconditionally assign to PN (a) all of your right, title and interest in and to the Inventions or portion thereof (whether arising under patent law, copyright law, trade secret law, or otherwise), including to the extent applicable, but not limited to, the exclusive rights enumerated in 17 U.S.C. Section 106, and all extensions and renewals thereof, and (b) all moral rights with respect to the Inventions, including but not limited to any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications relating to the Inventions. All duties performed by you for PN and all communications between you and PN are subject to the Agreement Restricting Use and Disclosure of Proprietary and Confidential Information (the "Non-Disclosure Agreement") previously executed by you and PN.

NOTICE: THIS AGREEMENT DOES NOT APPLY TO AN INVENTION FOR WHICH NO EQUIPMENT, SUPPLIES, FACILITIES OR TRADE SECRET INFORMATION OF PN WAS USED AND WHICH WAS DEVELOPED ENTIRELY ON YOUR OWN TIME, UNLESS (A) THE INVENTION RELATED (1) DIRECTLY TO THE BUSINESS OF PN, OR (2) TO PN'S ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT, OR (B) THE INVENTION RESULTS FROM ANY WORK PERFORMED BY YOU FOR PN.

This offer is contingent on you providing evidence of employability as required by federal law.

We are excited about the prospect of you joining Progressive Networks and look forward to a long and mutually rewarding term of employment.

This offer is valid until May 8, 1995.

Sincerely,

/s/ ROBERT GLASER

- - - - -

Rob Glaser
President & CEO
Progressive Networks

I have read and agree to the above terms of employment, which represent a full, complete and fair statement of the offer of employment made to me by Progressive Networks.

James Wells

/s/ JAMES H. WELLS

Date: 5/3/95

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Exhibit 10.13

[PN PROGRESSIVE NETWORKS LETTERHEAD]

May 24, 1994

Andy Sharpless
20 Harvard Lane
Hastings, NY 10706

Via Facsimile

Dear Andy:

The following letter constitutes our offer for you to join Progressive Networks, Inc. (PN) as a principal member of PN's management team. As you and I discussed on the phone last night, David and I are both extremely enthusiastic about the prospect of you joining us, and it was great to hear that you are equally excited.

Your responsibilities with PN will vary, depending on where we are in the development process and the final form of our plan. We envision two phases:

- Phase I is the period starting with your initial employment, continuing through the completion of PN's business plan and concluding with the successful acquisition of funding sufficient to carry out that plan. During Phase I you will be responsible for working with me and David to research, write, and review the plan, and also to work with us to put together strategic alliances that we deem necessary to either complete the plan and/or to maximize its chance of success.
- Phase II is the operating phase. During this phase you would lead implementation of the plan in one or more specific areas related to the on-line service aspect of PN, and you would provide significant input into overall PN direction and strategy. The area or areas for you to focus on are to be determined depending on the final shape of our plan; based on our current thinking these may include handling all transaction-related aspects of PN On-Line and/or managing our plans for signing up and maintaining relations with advertisers.

As we discussed, your salary will be \$100,000 per year. Once PN establishes procedures for bonuses and salary review, you would of course be

eligible for these programs. PN will also provide health care coverage for you and your family, and other benefits consistent with PN's yet-to-be-determined benefits package. You will also be granted equity in PN once we complete our business plan and acquire a first round of outside capital in accordance with that plan. Until we have completed the first round of outside financing, it is not possible to definitively quantify this equity, but we have agreed on the following parameters:

- Your equity will accrue (vest) at 3/4th of the rate that equity accrues to David Halperin, and the start date of your accrual will be the start date of your employment with PN, even though this will likely precede the arrival of outside capital. As per written agreement between Rob Glaser and David Halperin, our intent is that Halperin will receive a 1% equity stake (post first round dilution) in PN for each of the first 5 years he is employed by PN. The Glaser/Halperin agreement is subject to review in light of considerations at the time of outside capitalization, such as the actual valuation of PN, or the size of the pool of equity available for partners and senior management.

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- Your equity will accrue at this rate for the first 5 years of your employment with PN. Then, if after 5 years the amount of equity you have been granted is less than the amount that Halperin has vested by October 1, 1998 (which is 5 years from his initial start date with PN), and you are still employed by PN in a position of substantial responsibility, we will come up with an arrangement for your subsequent years of employment with PN that enables you to attain, over time, equity equivalent to the total amount vested by Halperin through 10/1/98. The form that this subsequent option will take is to be determined, and may well not be determined until at or near the 5th anniversary of your joining PN.
- Your ability to continue vesting equity in PN will be contingent on your abiding by the terms of PN's to-be-determined employee stock plan. Terms to be included in this plan include your continuous employment in good standing by PN.

The long-term location of PN's main office is still to be determined, but will either be in Seattle or in the San Francisco Bay area. As part of the terms of your employment, you will agree to relocate to whichever of these locations is selected. PN in turn will apprise you of and involve you in the selection process. It is our intent to make a final decision regarding location by the end of July 1994.

During Phase I, PN will pay your commuting costs between New York and Seattle (or San Francisco if this becomes the operating main office) and will provide temporary housing for you. It is planned that you will commute weekly back to New York, and that one week per month you will be able to work out of New York (perhaps including short trips on the East Coast).

Upon successful completion of Phase I, you will set in motion steps to permanently relocate yourself (and your family) to the location of PN's main office (either Seattle or S.F.). At this time PN will provide you with a one-time relocation bonus of \$10,000. PN will also cover reasonable moving expenses (consistent with PN's yet-to-be-determined relocation policy) and will pay for 2 house-hunting trips for your wife to be taken when you deem necessary. PN will continue to cover your commuting costs until you move, up through 2 1/2 months after the completion of Phase I.

In the event that PN terminates your employment within 24 months of your start date, or you choose to leave PN because PN's plan has not been successfully funded by May 1, 1995, PN will continue to pay you at the rate of your starting salary for the least of: (a) 6 months; (b) 24 months minus the number of months you have actually worked at PN; or (c) until you find full-time employment. During this severance period PN will continue to provide health care coverage for you and your family. During this severance period, you will, at PN's option, continue to work for PN, with allowances made for time you need to successfully pursue subsequent employment, and you will be obligated to make a reasonable effort to obtain suitable full-time employment. During this severance period you will not vest any additional equity in PN, but will have the opportunity to exercise any equity you have already vested, and can keep any equity you have already purchased.

In the event that you voluntarily choose to leave PN within 24 months of your start date for reasons other than PN's plan not being funded by 5/1/95, or you decide not to relocate permanently to PN's main office after completion of Phase I, PN will continue to pay you at the rate of your starting salary for the least of: (a) 3 months; (b) 24 months minus the number of months you have actually worked at PN; or (c) until you find full-time employment. During this severance period PN will continue to provide health care coverage for you and your family. During this severance period, you will, at PN's option, continue to work for PN, with allowances made for time you need to successfully pursue subsequent employment, and you will be obligated to make a reasonable effort to obtain suitable full-time employment. You will not vest any additional equity in PN, will not be allowed to exercise any equity you have vested but not purchased, and will be required to offer back to PN any equity you have already purchased at the price you paid for it.

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In order to ensure the availability of the severance funds, the full amount of potential severance money (\$50,000) will be placed in escrow, using an escrow agent of our mutual choosing, until passage of the 24 month period.

I believe the above fully and accurately memorializes the terms we discussed and agreed to verbally. Please sign below to indicate your agreement and acceptance of these terms. Again I want to restate how excited I am about the prospects of you coming aboard, and how confident I am that together you, David, and I will succeed in making Progressive Networks a financial and political success!

Warmest Regards,

/s/ ROBERT GLASER

Rob Glaser

I agree to the above terms and formally accept Progressive Networks' offer of employment.

/s/ ANDREW SHARPLESS

5/24/94

Andy Sharpless

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EXHIBIT 10.14

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (the "Agreement") is entered into effective as of _____, 1997, between PROGRESSIVE NETWORKS, INC., a Washington corporation (the "Company"), and _____, a director and/or officer of the Company ("Indemnitee").

R E C I T A L S

A. Indemnitee is a director and/or officer of the Company and in such capacity is performing valuable services for the Company.

B. The Articles of Incorporation of the Company ("Articles") and the Company's Bylaws ("Bylaws") provide for the indemnification of the directors and officers of the Company to the fullest extent permitted by the Washington Business Corporation Act (the "Statute").

C. The Articles, Bylaws and the Statute are not exclusive, and thereby contracts may be entered into between the Company and the members of its Board of Directors (the "Board") and its officers with respect to indemnification of such directors and officers.

D. The Articles and Bylaws provide that the Company may purchase and maintain a policy or policies of insurance on behalf of an individual who is a director or an officer ("D&O Insurance"), covering certain liabilities which may be incurred by its officers or directors in the performance of their obligations to the Company;

E. As a result of recent developments affecting the terms, scope and availability of D&O Insurance there exists general uncertainty as to the extent of protection afforded Company officers and directors by such D&O Insurance and said uncertainty also exists under statutory and bylaw indemnification provisions; and

F. In order to induce Indemnitee to serve or to continue to serve as a director and/or officer of the Company, the Company has agreed to enter into this Agreement with Indemnitee.

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NOW, THEREFORE, In consideration of the recitals above, the mutual covenants and agreements set forth in this Agreement, and Indemnatee's service as a director and/or officer after the date hereof, the Company and Indemnatee agree as follows:

1. INDEMNIFICATION

1.1 SCOPE. The Company agrees to and shall hold harmless and indemnify Indemnatee to the full extent permitted by law against any Damages (as defined in Section 1.5) incurred by Indemnatee with respect to any Proceeding (as defined in Section 1.6) to which Indemnatee is or is threatened to be made a party or witness, notwithstanding that such indemnification is not specifically authorized by this Agreement, the Company's Articles or Bylaws, the Statute or otherwise. Such right to indemnification shall be without regard to any limitations found in RCW 23B.08.510 through 23B.08.550; PROVIDED, HOWEVER, that Indemnatee shall have no right to indemnification on account of (a) acts or omissions of Indemnatee finally adjudged to be intentional misconduct or a knowing violation of law; (b) conduct of Indemnatee finally adjudged in a final judgment, not subject to appeal, by a court of proper jurisdiction to be in violation of RCW 23B.08.310; or (c) any transaction with respect to which it is finally adjudged in a final judgment, not subject to appeal, by a court of proper jurisdiction that Indemnatee personally received a benefit in money, property or services to which Indemnatee was not legally entitled. In the event of any change, after the date of this Agreement, in any applicable law, statute or rule issued pursuant to such law or statute regarding the right of a Washington corporation to indemnify a member of its board of directors or an officer, such changes, to the extent that they would expand Indemnatee's rights hereunder, shall be within the scope of Indemnatee's rights and the Company's obligations hereunder, and, to the extent that they would narrow Indemnatee's rights hereunder, shall be excluded from this Agreement; PROVIDED, HOWEVER, that any change that is found in a final judgment, not subject to appeal, by a court of proper jurisdiction to be required by applicable laws, statutes or rules issued pursuant to such law or statute to be applied to this Agreement shall be so applied regardless of whether the effect of such change is to narrow Indemnatee's rights hereunder.

1.2 PROCEEDINGS RELATING TO OFFICER'S FAILURE TO DISCHARGE DUTIES. If Indemnatee is an officer of the Company, the indemnification and other rights and benefits provided to Indemnatee by this Agreement shall apply fully with respect to any Proceeding in which it is claimed or adjudicated that Indemnatee is liable to the Company by reason of having failed to discharge the duties of Indemnatee's office, which claims and liabilities are hereby released; PROVIDED, HOWEVER, that the foregoing indemnification and release obligations of the Company shall have no application with respect to claims and liabilities by or to the Company to the extent

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that they are based upon or arise out of Indemnatee's actions or omissions described in clauses (a), (b) or (c) of Section 1.1.

1.3 NONEXCLUSIVITY. The indemnification provided by this Agreement shall not be deemed exclusive of any rights to which Indemnatee may be entitled (and any failure to qualify for indemnification under this Agreement shall not be determinative of any rights) under the Company's Articles or the Company's Bylaws, any vote of shareholders or disinterested directors, the Statute or otherwise, whether as to actions or omissions by Indemnatee in

Indemnitee's official capacity or otherwise.

1.4 ADVERSE AMENDMENTS. Subject to applicable law, the Company agrees that the Articles or Bylaws shall not be amended in a manner that adversely affects the indemnification rights provided thereunder to the Indemnitee.

1.5 INCLUDED COVERAGE. If Indemnitee is made a party (or is threatened to be made a party) to, or is otherwise involved (including, but not limited to, as a witness) in any Proceeding, the Company shall hold harmless and indemnify Indemnitee from and against any and all losses, claims, damages and liabilities incurred in connection with such Proceeding, including but not limited to attorneys' fees, judgments, fines, ERISA excise taxes or penalties, amounts paid in settlement and other expenses (collectively, "Damages").

1.6 DEFINITION OF PROCEEDING. For purposes of this Agreement, "Proceeding" shall mean any actual, pending, threatened or completed action, suit, claim or proceeding (whether civil, criminal, administrative or investigative and whether formal or informal) in which Indemnitee is, has been or becomes involved by reason of the fact that Indemnitee is or has been a director, officer, employee or agent of the Company or that, being or having been such a director, officer, employee or agent, Indemnitee is or was serving at the request of the Company as a director, officer, employee, trustee or agent of another corporation or of a partnership, joint venture, trust or other enterprise (collectively, a "Related Company"), including but not limited to service with respect to any employee benefit plan, whether the basis of such action, suit, claim or proceeding is alleged action or omission by Indemnitee in an official capacity as a director, officer, employee, trustee or agent or in any other capacity while serving as a director, officer, employee, trustee or agent; PROVIDED, HOWEVER, that, except with respect to an action to enforce this Agreement, "Proceeding" shall not include any action, suit, claim or proceeding instituted by or at the direction of Indemnitee unless such action, suit, claim or proceeding is or was authorized by the Board.

1.7 NOTIFICATION. As promptly as reasonably practicable after receipt by Indemnitee of notice of the commencement of any Proceeding, Indemnitee will,

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if a claim in respect thereof is to be made against the Company under this Agreement, notify the Company of the commencement thereof; PROVIDED, HOWEVER, that failure to so notify the Company will relieve the Company from any liability that it may otherwise have to Indemnitee under this Agreement only if, and then solely to the extent that, such failure can be shown to have materially prejudiced the Company's ability to defend the Proceeding.

1.8 DETERMINATION OF ENTITLEMENT. If a determination of Indemnitee's entitlement to indemnification is required pursuant to RCW 23B.08.550 or a successor statute or pursuant to other applicable law, the appropriate decision maker shall make such determination; PROVIDED, HOWEVER, that (a) Indemnitee shall initially be presumed in all cases to be entitled to indemnification, and (b) unless the Company shall deliver to Indemnitee written notice of a determination that Indemnitee may not be entitled to indemnification within thirty (30) days after the Company's receipt of Indemnitee's notice pursuant to Section 1.7, Indemnitee shall conclusively be deemed to be entitled to such indemnification and the Company hereby agrees not to assert otherwise. Indemnitee may establish a conclusive presumption of any fact necessary to such a determination by delivering to the Company a declaration made under penalty of perjury that such fact is true.

1.9 PRESUMPTION AND EFFECT OF CERTAIN PROCEEDINGS.

a. If a Change of Control shall have occurred, in making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnatee is entitled to indemnification under this Agreement if Indemnatee has submitted a request for indemnification in accordance with this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption.

b. If the person, persons or entity empowered or selected under this Agreement to determine whether Indemnatee is entitled to indemnification shall not have made a determination within 30 days after receipt by the Company of Indemnatee's request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnatee shall be entitled to such indemnification, absent (i) a misstatement by Indemnatee of a material fact, or an omission of a material fact necessary to make Indemnatee's statements not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 30-day period may be extended for a reasonable time, not to exceed an additional 30 days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith

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requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto and gives notice to Indemnatee thereof; and provided, further, that the foregoing provisions of this Section 1.9 shall not apply if (i) the determination of entitlement to indemnification is to be made by the stockholders pursuant to this Agreement and (A) within 15 days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within 75 days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within 15 days after such receipt for the purpose of making such determination, such meeting is held for such purpose within 30 days after having been so called and such determination is made thereat, or (ii) the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to this Agreement.

c. The settlement or termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnatee to indemnification or create a presumption that Indemnatee did not act in good faith and in a manner which Indemnatee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnatee had reasonable cause to believe that Indemnatee's conduct was lawful.

d. "Change in Control" means a change in control of the Company occurring after the Effective Date of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934 (the "Act"), whether or not the Company is then subject to such reporting requirement; provided, however, that, without limitation, such a Change in Control shall be deemed to have occurred if after the Effective Date (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Company representing 25% or more of the combined voting power of the Company's then outstanding securities without the prior approval of at least two-thirds of the members of the Board in office immediately prior to such

person attaining such percentage interest, (ii) the Company is a party to a merger, consolidation, sale of assets or other reorganization, or a proxy contest, as a consequence of which members of the Board in office immediately prior to such transaction or event constitute less than a majority of the Board thereafter, or (iii) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board (including for this purpose any new director whose election or nomination for election by the

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Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board.

1.10 SURVIVAL. The indemnification and release provided under this Agreement shall apply to any and all Proceedings, notwithstanding that Indemnitee has ceased to be a director, officer, employee, trustee or agent of the Company or a Related Company.

2. EXPENSE ADVANCES

2.1 GENERALLY. The right to indemnification conferred by Section 1 shall include the right to have the Company pay Indemnitee's attorneys' fees and other expenses in any Proceeding as such expenses are incurred and in advance of such Proceeding's final disposition (such right is referred to hereinafter as an "Expense Advance").

2.2 CONDITIONS TO EXPENSE ADVANCE. The Company's obligation to provide an Expense Advance is subject to the following conditions:

A. UNDERTAKING. Indemnitee or his representative shall have executed and delivered to the Company an undertaking, which need not be secured and shall be accepted without reference to Indemnitee's financial ability to make repayment, by or on behalf of Indemnitee, to repay all Expense Advances if and to the extent that it shall ultimately be determined, by a final decision not subject to appeal rendered by a court having proper jurisdiction, that Indemnitee is not entitled to be indemnified for such Expense Advance under this Agreement or otherwise.

C. AFFIRMATION. If required under applicable law, Indemnitee shall furnish a written affirmation of Indemnitee's good faith belief that Indemnitee has met all applicable standards of conduct.

3. PROCEDURES FOR ENFORCEMENT

3.1 ENFORCEMENT. If a claim for indemnification made by Indemnitee hereunder is not paid in full within thirty (30) days, or a claim for an Expense Advance made by Indemnitee hereunder is not paid in full within thirty (30) days, after written notice of such claim is delivered to the Company, Indemnitee may, but need not, at any time thereafter bring suit against the Company to recover the unpaid amount of the claim (an "Enforcement Action").

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3.2 PRESUMPTIONS IN ENFORCEMENT ACTION. In any Enforcement Action the following presumptions (and limitations on presumptions) shall apply:

A. The Company shall conclusively be presumed to have entered into this Agreement and assumed the obligations imposed hereunder in order to induce Indemnitee to serve or to continue to serve as an director

and/or officer of the Company;

B. The failure of the Company (including but not limited to the Board, independent or special legal counsel or the Company's shareholders) to make a determination prior to the commencement of the Enforcement Action that indemnification of Indemnatee is proper in the circumstances shall not be a defense to the Enforcement Action or create a presumption that Indemnatee is not entitled to indemnification hereunder; and

C. If Indemnatee is or was serving as a director, officer, employee, trustee or agent of a corporation of which a majority of the shares entitled to vote in the election of its directors is held or controlled by the Company or in which the Company has otherwise made an investment or in an executive or management capacity in a partnership, joint venture, trust or other enterprise of which the Company or a wholly-owned subsidiary of the Company is a general partner or has a majority ownership or control position or in which the Company has otherwise made an investment, then such corporation, partnership, joint venture, trust or enterprise shall conclusively be deemed a Related Company and Indemnatee shall conclusively be deemed to be serving such Related Company at the request of the Company.

3.3 ATTORNEYS' FEES AND EXPENSES FOR ENFORCEMENT ACTION. If Indemnatee is required to bring an Enforcement Action, the Company shall hold harmless and indemnify Indemnatee against all of Indemnatee's attorneys' fees and expenses in bringing and pursuing the Enforcement Action (including but not limited to attorneys' fees at any stage, and on appeal).

4. DEFENSE OF CLAIM. With respect to any Proceeding as to which Indemnatee has provided notice to the Company pursuant to Section 1.7:

4.1 The Company may participate therein at its own expense.

4.2 If the Company agrees, in writing, to hold the Indemnatee harmless with respect to the proceeding and is able to demonstrate, in Indemnatee's reasonable judgment, that it is financially capable of holding the Indemnatee harmless, then the Company, jointly with any other indemnifying party similarly notified, may assume the defense thereof, with counsel reasonably

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satisfactory to Indemnatee. After notice from the Company to Indemnatee of its election to so assume the defense thereof, the Company shall not be liable to Indemnatee under this Agreement for any legal fees or other expenses (other than reasonable costs of investigation) subsequently incurred by Indemnatee in connection with the defense thereof unless (a) the employment of counsel by Indemnatee or the incurring of such expenses has been authorized by the Company, (b) Indemnatee shall have reasonably concluded that there is or may be a conflict of interest between the Company and Indemnatee in the conduct of the defense of such Proceeding, or (c) the Company shall not in fact have employed counsel to assume the defense of such Proceeding, in each of which cases the legal fees and other expenses of Indemnatee shall be at the expense of the Company. The Company shall not be entitled to assume the defense of a Proceeding brought by or on behalf of the Company or as to which Indemnatee shall have reached the conclusion described in clause (b) above.

4.3 The Company shall not be liable for any amounts paid in settlement of any Proceeding effected without its written consent, which consent shall not be unreasonably withheld.

4.4 The Company shall not settle any Proceeding in any manner which would impose any penalty, costs or Damages on Indemnatee without Indemnatee's written consent.

5. D&O INSURANCE

5.1 To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person serves at the request of the Company, Indemnatee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies.

5.2 In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnatee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

5.3 The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent

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that Indemnatee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

6. LIMITATIONS ON INDEMNIFICATION; MUTUAL ACKNOWLEDGMENT

6.1 LIMITATION ON INDEMNITY. No indemnification pursuant to this Agreement shall be provided by the Company:

A. On account of any suit in which a final, unappealable judgment for which there is no further right of appeal is rendered by a court having proper jurisdiction against Indemnatee for an accounting of profits made from the purchase or sale by Indemnatee of securities of the Company in violation of the provisions of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto; or

B. For Damages or Expense Advances that have been paid directly to Indemnatee by an insurance carrier under a policy of D&O Insurance or other insurance maintained by the Company.

6.2 MUTUAL ACKNOWLEDGMENT. The Company and Indemnatee acknowledge that, in certain instances, federal law or public policy may override applicable state law and prohibit the Company from indemnifying Indemnatee under this Agreement or otherwise if found by a final, unappealable judgment rendered by a court having proper jurisdiction.

7. SEVERABILITY. Nothing in this Agreement is intended to require or shall be construed as requiring the Company to take or fail to take any action in violation of applicable law. The Company's inability to perform its obligations under this Agreement pursuant to court order shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable, as provided in this Section 7. If a court of competent jurisdiction should decline to enforce any of the provisions of this Agreement, the Company and Indemnatee agree that such provisions shall be deemed to be reformed to provide Indemnatee indemnification by the Company to the maximum extent permitted by the other portions of this Agreement that are not unenforceable, and the remainder of this Agreement shall not be affected, and this Agreement shall continue in force.

8. GOVERNING LAW; BINDING EFFECT; ASSUMPTION BY SUCCESSORS; AMENDMENT AND TERMINATION

8.1 This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington.

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8.2 This Agreement shall be binding upon Indemnitee and upon the Company, its successors and assigns, and shall inure to the benefit of Indemnitee, his or her spouse and marital community Indemnitee's heirs, personal representatives and assigns and to the benefit of the Company, its successors and assigns.

8.3 In the event the Company or any successor (i) consolidates with or merges into any other person or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) liquidates, dissolves or transfers all or substantially all of its assets to any person or entity, then, and in each case, proper provisions shall be made so that the successors of the Company assume the obligations set forth in this Agreement to the maximum extent permitted under the law of such person's or entity's jurisdiction of incorporation, if such entity is a corporation, or under other applicable law.

8.4 No amendment, modification, termination or cancellation of this Agreement shall be effective unless in writing signed by both parties hereto.

8.5 No amendment, modification, repeal, termination or replacement of any part or all of the Company's By-laws or Articles shall operate in any way to limit Indemnitee's rights under this Agreement.

8.6 Nothing in this Agreement shall confer upon Indemnitee the right to continue to serve as a director and/or officer of the Company. If Indemnitee is an officer of the Company, then, unless otherwise expressly provided in a written employment agreement between the Company and Indemnitee, the employment of Indemnitee with the Company shall be terminable at will by either party.

8.7 This Agreement shall remain in full force and effect so long as Indemnitee is a director or officer of the Company, or is serving at the request of the Company in any of the capacities specified in Section 1.6. Rights arising pursuant to that Agreement with respect to any such office or position held prior to the termination hereof shall survive the termination of such office or position.

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IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective as of the day and year first set forth above.

"Company"

PROGRESSIVE NETWORKS, INC.

By _____

"Indemnatee"

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Exhibit 10.15

LIMITED PROXY AND VOTING AGREEMENT

This Limited Proxy and Voting Agreement (the "Agreement") is made as of the 21st day of July, 1997 (the "Effective Date"), by and between Microsoft Corporation ("Microsoft") and Progressive Networks, Inc. (the "Company").

RECITALS

A. The Company and Microsoft are entering into a Series E Preferred Stock Purchase Agreement dated as of the Effective Date (the "Purchase Agreement") pursuant to which the Company is selling to Microsoft shares of the Company's Series E Convertible Preferred Stock (the "Series E Preferred") and a warrant to purchase additional shares of Series E Preferred (the "Series E Warrant").

B. The obligation of the Company to issue and sell the Series E Preferred and the Series E Warrant under the Purchase Agreement is conditioned upon, among other things, the execution and delivery by Microsoft of this Agreement.

C. In connection with the consummation of the Purchase Agreement, Microsoft has agreed to make the provisions set forth below with respect to the future voting of any and all shares of the Company's nonvoting capital stock which Microsoft is acquiring pursuant to the Purchase Agreement, including upon exercise, if ever, of the Series E Warrant, or will acquire in the future, including but not limited to through conversion of the Series E Preferred into a series of nonvoting common stock (the "Series E Common Stock") or the receipt of additional shares of nonvoting stock issued in connection with a stock dividend, stock split or other recapitalization (all of such nonvoting shares shall be referred to, collectively, as the "Shares").

AGREEMENT

In consideration of the foregoing and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Microsoft agrees as follows:

1. Voting Agreement. During the term of this Agreement, Microsoft hereby agrees to vote all Shares as follows:

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(a) With the exception of voting on the following matters, which are expressly excluded from the scope of this Agreement:

(i) any amendment or repeal of any provision of, or the addition of any provision to, the Company's Articles of Incorporation to the extent such action would adversely alter or change the preferences, rights, or privileges of the Series E Preferred in a way that does not alter or change in a substantially similar manner the preferences, rights, or privileges of all of the other outstanding classes or series of Preferred Stock or otherwise disadvantage disproportionately the holders of Series E Preferred;

(ii) any amendment or repeal of any provision of, or the addition of any provision to, the Company's Articles of Incorporation to the extent such action would adversely alter or change the preferences, rights, or privileges of the Series E Common Stock in a way that does not alter or change in a substantially similar manner the preferences, rights, or privileges of all of the other outstanding classes or series of Common Stock or otherwise disadvantage disproportionately the holders of Series E Common Stock;

(iii) any increase or decrease in the authorized number of shares of Series E Preferred or Series E Common Stock;

(iv) the authorization, creation or issuance of any shares of (A) Preferred Stock or securities convertible into Common Stock prior or superior to the Series E Preferred as to dividends, distributions, conversion rights, redemption rights or liquidation preference, or (B) Common Stock prior or superior to the Series E Preferred or Series E Common Stock as to dividends, distributions, redemption rights or liquidation preference;

(v) any increase in the rights, preferences, or number of authorized shares of any existing class or series of (A) Preferred Stock that, after giving effect to the amendment, has rights or preferences with respect to dividends, distributions, conversion rights, redemption rights or liquidation preference that are prior or superior to the Series E Preferred; or (B) Common Stock that, after giving effect to amendment, has rights or preferences with respect to dividends, distributions, conversion rights, redemption rights or liquidation preference that are prior or superior to the Series E Common Stock;

(vi) any merger, consolidation or statutory share exchange where (A) the conversion ratio or exchange rate, as applicable, is not equal in value on an as-if-converted-to-common stock basis for all shareholders or (B) any holder of Series E Preferred or Series E Common Stock is required to make any representation or warranty, other than representations and warranties required by

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all shareholders, under the definitive agreement with respect to such merger, consolidation or share exchange;

(vii) any amendment that would cancel or otherwise affect rights to distributions or dividends on all or part of the Series E Preferred in a way that does not alter or change in a substantially similar manner the

preferences, rights, or privileges of all of the other outstanding classes or series of Preferred Stock or otherwise disadvantage disproportionately the holders of Series E Preferred;

(viii) any amendment that would cancel or otherwise affect rights to distributions or dividends on all or part of the Series E Common Stock in a way that does not alter or change in a substantially similar manner the preferences, rights, or privileges of all of the other outstanding classes or series of Common Stock or otherwise disadvantage disproportionately the holders of Series E Common Stock;

(ix) in those situations where holders of Series E Preferred do not vote as a separate series, any transaction in which such holders intend to abstain or not vote in favor of a proposed transaction in order to exercise their dissenters' rights, except in a transaction where the exercise by the holders of Series E Preferred of their dissenters' rights would cause the transaction not to qualify for pooling-of-interests accounting treatment and such qualification is a requirement of the transaction; provided, however, that, in the event that a holder of Series E Preferred would otherwise have elected to exercise dissenters' rights with respect to such a pooling-of-interests transaction, the Company shall cause all parties to such transaction to agree to register under the Securities Act of 1933, as amended, all outstanding shares of Series E Preferred as soon as such registration is permissible legally and in accordance with the accounting principles with respect to pooling-of-interests (e.g., immediately following one 30-day combined reporting period following the transaction); or

(x) in those situations where holders of Series E Common Stock, if any, do not vote as a separate series, any transaction in which such holders intend to abstain or not vote in favor of a proposed transaction in order to exercise their dissenters' rights, except in a transaction where the exercise by the holders of Series E Common Stock of their dissenters' rights would cause the transaction not to qualify for pooling-of-interests accounting treatment and such qualification is a requirement of the transaction; provided, however, that in the event that a holder of Series E Common Stock would otherwise have elected to exercise dissenters' rights with respect to such a pooling-of-interests transaction, the Company shall cause all parties to such transaction to agree to register under the Securities Act of 1933, as amended, all outstanding shares of Series E Common Stock as soon as such registration is permissible legally and in

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accordance with the accounting principles with respect to pooling-of-interests (e.g., immediately following one 30-day combined reporting period following the transaction);

Microsoft hereby agrees, with respect to each matter submitted to the shareholders for a vote in which the holders of nonvoting shares have voting rights under the Washington Business Corporation Act or other applicable law, to vote the Shares as recommended by the Company's Board of Directors.

(b) Microsoft hereby agrees to vote the Shares in favor of adoption of the Amended and Restated Articles in the form attached as Exhibit J to the Purchase Agreement.

2. Irrevocable Proxy. Microsoft hereby irrevocably appoints Rob Glaser, but if he is unable to act, Bruce Jacobsen, as its proxy, with full power of substitution, to execute written consents and vote all Shares with respect to, the matters as provided in Section 1. Microsoft acknowledges that this proxy is

coupled with an interest pursuant to RCW 23B.07.220(4)(e) and is therefore irrevocable during the term of this Agreement.

3. Termination. This Agreement shall terminate upon the earlier of:

- (a) the date upon which Microsoft no longer holds any Shares;
- (b) upon conversion of the Series E Preferred into voting common stock; and
- (c) ten (10) years after the Effective Date.

4. Rights and Obligations Upon Transfer. All transferees of Microsoft will be bound by the terms of this Agreement. Microsoft shall not sell, assign, transfer, pledge, hypothecate, mortgage or dispose of, by gift or otherwise, any Shares unless the person or entity so acquiring such Shares shall first agree in writing, delivered to the Company, to be bound by all the terms of this Agreement with respect to such Shares to the same extent as is Microsoft. A transferee shall be bound by this Agreement only with respect to Shares received from Microsoft. It is expressly agreed by the parties that any sale or transfer made contrary to the provisions of this Section 4 shall be null and void.

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5. Legend.

(a) Each certificate representing any Shares held by Microsoft or any transferee, or as to which it has voting power, shall bear the following legend (the "Legend") until such time as the shares represented thereby are no longer subject to the provisions of this Agreement:

THESE SHARES ARE SUBJECT TO CERTAIN VOTING RESTRICTIONS BY VIRTUE OF A PROXY AND VOTING AGREEMENT, AS AT ANY TIME AMENDED IN ACCORDANCE WITH THAT CERTAIN PROXY AND VOTING AGREEMENT, A COPY OF WHICH IS ON FILE AT THE OFFICES OF THE COMPANY.

(b) The Company agrees that, during the term of this Agreement, it will not remove, and will not permit to be removed (upon registration of transfer, reissuance or otherwise), the Legend from any such certificate and will place or cause to be placed the Legend on any new certificate issued to represent Shares theretofore represented by a certificate carrying the Legend.

6. Specific Enforcement. The Company and Microsoft acknowledge and agree that the Company and Microsoft will each be irreparably damaged if this Agreement is not specifically enforced. Upon a breach or threatened breach of the terms, covenants and/or conditions of this Agreement by either the Company or Microsoft, Microsoft or the Company, as applicable, shall, in addition to all other remedies, be entitled to a temporary or permanent injunction, without showing any actual damage, and/or a decree for specific performance, in accordance with the provisions of this Agreement.

7. Miscellaneous. The provisions of Section 7 of the Purchase Agreement are incorporated in this Agreement by this reference as of they were set forth in this Agreement; provided, that this Agreement may be amended only by a written instrument executed by both the Company and Microsoft.

IN WITNESS WHEREOF, the undersigned have executed this Limited Proxy and Voting Agreement as of the date set forth above.

MICROSOFT CORPORATION

By /s/ Greg Maffei

Its Vice President, Corporate
Development; Treasurer

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PROGRESSIVE NETWORKS, INC.

By /s/ Rob Glaser

Its CEO

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EXHIBIT 10.16

PROGRESSIVE NETWORKS, INC.

SHAREHOLDERS' BUY-SELL AGREEMENT

dated

March 31, 1995

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SHAREHOLDERS' BUY-SELL AGREEMENT

THIS SHAREHOLDERS' BUY-SELL AGREEMENT (this "Agreement") is entered into effective as of the 31st day of March, 1995, by and among Progressive Networks, Inc., a Washington corporation (the "Company"), Robert Glaser (the "Founder"), and the holders of shares of common stock in the Company acquired (i) by exercising options under the Company's 1995 Stock Option Plan, as hereafter amended, or under any other stock option plan or similar compensation plan adopted after the date hereof by the Company, or (ii) pursuant to a stock bonus, warrant or other form of security issued or granted for services rendered to the Company (together, the "Shares"), who sign a "Consent to Be Bound" by this Agreement in the form of attached Exhibit A and who shall be listed on attached Exhibit B. The Founder and the persons listed on attached Exhibit B shall be referred to, collectively, as the "Shareholders" and, individually, as a "Shareholder."

RECITALS

The Shareholders and the Company believe it is in their and the Company's best interests to restrict the free transferability of the Shares to assure continuity in the control and management of the corporation.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. GENERAL RESTRICTION ON TRANSFER. No Share or any interest therein shall be validly sold, assigned, awarded, pledged, encumbered, confirmed, or otherwise transferred, for consideration or otherwise, whether voluntarily, involuntarily, or by operation of law (collectively, a "Transfer"), except in accordance with the provisions of this Agreement. A purported transferee of a Transfer not made in accordance with the provisions of this Agreement shall not be recognized as a shareholder of the Company for any purpose whatsoever. A Transfer or attempt to effect a Transfer subject to the provisions of this Agreement shall be deemed to occur whenever any interest in any Share is transferred or is attempted to be transferred, voluntarily, involuntarily, or by operation of law, irrespective of whether any change in the record ownership of the Shares occurs.

2. EXEMPT TRANSFERS.

2.1 TRANSFERS TO COMPANY. Notwithstanding anything in this Agreement to the contrary, a Shareholder may effect a Transfer of all or any portion of his or her Shares to the Company.

2.2 TRANSFERS TO FAMILY. Notwithstanding anything in this Agreement to the contrary, a Shareholder may, during his life, effect a Transfer of all or any portion of his

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or her Shares to his or her spouse, or his or her lineal ancestors or descendants, or a trustee of a trust for the exclusive benefit of such spouse

or ancestors or descendants (the "Permitted Transferees," who would then become "Shareholders"), provided that the transferee shall execute a "Consent to be Bound" by this Agreement in the form of attached Exhibit A.

3. TRANSFERS.

3.1 OFFER NOTICE. If any Shareholder (the "Transferor") desires to effect a Transfer of any or all of his or her Shares to any person other than a Permitted Transferee or the Company pursuant to a bona fide written offer, the Transferor shall (a) give notice to the Company (an "Offer Notice") specifying the name, address and telephone number of the proposed transferee, the number of Shares proposed to be transferred (the "Offered Shares"), the price per Share proposed to be paid by the proposed transferee for the Offered Shares (the "Offered Price"), and all other terms and conditions of the proposed Transfer; (b) provide a legible photocopy of the written offer, and (c) provide such additional information about the proposed transferee as the Company or any Remaining Shareholder (defined below) may reasonably request, which information shall be provided within ten (10) days of receipt of the request.

3.2 OFFER TO SELL. Giving an Offer Notice to the Company shall constitute an offer by the Transferor on the date the Offer Notice is received by the Company (the "Offer Date") to sell the Offered Shares to the Company and/or the other Shareholders (the "Remaining Shareholders") at a purchase price per Share (the "Purchase Price") equal to the Offered Price and in the manner provided in Section 3.3. If the Offered Shares are proposed to be sold for consideration other than solely cash, the Offered Price shall be deemed to be the sum of (a) the fair market value of the consideration other than cash offered for the Offered Shares as determined in good faith by the Board of Directors of the Company, and (b) any cash consideration so offered.

3.3 SHARE PURCHASE PROCEDURES. Each purchase of Shares by the Company and/or the Remaining Shareholders pursuant to this Section 3 shall be made as follows:

3.3.1 The Company shall have the first right to purchase any or all of the Offered Shares. It shall exercise this right by giving written notice to the Transferor (the "Company Acceptance Notice") within forty-five (45) days (the "Company Acceptance Period") after the Offer Date, stating the number of Offered Shares that the Company agrees to purchase. Delivery of the Company Acceptance Notice to the Transferor shall create a binding contract between the Company and the Transferor for the purchase and sale, at the Purchase Price and on the terms and conditions described in Section 4, of the number of Shares specified in the Company Acceptance Notice.

3.3.2 No later than ten (10) days after the expiration of the Company Acceptance Period, the Company shall provide each of the Remaining Shareholders with a copy of the Offer Notice and inform them of the number of Offered Shares the Company has

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agreed to purchase. If the Company does not exercise its right to purchase all of the Offered Shares, each of the Remaining Shareholders shall then have the right to purchase those Offered Shares that the Company has elected not to purchase (the "Remaining Offered Shares") which are allocated to the Shareholder pursuant to Section 3.3.4.

3.3.3 Within forty-five (45) days after the expiration of the Company Acceptance Period (the "Shareholder Acceptance Period"), each Remaining Shareholder desiring to purchase all or part of the Remaining Offered

Shares (an "Accepting Shareholder") shall deliver to the Company notice of his or her acceptance of the offer (the "Shareholder Acceptance Notice"), specifying the number of such Shares that he or she agrees to purchase. Delivery of a Shareholder Acceptance Notice to the Company shall create a binding contract between the Accepting Shareholder and the Transferor for the purchase and sale, at the Purchase Price and on the terms and conditions described in Section 4, of that portion of the Remaining Offered Shares allocated to such Accepting Shareholder under Section 3.3.4.

3.3.4 Each Accepting Shareholder shall first have allocated to him or her such portion of the Remaining Offered Shares as the number of Shares of Capital Stock (as defined below) held by such Shareholder bears to the total number of Shares of Capital Stock held by all of the Accepting Shareholders (a Shareholder's "Pro Rata Portion"), but limited by the number of Shares specified in his or her Shareholder Acceptance Notice. If any Accepting Shareholder agrees to purchase less than his or her Pro Rata Portion of the Remaining Offered Shares, each Accepting Shareholder who agrees to purchase more than his or her Pro Rata Portion of the Remaining Offered Shares shall have allocated to him or her such additional portion of the Remaining Offered Shares not so allocated under the preceding sentence as the number of Shares of Capital Stock held by such Accepting Shareholder bears to the total number of Shares of Capital Stock held by all Accepting Shareholders who agree to purchase more than their Pro Rata Portion of the Remaining Offered Shares, but again limited by the number of Shares specified in his or her Shareholder Acceptance Notice. This procedure shall continue until the Remaining Offered Shares have been allocated among the Accepting Shareholders to the extent specified in their respective Shareholder Acceptance Notices. "Shares of Capital Stock" shall mean the number of shares of common stock held by one or more Shareholders plus that number of shares of common stock into which any shares of preferred stock then held by the Shareholder or Shareholders could be converted at that time under the terms of the Company's Articles of Incorporation, as amended from time to time.

3.3.5 If the Company and the Remaining Shareholders have not agreed to purchase all of the Offered Shares, the Transferor may effect a Transfer of any remaining Offered Shares to the proposed transferee at any time within sixty (60) days after the expiration of the Shareholder Acceptance Period at the Offered Price and on the terms and conditions stated in the Offer Notice only, provided that the proposed transferee shall have first executed a "Consent to Be Bound" by this Agreement in the form of attached Exhibit A.

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4. TERMS OF SALE AND CLOSING. The Transfer of Offered Shares to the Company and/or to Accepting Shareholders (collectively, the "Purchasers") shall be consummated on the terms and conditions set forth in the Offer Notice on a date set by the Company (the "Closing Date"), which date shall be not less than fifteen (15) nor more than thirty (30) days after expiration of (a) the Company Acceptance Period if the Company is purchasing all of the Offered Shares; or (b) the Shareholder Acceptance Period if the Company and/or the Remaining Shareholders are purchasing all or a portion of the Offered Shares. At least fourteen (14) days prior to the Closing Date, the Company shall give notice to the Transferor and all the Remaining Shareholders, specifying the number, if any, of the Offered Shares to be purchased by the Company and each of the Remaining Shareholders and specifying the Closing Date.

5. OTHER EVENTS CONSTITUTING AN OFFER TO TRANSFER SHARES.

5.1 REPURCHASE EVENTS. Each of the following events or conditions shall constitute a Repurchase Event:

- (a) the filing of a petition in bankruptcy by or against the Shareholder (unless the petition is dismissed within sixty (60) days);
- (b) any general assignment by the Shareholder for the benefit of his or her creditors;
- (c) any decree of divorce, dissolution or separate maintenance, or any property settlement or separation agreement wherein Shares are awarded to a Shareholder's former or separated spouse or partner who is not also a Shareholder (a "Former Spouse");
- (d) the termination of employment for "cause" of any Shareholder who is also an employee of the Company; provided, however, that the Company's board of directors, in its sole discretion, may determine that the termination of employment for "cause" of any Shareholder who is also an employee of the Company shall not be considered a Repurchase Event ("employment" shall include full time employment, part time employment, or service as a consultant, on an advisory board, or on the Company's board of directors; termination of employment for "cause" shall have the meaning given that term in any employment agreement or consulting agreement to which the Shareholder is a party or, in the absence thereof, the conduct that shall constitute "cause" for purposes of this Agreement shall be insubordination, dishonesty, incompetence, moral turpitude or the refusal to perform the individual's duties and responsibilities for any reason other than illness or incapacity);
- (e) any Non-complying Transfer (defined in Section 7); or
- (f) any other event, other than a Transfer pursuant to Section 2, which, were it not for the provisions of this Agreement, would cause any such Shares, or any interest therein, to be sold, assigned, awarded, confirmed or otherwise transferred, for

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consideration or otherwise, to any person, whether voluntarily, involuntarily or by operation of law under circumstances that would not bring such event within Section 3 of this Agreement.

5.2 PURCHASE OF SHARES. Upon the occurrence of a Repurchase Event, as defined in Section 5.1 (except the Repurchase Event described in Section 5.1(c)), the Company and secondarily the Remaining Shareholders shall have the right to purchase such Shareholder's Shares on the same terms and conditions as if such Shareholder had made an offer to sell such Shares pursuant to Section 3 at a price per Share equal to the Determined Price established pursuant to Section 6. Upon the occurrence of the Repurchase Event specified in Section 5.1(c), first that Shareholder whose Former Spouse was awarded Shares, and then the Company and, after the Company, the Remaining Shareholders shall have the right to purchase any or all Shares owned, in whole or in part, by that Shareholder's Former Spouse on the same terms and conditions as if such Shareholder's Former Spouse made an offer to sell such Shares pursuant to Section 3 at a price per Share equal to the price per share at which the Shares were valued for purposes of the Former Spouse's property settlement or, if no value was ascribed to the Shares for purposes of the property settlement, the Determined Price established pursuant to Section 6.

5.3 OFFER NOTICE; OFFERED PRICE. Within thirty (30) days after the occurrence of a Repurchase Event, the Shareholder or his or her trustee in bankruptcy, personal representative, guardian, executor or administrator, as appropriate (the "Transferor"), shall give written notice to the Company and the other Shareholders (the "Remaining Shareholders") of such

event specifying the date of such event and describing in reasonable detail the nature of the event and the number of Shares affected. The price per Share shall be as specified in the last sentence of Section 5.2 or the Determined Price established pursuant to Section 6, as appropriate. Such notice shall be deemed to be the Offer Notice for purposes of Section 3, the number of Shares affected shall be deemed to be the Offered Shares, and such Determined Price shall be deemed to be the Offered Price. If the Company or any Remaining Shareholder has not received this notice upon the expiration of the thirty-(30-) day period, any Shareholder or director of the Company who has knowledge of such event may give notice to the Company and the Remaining Shareholders at any time after the end of such period, and the notice shall be deemed to be the Offer Notice.

5.4 PAYMENT FOR THE SHARES. The Purchase Price for the Offered Shares for purposes of this Section 5 shall be paid in five (5) equal annual installments, together with interest on the unpaid balance compounded semi-annually at a per annum rate equal to the minimum annual rate of interest necessary to avoid the imputation of interest under federal income tax laws. The first installment of principal and interest shall be paid on the last day of the fiscal year in which the Repurchase Event occurred. Interest shall accrue commencing on the Closing Date as defined in Section 4. The unpaid balance of the Purchase Price for the Offered Shares may be prepaid in whole or in part at any time without penalty, and may be accelerated in the event of failure to pay any installment when due, in which case reasonable attorneys' fees and costs may also be recovered if any legal action for

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collection is commenced. The other terms and conditions and procedures for transferring Offered Shares shall be determined in accordance with Section 4.

6. DETERMINED PRICE.

The Determined Price for each Share shall be calculated as follows:

6.1 Within sixty (60) days of the Repurchase Event, the Company and the Transferor shall attempt to agree on the Determined Price.

6.2 If the Company and the Transferor are unable to agree upon the Determined Price within such period, the Determined Price shall equal the Fair Market Value of the Transferor's Shares (as defined below), as established by an independent qualified appraiser, divided by the number of Shares to be transferred. The "Fair Market Value of the Transferor's Shares" means the cash or cash equivalent price at which those Shares would have changed hands between a willing buyer and a willing seller on the date of the Repurchase Event, both being adequately informed of the relevant facts and neither being compelled to buy or sell (it is the intent of the parties that in determining the Fair Market Value of the Transferor's Shares, all appropriate factors will be considered, including, but not limited to, minority discounts and discounts for lack of marketability).

The Company and the Transferor shall attempt to agree upon such an appraiser, and, if an appraiser is agreed upon in writing by the parties, the resulting calculation shall be final and binding. The costs of such appraiser shall be divided evenly between the Company and the Transferor.

6.3 If the Company and the Transferor are unable to agree upon a single appraiser within ninety (90) days of the Repurchase Event, then either party shall be entitled to notify the other in writing of such party's institution of the following appraisal procedure:

Within ten (10) days of one party's giving notice to the other that he or she is instituting the appraisal process, each party shall notify the other in writing of his or her appointed qualified independent appraiser (each, a "Party Appraiser"), which appraiser must be experienced in the valuation of closely held corporations and of the type of business engaged in by the Company. The two appraisers shall select a third qualified independent appraiser (the "Independent Appraiser") within thirty (30) days of the appointment of the second Party Appraiser. If the two Party Appraisers cannot agree on an Independent Appraiser within the thirty (30) day period, the Independent Appraiser shall be selected pursuant to the American Arbitration Association's Commercial Arbitration Rules, Sections 13 and 15, as such sections may be amended or succeeded from time to time. Each Party Appraiser shall complete and submit to the Independent Appraiser a calculation of the Determined Price, pursuant to Section 6.1, within sixty (60) days of the appointment of the first Party Appraiser. The Independent Appraiser shall select as the Determined Price one of the two calculations of the Determined Price submitted by the Party Appraisers. The calculation of the Determined Price selected by the Independent Appraiser shall be final and

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binding and shall constitute the Determined Price. Each party shall bear the costs associated with the appraiser he or she selects and shall share equally the costs of the Independent Appraiser. If either party fails to appoint an appraiser within the allotted time period, or if either appraiser fails to complete the calculation within the allotted time period, the calculation of the appraiser appointed by the other party shall be final and binding and shall be deemed to constitute the Determined Price.

7. EFFECT OF NON-COMPLYING TRANSFER. If any Transfer in violation of this Agreement shall be attempted, or if any involuntary or other purported Transfer by law of any Shares occurs or is attempted (each, a "Non-complying Transfer"), it shall be void and upon presentation for transfer the Company shall not give effect to such purported Transfer. The failure of the Company or its Shareholders to purchase, pursuant to Section 5, Shares which are the subject matter of a Non-complying Transfer shall not be construed as permission to proceed with such Transfer. In addition, any Shareholder or the Company may institute and maintain a proceeding to compel specific performance of this Agreement by the Shareholder attempting such Transfer, it being agreed that the other Shareholders not in default and the Company do not have an adequate remedy at law.

8. CONFIDENTIALITY.

Each Shareholder agrees to hold in strict confidence all information concerning or related to the Company ("Confidential Information") and shall not disclose any Confidential Information to third parties unless such Confidential Information is already generally publicly known through no fault of the Shareholder.

9. SPOUSES.

9.1 SPOUSAL CONSENT. The execution of this Agreement by a Shareholder's spouse who is not also a Shareholder (a "Spouse") signifies that he or she authorizes, ratifies, confirms and approves the execution of this Agreement by the Shareholder, and acknowledges that any interest he or she now owns or hereafter acquires in the Shares, pursuant to community property laws or otherwise, shall be subject to the terms of this Agreement as if such interests constituted Shares and as if such Spouse were a Shareholder. He or she further authorizes and appoints his or her spouse as his or her

attorney-in-fact to exercise all rights he or she may have with respect to the ownership of any Shares, including the encumbrance and disposition of such Shares. Except to the extent specifically provided in this Section 9, the Spouse of a Shareholder shall not be considered a Shareholder.

9.2 FUTURE SPOUSES. If a Shareholder marries or remarries after executing this Agreement, the Shareholder shall have his or her Spouse execute a "Consent to Be Bound" by this Agreement in the form of attached Exhibit A within a reasonable time, not to exceed thirty (30) days, following the marriage.

9.3 AGREEMENT DRAFTED BY COUNSEL TO THE COMPANY. Each Spouse, by signing this Agreement or a "Consent to Be Bound" by this Agreement, acknowledges that he

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or she (a) has read and understood this Agreement, and understands the effect of this Section 9, (b) has had the opportunity to obtain separate and independent counsel of his or her own choosing prior to signing this Agreement or a "Consent to Be Bound" by this Agreement and has either exercised or waived such right, and (c) understands that this Agreement has been drafted by attorneys for the Company.

10. INDEPENDENT COUNSEL. Each Shareholder understands that this Agreement has been drafted by attorneys for the Company and acknowledges that he or she has had the opportunity to obtain separate and independent counsel of his or her own choosing prior to signing this Agreement or a "Consent to Be Bound" by this Agreement and has either exercised or waived such right.

11. MISCELLANEOUS PROVISIONS.

11.1 FURTHER ASSURANCES. Each party agrees to perform any further acts and to execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement. The obligation imposed by this Section 11.1 shall be specifically enforceable.

11.2 ATTORNEY'S FEES. In the event it is necessary for any party to engage an attorney to enforce the terms of this Agreement, regardless of whether a lawsuit or arbitration is commenced, the prevailing party shall, in addition to any other relief, be entitled to recover from the party in default reasonable attorney's fees and costs, including any on appeal.

11.3 CONSTRUCTION AND VENUE. It is agreed and understood that this Agreement is made in accordance with and shall be interpreted under the laws of the State of Washington. If any action or other proceeding be brought on or in connection with this Agreement, the venue of said action or other proceeding shall be in King County, Washington.

11.4 NUMBER AND GENDER. Unless some other meaning or intent is apparent from the context, the plural shall include the singular and vice versa, and masculine, feminine and neuter words shall be used interchangeably.

11.5 SECTION HEADINGS. Section headings have been included solely for convenience and shall not be considered a part of this Agreement for any purpose relating to the interpretation or construction of its terms.

11.6 LEGEND ON SHARES. Upon execution of this Agreement, Shareholders shall deliver all certificates representing Shares to the Company

to have placed upon them a legend in substantially the following form:

The Shares represented by this certificate are subject to the terms of a Shareholders' Buy-Sell Agreement, as such agreement may

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be amended from time to time as provided in the agreement, a copy of which may be examined at the principal office of the corporation. All terms and provisions of the Shareholders' Buy-Sell Agreement are hereby incorporated by reference and made a part of this certificate.

11.7 AMENDMENTS. The provisions of this Agreement may be altered, amended or repealed, in whole or in part, only upon the written consent of the Company and the Shareholders holding two-thirds (2/3) of the outstanding Shares of Capital Stock (as defined in Section 3.3.4).

11.8 SUCCESSORS AND ASSIGNS. This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective heirs, personal representatives, successors and assigns.

11.9 TESTAMENTARY PROVISIONS. Each Shareholder agrees to insert in his or her will a direction and authorization to the executor to fulfill and comply with the provisions of this Agreement.

11.10 SEVERABILITY. Should any provision or portion of this Agreement be held unenforceable or invalid for any reason, the remaining provisions and portions shall be unaffected by such holding.

11.11 ENTIRE AGREEMENT. This instrument constitutes the sole and entire agreement of the parties with respect to its subject matter and correctly sets forth the rights, duties and obligations of each as to the other with respect to the subject matter as of its date. Any prior agreements, promises, negotiations or representations concerning its subject matter not expressly set forth in this Agreement are of no force or effect.

11.12 TERMINATION. This Agreement shall terminate on the written agreement of the Company and the Shareholders holding two-thirds (2/3) of the outstanding Shares of Capital Stock (as defined in Section 3.3.4); upon the dissolution, bankruptcy or insolvency of the Company; or at such time as only one Shareholder (other than the Founder) remains, after the Shares of all other Shareholders have been transferred, redeemed or purchased.

11.13 NOTICES. Any notice or other communication required or permitted to be given under this Agreement shall be in writing, and notice shall be deemed given when delivered personally to, or deposited in the United States mail, first-class, postage prepaid, addressed to the Company or the Founder at 616 First Avenue, Suite 701, Seattle, WA 98104, or to the Shareholder at the Shareholder's address as set forth on attached Exhibit B. Any party may at any time give notice in writing to the other parties of a change of his or her address for purposes of this Section 11.13.

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11.14 COUNTERPARTS. This Agreement may be executed by the

parties in one or more counterparts, all of which taken together shall constitute one instrument.

11.15 CONFIRMATION OF DEFINITION OF SHARES. The parties expressly acknowledge and confirm that, as noted above, this Agreement binds only those Shares of Shareholders acquired (a) pursuant to the exercise of options granted under the Company's 1995 Stock Option Plan, as hereafter amended, or under any other stock option plan or similar compensation plan adopted after the date hereof by the Company, or (b) pursuant to a stock bonus, warrant or other form of security issued or granted for services rendered to the Company.

IN WITNESS WHEREOF, the parties have executed this Shareholders' Buy-Sell Agreement effective as of the date first written above.

"COMPANY"

PROGRESSIVE NETWORKS, INC.

By /s/ Robert Glaser

Robert Glaser, President

"FOUNDER"

/s/ Robert Glaser

Robert Glaser

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Exhibit 10.17

VOTING AGREEMENT

This Voting Agreement (the "Agreement") is entered into effective as of the 25th day of September, 1997, by and among Real Networks, Inc., a Washington corporation (the "Company"), Robert Glaser ("Glaser"), Accel IV L.P., Mitchell Kapor and Bruce Jacobsen. Accel IV L.P. and Messrs. Kapor and Jacobsen are referred to collectively as the "Shareholders":

RECITAL

The Shareholders, the Company and Glaser desire to enter into this Voting Agreement to provide that upon the closing of the Company's planned initial public offering the Shareholders will vote all of the shares of stock of the Company now owned or hereafter acquired by the Shareholders for Glaser as a director of the Company.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

1. Election of Directors.

(a) Each of the Shareholders agree to vote all shares of preferred stock of the Company ("Preferred Stock") and common stock of the Company ("Common Stock") now owned or hereafter acquired by such Shareholder in each and every election of Glaser to the Board of Directors of the Company, provided, however; that this provision shall only become effective upon the closing of an initial public offering by the Company of its stock pursuant to an effective registration statement under the Securities Act of 1933, as amended. The Shareholders shall not vote for the removal of Glaser as a director of the Company.

(b) The Company agrees to take all actions required to ensure that the rights given to the parties hereunder are effective and that they enjoy the benefits thereof. The Company will at all times in good faith assist in the carrying out of the provisions of this Agreement and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the parties hereunder against impairment.

2. Termination. This Agreement, and the respective rights and obligations of the parties hereto, shall terminate only in the event of the death of Glaser.

3. Notices. All notices, requests, consents, and demands shall be in writing and shall be deemed to have been sufficiently given if sent, postage prepaid, by registered or certified mail, return receipt requested, or by personal delivery to the Company at Real Networks, Inc., 1111 Third Avenue, Suite 500, Seattle, Washington 98101, Attention: President; to Glaser at 1111 Third Avenue, Suite 500, Seattle, Washington 98101; and to the

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Shareholders at the addresses listed in on the signature page hereto; or to such other address as may from time to time be furnished in writing to the other parties hereto.

4. Specific Performance. The parties agree that their rights under this Agreement are unique and cannot be satisfied by the award of monetary damages. Accordingly, the parties shall, in addition to any other remedies available to them at law or in equity, have the right to enforce their rights hereunder by

actions for specific performance to the extent permitted by law.

5. Entire Agreement: Amendments and Waivers. This Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subjects herein. This Agreement may only be amended if agreed to in writing by the Company, Glaser, and the Shareholders.

6. Transferees and Assignment. This Agreement and the rights and obligations of the parties shall inure to the benefit of, and be binding upon, successors and assigns of the Company. The obligations of the Shareholders hereunder are personal obligations and any transferee of shares of Common Stock or Preferred Stock from the Shareholders are not bound by, or subject to the terms of, this Agreement.

7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Washington without giving effect to its conflict of laws provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

REALNETWORKS, INC.

By: /s/ MARK KLEBANOFF

Its: CFO

/s/ ROBERT GLASER

Rob Glaser

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/s/ MITCHELL KAPOR

Mitchell Kapor
c/o Kapor Enterprises
238 Main Street
Cambridge, MA 02142

/s/ BRUCE JACOBSEN

Bruce Jacobsen
c/o Real Networks, Inc.
1111 Third Avenue, Suite 500
Seattle, WA 98101

ACCEL IV L.P.

Accel IV Associates L.P.

Its: General Partner

/s/ JAMES BREYER

By: -----
General Partner

[Signature Page To Voting Agreement]

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EXHIBIT 10.18

This Agreement (this "Agreement") is entered into as of September 26, 1997 by and between Progressive Networks, Inc., a Washington corporation the name of which is to be changed to RealNetworks, Inc. (the "Company") and Robert Glaser, the founder, principal shareholder, Chairman of the Board, Chief Executive Officer and a Director of the Company ("Mr. Glaser").

RECITALS

A. Mr. Glaser owns approximately 14,000,000 shares of preferred stock of the Company, each of which shares is entitled to 15 votes.

B. Mr. Glaser, in consideration in part for the Company's covenants under this Agreement, has agreed that the Company's Articles of Incorporation may be amended to cause his shares of preferred stock to be converted (the "Conversion") upon the closing of the Company's initial public offering, (as defined in the Company's Amended and Restated Articles of Incorporation, the "Qualified Public Offering") into shares of Common Stock, each share of which would be entitled to one vote.

C. Mr. Glaser will, as a result of the Conversion and the Qualified Public Offering, dilute his ability to direct the Company as a shareholder, and give up a significant degree of influence as a shareholder over a change of control of the Company. Mr. Glaser's investment in the Company has grown over 100 times in value from inception through September 24, 1997, and the dilution to Mr. Glaser's ability to prevent a change of control could, in his judgment, damage his continued return on investment.

NOW THEREFORE, in consideration of Mr. Glaser's significant economic concessions described above, and the mutual covenants and agreements set forth in this Agreement, and Mr. Glaser's consent to the Conversion, Mr. Glaser and the Company agree as follows:

1. Acknowledgment of Concession in Value

The Company acknowledges and agrees that Mr. Glaser has given up significant economic value in agreeing to the Conversion, and the diminution of his voting rights.

2. Specific Enforcement

In addition to any and all rights as a shareholder of the Company, Mr. Glaser shall have a direct contractual right to require the Company to abide by and perform all terms of Article 7.1 (Strategic Transactions Committee) of the Company's Articles of Incorporation (the "Strategic Transactions Article"). The Company represents that its violation of or failure to abide by the Strategic Transactions Article will violate this Agreement and will cause Mr. Glaser to suffer direct irreparable harm for which there be no adequate legal remedy. The parties hereto therefore acknowledge and agree that immediate injunctive relief, including but not limited to specific enforcement of this Agreement, is an appropriate and necessary remedy for violation of the Agreement, and that Mr. Glaser shall have the right to obtain such judicial relief.

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3. Election of Directors

So long as Mr. Glaser shall own at least 3,500,000 shares of Common Stock (such number of shares to be equitably adjusted to reflect stock splits, stock dividends and recapitalizations), the Company shall use its best efforts, as permitted under applicable law, to cause Mr. Glaser to be nominated to, not removed from, and elected to the Company's board of directors.

4. Miscellaneous

Nothing in this Agreement is intended to require or shall be construed as requiring the Company to take or fail to take any action in violation of applicable law. The Company's inability to perform its obligations under this Agreement pursuant to court order (other than any such order obtained at the request of the Company) shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable, as provided in this Section 4. If a court of competent jurisdiction should decline to enforce any of the provisions of this Agreement, the Company and Mr. Glaser agree that such provisions shall be deemed to be reformed to provide Mr. Glaser with the benefits intended by the partner to the maximum extent permitted by the other portions of this Agreement that are not unenforceable, and the remainder of this Agreement shall not be affected, and its Agreement shall continue in force. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington. This Agreement shall be binding up Mr. Glaser and upon the Company, its successors and assigns, and shall inure to the benefit of the Company, its successors and assigns. No amendment, modification, termination or cancellation of this Agreement shall be effective unless in writing signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective as of the day and year first set forth above.

PROGRESSIVE NETWORKS, INC.

/s/ Bruce Jacobsen

By _____

ROBERT GLASER

/s/ Robert Glaser

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EXHIBIT 10.19

PROGRESSIVE NETWORKS, INC.

SECOND AMENDED AND RESTATED
INVESTORS' RIGHTS AGREEMENT

July 21, 1997

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Exhibit A: Holders of Series B Preferred Stock

Exhibit B: Holders of Series C Preferred Stock

Exhibit C: Holders of Series D Preferred Stock

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SECOND AMENDED AND RESTATED
INVESTORS' RIGHTS AGREEMENT

This Second Amended and Restated Investors' Rights Agreement (this "Agreement") is entered into effective as of the 21st day of July, 1997, by and among PROGRESSIVE NETWORKS, INC., a Washington corporation (the "Company"), the holders of Series B Preferred Stock ("Series B Preferred") identified on attached Exhibit A (the "Series B Holders"), the holders of Series C Preferred Stock ("Series C Preferred") identified on attached Exhibit B (the "Series C Holders"), and the holders of Series D Preferred Stock ("Series D Preferred") identified on attached Exhibit C (the "Series D Holders"), and Microsoft Corporation, a Washington corporation ("Microsoft").

RECITALS

A. Microsoft and the Company are parties to that certain Series E Preferred Stock Purchase Agreement dated July 21, 1997 (the "Series E Agreement"), under which certain of the obligations of the Company and Microsoft are conditioned upon the execution and delivery by Microsoft and the Company of this Agreement.

B. The Series D Holders, the Series C Holders, Series B Holders and the Company are parties to that certain Investors Rights Agreement dated November 27, 1996 (the "D Rights Agreement"), and now wish to amend and restate the D Rights Agreement to admit Microsoft as a party.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. REGISTRATION RIGHTS

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

(a) "Exchange Act" shall mean the Securities Exchange Act of

1934, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time.

(b) "Exempt Registrations" shall mean registrations relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future, or registrations relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future.

(c) "Investors" shall mean investors who purchased shares pursuant to the Series B Preferred Stock Purchase Agreement by and among the Series B Holders and the Company dated April 8, 1995 (the "Series B Agreement"), the Series C Preferred Stock Purchase Agreement by and among the Series C Holders and the Company dated October 26, 1995 (the "Series C Agreement"), the Series D Preferred Stock Purchase

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Agreement by and among the Series D Holders and the Company dated November 27, 1996 (the "Series D Agreement"), and/or the Series E Agreement and persons or entities who received any of such shares from such Investors.

(d) "Rule 144" shall mean Rule 144 as promulgated by the Securities and Exchange Commission (the "Commission") under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(e) "Rule 145" shall mean Rule 145 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(f) "Securities Act" shall mean the Securities Act of 1933, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time, corresponding to such act.

1.2 Registrable Securities.

(a) Definition. The term "Registrable Securities" means (i) any common stock ("Common Stock") and other securities issued upon conversion of any Series B Preferred, Series C Preferred, Series D Preferred or Series E Preferred Stock (the "Series E Preferred") (including without limitation the Series C Preferred issuable upon exercise of those certain Series C Warrants, as defined in the Series C Agreement, the Series D Preferred issuable upon the exercise of those certain Series D Warrants, as defined in the Series D Agreement and the Series E Preferred issuable upon the exercise of that certain Series E Warrant, as defined in the Series E Agreement), (ii) any Common Stock and other securities issued upon exercise of those certain Series B Common Warrants, as defined in the Series C Agreement, or (iii) any securities issued with respect to the Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred or the Common Stock and other securities referred to in clauses (i) and (ii) by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization. For purposes of this Agreement, a person will be deemed to be a holder of Registrable Securities whenever such person has the right to acquire such Registrable Securities whether or not such acquisition has actually been effected. Registrable Securities, if transferred in accordance with Section 1.2(b), will remain Registrable Securities; provided, however, that Registrable Securities shall not include shares (a) registered under the Securities Act pursuant to an effective registration statement filed thereunder and disposed of in accordance with the registration statement covering them or (b) that may be publicly sold pursuant to Rule 144 under the Securities Act.

(b) Transfer of Registration Rights. The rights granted under this Section may be assigned or otherwise conveyed by any holder of Registrable

Securities, in compliance with federal and applicable state

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securities laws, to any transferee or assignee who, after such assignment or transfer, holds at least 50,000 shares of Registrable Securities (subject to appropriate adjustment for stock splits, stock dividends, combinations and other recapitalizations), provided that the Company is given written notice by such transferee at the time of or within thirty (30) days after said transfer, stating the name and address of said transferee and said transferee's agreement to be bound by the provisions of this Agreement. For the purposes of determining the number of shares of Registrable Securities held by a transferee or assignee, the holdings of a transferee or assignee who is (A) a shareholder, partner, retired partner, member, retired member or beneficiary of a Purchaser; (B) a spouse or child of a shareholder, partner, retired partner, member, retired member or beneficiary of a Purchaser; (C) a trust for the benefit of the persons set forth in (A) or (B) or for the issue of the persons set forth in (A) or (B); and (D) an entity (corporation, partnership, limited liability company or other juridical entity) of which at least 75 percent in interest is owned or controlled, directly or indirectly through other entities, or by one or more of the persons set forth in (A), (B) or (C), shall be aggregated together with the corporation, partnership or limited liability company as the case may be; provided that all assignees and transferees who would not qualify individually for assignment of registration rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices or taking any action under this Agreement.

(c) Conditions to Participation. No holder of Registrable Securities may participate in any underwritten registration hereunder unless such holder (i) agrees to sell such holder's securities on the basis provided in any underwriting arrangements and (ii) completes and executes all questionnaires, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements, provided that such documents shall not provide for indemnification or contribution obligations to the Company, or obligations to the Company to provide information, of holders of Registrable Securities greater than those obligations to the Company provided for in Section 1.9.

1.3 Demand Registration.

(a) If at any time after the earlier of (i) two (2) years after the date of this Agreement or (ii) six (6) months after the effective date of the Initial Public Offering (as such term is defined in Section 2 of this Agreement), the Company shall receive a written request from the holders of at least 30% of the Registrable Securities then outstanding that the Company file a registration statement (other than on Form S-3 pursuant to Section 1.4 of this Agreement) under the Securities Act covering the registration of all or part of the Registrable Securities, then the Company shall, within ten (10) days of the receipt of such request, give written notice of such request to all holders of Registrable Securities and shall, subject to the limitations of Section 1.3(b), use its best efforts to effect as soon as practicable the registration under the Securities Act of all Registrable Securities which the holders request to be registered in a written request to be given within twenty (20) days of the giving of such notice by the Company.

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(b) The holders initiating the registration request under this Section 1.3 (the "Initiating Holders") must distribute the Registrable Securities covered by their request by means of a public offering underwritten by a recognized national or regional underwriter, which underwriter shall be reasonably acceptable to the Company. The right of any holder to include its Registrable Securities in such registration shall be conditioned upon such holder's participation in such underwriting and the inclusion of such holder's Registrable Securities in the underwriting to the extent provided herein. All

holders proposing to distribute their Registrable Securities through such underwriting shall (together with the Company as provided in Section 1.7(h)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by a majority in interest of the Initiating Holders. Notwithstanding any other provision of this Section 1.3, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Initiating Holders shall so advise all holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all holders thereof, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each holder and requested to be registered in such registration. Any Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

(c) The Company is obligated to effect only two registrations pursuant to this Section 1.3. A request for registration under this Section 1.3 cannot be made within six (6) months of the effective date of a registration statement for a public offering of the Company's securities (other than Exempt Registrations).

(d) Notwithstanding the foregoing, if the Company shall furnish to the holders requesting a registration statement pursuant to this Section 1.3 a certificate signed by the President of the Company, stating that in the good faith judgment of the Board of Directors of the Company it would be seriously detrimental to the Company and its shareholders for such registration statement to be filed and it is therefore essential to defer the filing of such registration statement, the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve (12) month period.

(e) The Company shall not be obligated to take any action to effect any registration pursuant to this Section 1.3, if, within ten (10) days of the receipt of a request from Initiating Holders the Company gives the Initiating Holders written notice that it has begun substantive discussions with an underwriter with respect to a public offering of securities that would give rise to registration rights under Section 1.5. The Company must promptly notify the holders of any abandonment of such offering.

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1.4 S-3 Registration.

(a) S-3 Registrations. Subject to the terms hereof, the holders of Registrable Securities, including transferees that have acquired the Registrable Securities in accordance with Section 1.2(b) (the "Holders"), may request in writing registration under the Securities Act of all or part of their Registrable Securities (an "S-3 Registration") on Form S-3 (or any other form of offering permitted under applicable securities laws involving effort and expense reasonably similar to that involved in effecting a registration on Form S-3 for which the Company may then be eligible). Any such request shall state the number of Registrable Securities to be disposed of and the intended disposition of such shares by their Holders, provided that the aggregate offering price must be not less than \$250,000 for each such registration and on not more than three occasions. S-3 Registrations will be effected on Form S-3 (or any similar short-form registration for which the Company may then be eligible) whenever the Company is permitted to use such a form. Following the initial public offering of its securities, the Company will use its best efforts to qualify for registration on Form S-3 (or any similar short-form registration for which the Company may then be eligible) and maintain such registration in effect for not less than one hundred twenty (120) days.

(b) Priority S-3 Registrations. If any S-3 Registration is an

underwritten offering, the Company may request that securities to be sold on its behalf be included in such S-3 Registration, and if the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included exceeds the number that can be sold in such offering without adversely affecting such underwriters' ability to effect an orderly distribution of the securities, the Company will include in such registration: first, the securities the Company proposes to sell; and second, the number of Registrable Securities that the Holders propose to sell and that in the opinion of such underwriters can be sold; provided that in the event that the number of Registrable Securities that the Holders propose to sell is reduced by more than ten percent (10%), such registration will not be counted as a S-3 Registration. Anything in this subsection (b) to the contrary notwithstanding, for a period of twelve months following the conclusion of any offering from which, pursuant to this subsection (b), there were excluded any Registrable Securities requested to be included (an "Exclusion Offering"), the Company shall not exercise its right to priority so as to exclude such Registrable Securities from a subsequent S-3 Registration; provided, however, that a S-3 Registration may not be requested by the Holders of Registrable Securities for a period of four (4) months following the conclusion of any such Exclusion Offering. If any S-3 Registration in which the Company does not have the right to priority is an underwritten offering, the Company may have securities to be sold on its behalf included in such S-3 Registration, to the extent deemed practicable by the managing underwriters, provided the number of Registrable Securities included therein is not reduced.

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(c) Restrictions on Purchasers and S-3 Registrations. The Company may postpone for up to ninety (90) days the filing or the effectiveness of a registration statement for a S-3 Registration if the Company's Chief Executive Officer delivers a written certification to each Holder of the Registrable Securities requested to be included therein stating that the Company's Board of Directors has declared that such S-3 Registration would not be in the best interests of the Company; provided that in any such event, the Holders of Registrable Securities requesting such registration will be entitled to withdraw such requests and, if the remaining requests that are not withdrawn are not sufficient to initiate such registration, such registration need not be effected by the Company and will not count as a S-3 Registration; provided further, that if such event occurs during the twelve (12) month period during which the Company may not conduct an Exclusion Offering (as described in Clause (b) above), then such twelve (12) month period shall be extended by the length of any such postponement. The Company may only make one election in any twelve-month period to postpone a S-3 Registration pursuant hereto.

(d) Limited Number of S-3 Registrations. The Company is obligated to effect only three (3) registrations pursuant to this Section 1.4.

(e) Selection of Underwriters. In a S-3 Registration, the holders of Registrable Securities will have the right to determine the method of distribution and, if the offering is underwritten, to select the investment banker(s) and manager(s) to administer the offering.

1.5 Piggyback Registrations.

(a) Right to Piggyback. Whenever the Company proposes to register any of its securities under the Securities Act (other than pursuant to a registration primarily for sales of securities to employees of the Company or in connection with a transaction to which Rule 145 or any similar rule of the SEC under the Securities Act is applicable) and the registration form to be used also may be used for the registration of Registrable Securities, the Company will give prompt written notice to all holders of Registrable Securities of its intention to effect such a registration (a "Piggyback Registration") and will use its best efforts to include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within thirty (30) days after the receipt of the Company's notice except as set forth in paragraph (b) below. Such written request may specify all or

part of a holder's Registrable Securities to be included in the registration.

(b) Priority on Primary Registrations. If a Piggyback Registration is an underwritten primary registration on behalf of the Company, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in such offering without adversely affecting such underwriters' ability to effect an orderly distribution of such securities, the Company will include in such

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registration: first, the securities the Company proposes to sell; second, the Registrable Securities requested to be included in such registration, pro rata among the holders of such securities on the basis of the number of shares of Common Stock (or equivalents) represented by the Registrable Securities owned by the holders thereof and requested to be registered, but in no event in an offering following the Company's initial public offering shall the number of Registrable Securities included in such registration be less than 30% of the total of all securities included in such registration; and third, other securities requested to be included in such registration.

(c) Priority on Secondary Registrations. If a Piggyback Registration is an underwritten secondary registration on behalf of holders of the Company's securities and there are no newly issued securities of the Company being registered thereunder, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in such offering without adversely affecting such underwriters' ability to effect an orderly distribution of such securities, the Company will include in such registration: first, any Registrable Securities requested to be included in such registration, pro rata among the holders of such securities on the basis of the number of shares of Common Stock (or equivalents) represented by the Registrable Securities owned by the holders thereof and requested to be registered, and second, other securities requested to be included in such registration. If any holder of Registrable Securities who has requested inclusion in such registration or offering disapproves of the terms of the underwriting, he may elect to withdraw therefrom by written notice to the Company, the underwriter and the holders of Registrable Securities who initiated the offering.

1.6 Lockup Agreements. Each holder of the Registrable Securities agrees not to effect any public sale or distribution of Registrable Securities, or any securities convertible into or exchangeable or exercisable for Registrable Securities, during the seven (7) days prior to and the period after (as requested by the underwriters, but not to exceed 180 days) the effectiveness of the first registration of the Company's securities to be sold in an underwritten public offering for the account of the Company, provided that all officers and directors of the Company and all other holders of more than one percent (1%) of the Company's equity securities agree to be similarly bound with respect to equity securities of the Company held by such officers, directors and one percent (1%) holders, provided further that any discretionary waiver or termination of the restrictions of such agreements by the representatives of the underwriters shall apply to all persons subject to such agreements pro rata based on the number of equity securities held by such persons and subject to such agreements, provided further that such holders are given reasonable notice of such Registration, and provided further, that the provisions of this Section 1.6 shall bind The Goldman Sachs Group, L.P. and any transferee of its Registrable Securities only with respect to the Registrable Securities held by such person and shall not otherwise in any manner bind or restrict Goldman, Sachs & Co. (whether as a broker, dealer, underwriter or otherwise) or The Goldman Sachs Group, L.P. or any

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of their affiliates or general or limited partners. Without limiting the

foregoing, it is expressly agreed that the provisions of this Section 1.6 shall not (a) apply to any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock acquired by a Holder directly from the underwriters in a registered public offering of the Company's securities or in an established trading market from any party other than the Company, or (b) prevent the exercise of the Series B Common Warrants, the Series C Warrants, the Series D Warrants, or the Series E Warrant described in Section 1.2(a) during such lockup period.

1.7 Registration Procedures. Whenever the holders of Registrable Securities have requested that any Registrable Securities be registered pursuant to this Agreement, the Company will use its best efforts to effect the registration of such Registrable Securities in accordance with the intended method of disposition thereof, and pursuant thereto the Company will, without limiting the generality of the foregoing, as expeditiously as possible:

(a) prepare and file with the Securities and Exchange Commission a registration statement with respect to such Registrable Securities, which registration statement will state that the holders of Registrable Securities covered thereby may sell such Registrable Securities either under such registration statement or pursuant to Rule 144 (or any similar rule then in effect), and use its best efforts to cause such registration statement to become effective (provided that before filing a registration statement or prospectus or any amendments or supplements thereto, the Company will furnish to the counsel selected by the holders of a majority of the voting interest of the Registrable Securities covered by such registration statement copies of all such documents proposed to be filed);

(b) prepare and file with the Commission, if applicable, such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for a period of not less than one hundred eighty (180) days in the case of the Company's initial registration of Common Stock under the Securities Act and one hundred twenty (120) days in the case of any subsequent registration;

(c) furnish to each seller of Registrable Securities such number of copies of such registration statement, each amendment and supplement thereto, and the prospectus included in such registration statement (including each preliminary prospectus) as such seller may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such seller;

(d) use its best efforts to register or qualify such Registrable Securities under such other securities or blue sky laws of such jurisdictions of the United States as any seller reasonably requests and do any other related acts that may be reasonably necessary to enable such seller to consummate the disposition in such jurisdictions of the Registrable Securities owned by such seller (provided that the Company

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will not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 1.7(d) or (ii) consent to general service of process in any such jurisdiction);

(e) notify each seller of such Registrable Securities, at any time when a prospectus relating thereto is or would be required to be delivered under the Securities Act, of the happening of any event as a result of which the prospectus included in such registration statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, at the request of any such seller, the Company will prepare a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain any untrue statement of a material fact or omit any fact necessary to make the statements therein not misleading;

(f) upon the request of the holders of 20% or more of the Registrable Securities or such lesser number of Registrable Securities as are actually registered pursuant to this Agreement, cause all such Registrable Securities to be listed on each securities exchange or quotation system on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of such registration statement;

(h) enter into such customary agreements (including underwriting agreements on customary terms) and take all such other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities (including, without limitation, effecting a stock split or a combination of shares);

(i) make available for inspection by any seller of Registrable Securities, any underwriter participating in any disposition pursuant to such registration statement, and any attorney, accountant or any other agent retained by any such seller or underwriter, all financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such seller, underwriter, attorney, accountant or agent in connection with such registration statement;

(j) comply with all necessary filing and other requirements, including without limitation listing shares on any national securities exchange on which similar securities of the Company are then listed, so as to enable the holders of Registrable Securities to sell Registrable Securities under Rule 144 (or any similar rule then in effect) after any initial public offering of the Company's Common Stock; and

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(k) obtain a comfort letter from the Company's independent accountants in customary form and covering such matters of the type customarily covered by comfort letters and an opinion from the Company's counsel in customary form covering such matters normally covered in a public issuance of securities, in each case addressed to the holders of the Registrable Securities.

1.8 Registration Expenses.

(a) All expenses incident to the Company's performance of or compliance with this Agreement with respect to any Demand Registration, S-3 Registration or Piggyback Registration, including, without limitation, all registration and filing fees, fees and expenses of compliance with securities or blue sky laws, printing expenses, messenger and delivery expenses, and fees and disbursements of counsel for the Company and all independent certified public accountants, underwriters (excluding discounts and commissions, which in all cases shall be borne by the party selling the securities with respect to which the discounts or commissions are incurred or paid) and other persons retained by the Company, will be borne by the Company.

(b) In connection with any Demand Registration, S-3 Registration or Piggyback Registration, the Company will reimburse the holders of Registrable Securities covered by such registration for the reasonable fees and disbursements of one counsel chosen by the holders of a majority of the voting interest of such Registrable Securities.

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1.9 Indemnification.

(a) Incident to any registration statement referred to in this

Section 1 and subject to applicable law, the Company will indemnify and hold harmless each underwriter, each holder of Registrable Securities (including its respective directors, officers, members, employees and agents) so registered, and each person who controls any of them within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and the rules and regulations promulgated thereunder, from and against any and all losses, claims, damages, expenses and liabilities, joint or several (including any investigation, legal and other expenses incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted), to which they, or any of them, may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities arise out of or are based on (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement (including any related preliminary or definitive prospectus, or any amendment or supplement to such registration statement or prospectus), (ii) any omission or alleged omission to state in such document a material fact required to be stated in it or necessary to make the statements in it not misleading, or (iii) any violation by the Company of the Securities Act, any state securities or "blue sky" laws or any rule or regulation thereunder in connection with such registration, provided that the Company will not be liable to the extent that such loss, claim, damage, expense or liability arises from and is based on an untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information furnished in writing to the Company by such underwriter, holder or controlling person expressly for use in such registration statement. With respect to such untrue statement or omission or alleged untrue statement or omission in the information furnished in writing to the Company by such holder expressly for use in such registration statement, such holder will indemnify and hold harmless each underwriter, the Company (including its directors, officers, members, employees and agents), each other holder of Registrable Securities (including its respective directors, officers, employees and agents) so registered, and each person who controls any of them within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages, expenses and liabilities, joint or several, to which they, or any of them, may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise to the same extent provided in the immediately preceding sentence. In no event, however, shall the liability of a holder for indemnification under this Section 1.9(a) exceed the lesser of (i) that proportion of the total of such losses, claims, damages or liabilities indemnified against equal to the proportion of the total Registrable Securities sold under such registration statement which is being sold by such holder of Registrable Securities or (ii) the proceeds received by such holder from its sale of Registrable Securities under such registration statement.

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(b) If the indemnification provided for in Section 1.9(a) above for any reason is held by a court of competent jurisdiction to be unavailable to an indemnified party in respect of any losses, claims, damages, expenses or liabilities referred to therein, then each indemnifying party under this Section 1.9, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, expenses or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, the other selling holders of Registrable Securities and the underwriters from the offering of the Registrable Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, the other selling holders of Registrable Securities and the underwriters in connection with the statements or omissions which resulted in such losses, claims, damages, expenses or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company, the selling holders of Registrable Securities and the underwriters shall be deemed to be in the same respective proportions as the net

proceeds from the offering (before deducting expenses) received by the Company and the selling holders and the underwriting discount received by the underwriters, in each case as set forth in the table on the cover page of the applicable prospectus, bear to the aggregate public offering price of the Registrable Securities. The relative fault of the Company, the selling holders of Registrable Securities and the underwriters shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, the selling holders or the underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company, the holders of Registrable Securities, and the underwriters agree that it would not be just and equitable if contribution pursuant to this Section 1.9(b) were determined by pro rata or per capita allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the first sentence of this Section 1.9(b). In no event, however, shall a holder of Registrable Securities be required to contribute any amount under this Section 1.9(b) in excess of the lesser of (i) that proportion of the total of such losses, claims, damages or liabilities indemnified against equal to the proportion of the total Registrable Securities sold under such registration statement which is being sold by such holder or (ii) the proceeds received by such holder from its sale of Registrable Securities under such registration statement. No person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(c) The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in this Section 1.9 shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such

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action or claim. The indemnification and contribution provided for in this Section 1.9 will remain in full force and effect regardless of any investigation made by or on behalf of the indemnified parties or any officer, director, employee, agent or controlling person of the indemnified parties.

1.10 Termination. The rights to registration of Registrable Securities set forth in this Section shall terminate and have no further effect on the seventh (7th) anniversary of the closing of the Company's Initial Public Offering, as defined below.

2. COVENANTS OF THE COMPANY

During the term of this Agreement, the Company covenants and agrees that it will comply with each of the following provisions under this Section 2, provided that the Company's obligations under each such provision other than those set forth in Section 2.3 shall terminate at the earliest of such time as: (a) the Company completes a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act covering the offer and sale of Common Stock for the account of the Company to the public at a price of at least \$13.554 per share (as adjusted to reflect subsequent stock dividends, stock splits and recapitalizations) with aggregate proceeds of not less than \$20,000,000 (prior to the deduction of underwritten commissions and offering expenses) ("Initial Public Offering"), (b) the automatic conversion of the Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred pursuant to Section 5.4(b)(y) of the Company's Articles of Incorporation; or (c) less than (10%) of each of the Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred originally issued shall remain outstanding:

2.1 Financial Statements, Budgets, etc. The Company will maintain a standard system of accounting administered in accordance with generally accepted accounting principles consistently applied, will keep full and complete financial records, and will furnish to each of the Investors or his/her/its designees, so long as he/she/it holds at least 500,000 shares of Series B Preferred, Series C Preferred, and/or Series E Preferred, or at least 132,000 shares of Series D Preferred for purposes of Section 2.1(b) through (g) or at least 350,000 shares of Series D Preferred for purposes of Section 2.1(a):

(a) As soon as available, but in any event not later than fifteen (15) days after the end of each month (other than the last month of any fiscal quarter of the Company), the unaudited consolidated balance sheet of the Company as at the end of each such month and the related unaudited consolidated statements of income and cash flow of the Company for such month and for the elapsed period in such fiscal year, all in reasonable detail and stating in comparative form (i) the figures as of the end of and for the comparable periods of the preceding fiscal year and (ii) the figures reflected in the operating budget for such period as specified in the financial plan of the Company delivered pursuant to paragraph (e) hereof. All such financial statements shall be complete and

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correct in all material respects and shall be subject to normal year end audit adjustments.

(b) As soon as available, but in any event no later than fifteen (15) days after the end of each of the first three fiscal quarters, the unaudited consolidated balance sheet of the Company as at the end of each such period and the related unaudited consolidated statement of operations, stockholders' equity and cash flows of the Company for such quarterly period and for the elapsed period in such fiscal year, all in reasonable detail and stating in comparative form (i) the figures at the end of and for the comparable periods of the preceding fiscal year and (ii) the figures reflected in the operating budget for such period as specified in the financial plan of the Company delivered pursuant to paragraph (e) hereof. All such financial statements shall be complete and correct in all material respects, shall be prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods reflected therein except as stated therein, and shall be subject to normal year end audit adjustments.

(c) As soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Company, a copy of the audited consolidated balance sheet of the Company as at the end of such fiscal year and the related audited consolidated statements of operations, stockholders' equity and cash flows of the Company for such fiscal year, all in reasonable detail and stating in comparative form the figures as at the end of and for the previous fiscal year, accompanied by an opinion of an accounting firm of recognized national standing selected by the Company, which opinion shall state that such accounting firm's audit was conducted in accordance with generally accepted auditing standards. All such financial statements, together with the notes thereto, shall be complete and correct in all material respects and prepared in reasonable detail and in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods reflected therein except as stated therein.

(d) Promptly upon receipt or transmission thereof, (i) any additional reports, management letters or other detailed written information concerning significant aspects of the Company's operations and financial affairs given to the Company by its independent certified public accountants and any written response thereto by the Company; and (ii) copies of all such financial statements, proxy statements and reports as the Company sends to its stockholders, and copies of all registration statements and all regular, special or periodic reports which it files, or any of its officers or directors file with respect to the Company or its securities of which the Company is aware,

with the Securities and Exchange Commission or with any securities exchange on which any of the Company's securities are then listed, and copies of all press releases and other statements made available by the Company to the public.

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(e) At least forty-five (45) days prior to the end of each fiscal year, a detailed operating budget prepared on a monthly basis for the immediately succeeding fiscal year, and, promptly upon approval thereof by the Board of Directors, any other budgets and any revisions of such operating or other budgets.

(f) Within sixty (60) days after the end of each fiscal year, copies of all stock option plans, and a list detailing all options granted, issued or lapsed; all warrants granted or issued (whether to directors, in connection with financings or otherwise) or lapsed; and all stock issued or sold (including in each case, without limitation, all option and warrant exercise prices, stock issuance prices, and other terms).

(g) Such other information and financial data concerning the Company as the Investors may reasonably request.

2.2 Inspection. The Company will permit any representative designated by each of the Investors, so long as he/she/it holds at least 500,000 shares of Series B Preferred and/or Series C Preferred and/or Series E Preferred or 132,000 shares of Series D Preferred, to visit and inspect any of the properties of the Company including their respective books of account (and to make copies thereof and to take extracts therefrom), and/or to discuss the affairs, finances and accounts of the Company with its officers, all at such reasonable times and as often as may reasonably be requested.

2.3 Current Public Information. For so long as any (a) Series B Preferred, Series C Preferred, Series D Preferred, or Series E Preferred, (b) Common Stock issued upon conversion of the Series B Preferred, Series C Preferred, Series D Preferred, or Series E Preferred (including without limitation the Series C Preferred issuable upon exercise of the Series C Warrants, Series D Preferred issuable upon exercise of the Series D Warrants, and Series E Preferred issuable upon exercise of the Series E Warrant), or (c) securities issued with respect to the securities referred to in clauses (a) and (b) above by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization (hereinafter collectively referred to as "Restricted Securities"), remain outstanding (the Series C Preferred issuable upon exercise of the Series C Warrants, the Series D Preferred issuable upon exercise of the Series D Warrants, and the Series E Preferred issuable upon exercise of the Series E Warrant being deemed outstanding for purposes of this Section 2.3), at all times after the Company has filed a registration statement pursuant to the requirements of the Securities Act, or the Exchange Act, the Company will file all reports required to be filed by it under the Securities Act or the Exchange Act and the rules and regulations adopted by the Securities and Exchange Commission (the "Commission") thereunder, and will take such further action as any holder or holders of Restricted Securities may reasonably request, all to the extent required to enable each such holder to sell Restricted Securities pursuant to (i) Rule 144 under the Securities Act, or (ii) any similar rule or regulation hereafter adopted by the Commission. Upon request, the Company will deliver to each such holder a written

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statement as to whether the Company has complied with such requirements.

2.4 Reservation of Shares. The Company will have reserved, at all times, at least enough shares of Common Stock for issuance upon conversion of the then outstanding Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred (including without limitation the Series C Preferred issuable

upon exercise of the Series C Warrants, Series D Preferred issuable upon exercise of the Series D Warrants, and Series E Preferred issuable upon exercise of the Series E Warrants), which amount of reserved shares shall include the additional shares of Common Stock that would be necessary in the event of such conversion after reductions in any "conversion price" pursuant to the Company's Restated Articles of Incorporation.

2.5 Rights in Future Offerings. The Company agrees that if hereafter the Company at any time or from time to time makes any nonpublic offering of its capital stock or of any security that is convertible into or carries the right to purchase shares of its capital stock (other than issuances of Common Stock or securities convertible into or carrying the right to purchase shares of Common Stock (a) through the exercise of options or warrants granted under an employee stock plan or employee stock bonus program or grant approved by a majority of the Company's Board of Directors, (b) upon the conversion of convertible preferred stock, (c) in connection with the acquisition of any assets, stock or other interest in any partnership, corporation or other entity approved by a majority of the company's Board of Directors, (d) in connection with the formation of any research and development partnerships, licensing or collaborative agreements or other similar venture approved by a majority of the Company's Board of Directors, (e) upon the conversion of Series B Common Stock to Series C Common Stock under Section 4.3.5 of the Company's Articles of Incorporation, and (f) upon the exercise of the Series B Common Stock Warrants which were issued under the Series C Agreement, and other than issuances of Preferred Stock or securities convertible into or carrying the right to purchase shares of Preferred Stock (i) upon the exercise of the Series C Preferred Stock Warrants which were issued under the Series C Agreement, (ii) upon the exercise of the Series D Preferred Stock Warrants which were issued under the Series D Agreement, (iii) upon the exercise of the Series E Preferred Stock Warrant which was issued under the Series E Agreement, (iv) in connection with the acquisition of any assets, stock or other interest in any partnership, corporation or other entity approved by a majority of the Company's Board of Directors, and (v) in connection with the formation of any research and development partnerships, licensing or collaborative agreements or other similar venture approved by a majority of the Company's Board of Directors), each holder of Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred, or any shares of Common Stock issued upon conversion of Series B Preferred, Series C Preferred, Series D Preferred, or Series E Preferred (the "Offeree") shall be offered the opportunity to acquire from the Company, on the same terms as such securities are offered to others, the same percentage (or a lesser amount at the Offeree's option) of the total securities offered in such subsequent offering (the "Offering") as the Offeree's shares of Underlying Common

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Stock (as hereinafter defined) bear to the aggregate number of shares of Underlying Common Stock. The Offerees shall be given at least fifteen (15) days' written notice by the Company of the purchase right set forth in this Section 2.5. For purposes of this Section 2.5, the term "Offeree's shares of Underlying Common Stock" shall mean, in the case of a particular Offeree, the total number of shares of Common Stock of the Company as of the time of determination issued or issuable to each such Offeree upon conversion of the outstanding shares of Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred and the phrase "the aggregate number of shares of Underlying Common Stock" shall mean the total number of shares of Common Stock of the Company outstanding at the time of determination and including, as of the time of determination, all shares issued or issuable upon conversion of the outstanding shares of Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred, and Series E Preferred. For purposes of this Section 2.5, the term Offering shall not include shares issued pursuant to this Section 2.5.

2.6 Insurance. The Company hereafter will maintain in effect with reputable insurers insurance against such risks and liability to persons and property to the extent and in the manner customary for companies in similar businesses, similarly situated.

2.7 Use of any Investor Information. Should the Company desire to use any Investor's name (or the name of any subsidiary or affiliate of any of the Investors) except to identify the Investor as an investor in the Company, it will do so only with the express written consent of the Investor; provided, that the Company will not use The Goldman Sachs Group, L.P.'s name for any purpose without its prior written consent. Anything to the contrary in the preceding sentence or in any other agreement between an Investor and the Company notwithstanding, if, in connection with the proposed sale of the Company's securities in a future offering or to consummate the proposed sale of the Company's business, the Company is required by law to disclose information concerning such Investor's ownership in, dealings with or other relationships with the Company (the "Required Information"), each Investor hereby consents to the disclosure of the Required Information.

2.8 Conduct of Business. The Company will keep in full force and effect its corporate existence and all patents and proprietary rights useful in its business and will comply with all laws, government regulations, rules and ordinances and judicial orders, judgments and decrees applicable to the Company, its business and its properties. The Company will use its best efforts to cause each officer and employee to execute a confidentiality and inventions agreement presently used by the Company, with such reasonable changes as may be deemed appropriate; provided, however, that any material change therein shall be approved by the Board of Directors.

2.9 Payment of Taxes. The Company will pay and discharge all lawful taxes, assessments and governmental charges or levies imposed upon it or upon its income or property before the same shall become in

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default, as well as all lawful claims for labor, materials and supplies which, if not paid when due, might become a lien or charge upon its property or any part thereof; provided, however, that the Company shall not be required to pay and discharge any such tax, assessment, charge, levy, or claim so long as the validity thereof is being contested by the Company in good faith by appropriate proceedings and an adequate reserve therefor has been established on its books.

2.10 Adverse Changes. The Company will promptly advise the Investors of any event which represents a material adverse change in the condition or business, financial or otherwise, of the Company, and of each suit or proceeding commenced or threatened against the Company which, if adversely determined, would result in such a material adverse change. The Company will also promptly advise the Investors of any facts which are inconsistent with the representations and warranties contained herein.

2.11 Life Insurance. The Company will (i) obtain as soon as practicable and (ii) maintain key-man life insurance on the life of Rob Glaser to the extent and in the manner determined appropriate by the Board of Directors in their best business judgment, which shall at a minimum provide for a payment of at least \$2,000,000 to the Company.

2.12 Affiliated Transactions. All transactions by and between the Company and any officer, key employee or stockholder of the Company, or persons controlled by or affiliated with such officer, key employee or stockholder, shall be conducted on an arm's-length basis, and will be on terms and conditions no less favorable to the Company than could be obtained from nonrelated persons. Any such transaction which is not in the ordinary course of business and is in an amount in excess of \$50,000 per transaction or group of related transactions will be approved in advance by the Board of Directors after full disclosure of the terms thereof.

2.13 Board of Directors.

(a) The Company will use its best efforts to cause one nominee of

the Series B Holders, who shall be nominated by the holders of the majority of the outstanding shares of Series B Preferred, and who shall be reasonably acceptable to the Company, to be recommended to the stockholders (or, for purposes of filling a vacancy on the Board of Directors, the directors) for election as a director at all meetings of stockholders, or consents in lieu thereof, for such purpose. The Company will use its best efforts to cause one nominee of the Series C Holders, who shall be nominated by the holders of the majority of the outstanding shares of Series C Preferred, and who shall be reasonably acceptable to the Company (the Company acknowledging that James W. Breyer is acceptable), to be recommended to the stockholders (or, for purposes of filling a vacancy on the Board of Directors, the directors) for election as a director at all meetings thereof, or consents in lieu thereof, for such purpose. In addition, the Company will, if requested to in writing by the Series E Holder (for so long as the Series E Holder holds (i) no fewer than 3,338,374 shares of Series E Preferred Stock (or the equivalent in

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Common Stock issued upon the conversion of Series E Preferred Stock), or (ii) no less than five percent (5%) of the issued and outstanding shares of Common Stock, on an as-if converted basis), use its best efforts to cause one nominee of the Series E Holder, who shall be reasonably acceptable to the Company, to be recommended to the Stockholders (or, for purposes of filling a vacancy on the Board of Directors, the directors) for election as a director at all meetings thereof, or consents in lieu thereof, for such purpose. Before the closing of an Initial Public Offering, as defined in Section 2, the Company agrees not to grant stock options, warrants or similar rights as compensation for participation on the Board of Directors to Rob Glaser, to the director nominated by the Series B Holders, to the director nominated by the Series C Holders, or to the director, if any, nominated by the Series E Holder.

(b) The Company will ensure that it will have a Board of Directors of at least three (3) members (or four (4) members, if the Series E Holder elects to nominate a director) and that regular meetings of its Board of Directors will be held at least four (4) times each year and at intervals of not more than four (4) months, upon at least such notice as is required to be given to the directors in the Bylaws of the Company. The Articles of Incorporation or Bylaws of the Company will at all times during which the director nominees of the Series B Holders, Series C Holders, and Series E Holder serve as directors of the Company provide for indemnification of the directors to the fullest extent permitted under Washington state law. The Company shall promptly reimburse in full the nominees of the Series B Holders, Series C Holders, and Series E Holder for all of their reasonable out-of-pocket expenses incurred in attending each meeting of the Board of Directors of the Company or any committee thereof.

(c) In the event that no director is serving as a nominee of the Series B Holders, Series C Holders, or Series E Holder, the Company shall (a) provide each Investor holding at least 500,000 shares of Series B Preferred, Series C Preferred, and/or Series E Preferred in the aggregate (subject to appropriate adjustment for stock splits, stock dividends, combinations and other recapitalizations) with notice of all meetings of the Board of Directors; (b) allow each Investor holding at least 500,000 shares of Series B Preferred, Series C Preferred, and/or Series E Preferred in the aggregate (subject to appropriate adjustment for stock splits, stock dividends, combinations and other recapitalizations) to attend such meetings in a nonvoting observer capacity; and (c) provide such Investor with all materials delivered to the directors as and when such materials are delivered to the directors; provided, however, that such Investor shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and, provided further, that the Company reserves the right to withhold any information and to exclude such Investors from any meeting or portion thereof if access to such information or attendance at such meeting or portion thereof could adversely affect the attorney client privilege between the Company and its counsel. In the event any other Investor is invited to attend a meeting(s) of the Company's Board of

Directors in a nonvoting observer capacity and/or receives copies of any materials provided to directors,

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such Investor shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided.

2.14 Distributions or Redemption of Capital Stock. Except as otherwise expressly provided herein, the Company will not, without the consent or waiver of the holders of 51% of the outstanding shares of the Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred (provided, for purposes of calculating the requisite 51% pursuant to this Section 2.14, the shares of Series E Preferred to be issued upon exercise, if ever, of the Series E Warrant shall not be deemed to be outstanding, regardless of whether the Series E Warrant has been exercised) directly or indirectly, redeem, purchase or otherwise acquire for value (or pay into or set aside for a sinking fund for such purpose), any share or shares of capital stock of the Company beneficially owned, directly or indirectly, by Rob Glaser or any person that is a member of Rob Glaser's family or is related in any way to him, or any entity affiliated with any such person, except as set forth in Section 5.5 of Article V of the Company's Restated Articles of Incorporation in effect as of the date hereof.

2.15 Conversion Shares. The Company will reserve and keep available from its authorized shares of Common Stock, solely for the purpose of issuance upon the conversion of the Series B Preferred, Series C Preferred, Series D Preferred, and Series E Preferred (the "Conversion Shares"), such number of shares of Common Stock as shall then be issuable upon the conversion of all of the shares of Series B Preferred, Series C Preferred, Series D Preferred, and Series E Preferred taking into account any antidilution rights of the holders thereof (the "Conversion Shares"). The Company covenants that all Conversion Shares issuable upon conversion of the convertible preferred stock shall be duly and validly issued, fully paid and nonassessable, and free of all liens, encumbrances and restrictions on transfer other than restrictions on transfer arising under the federal and state securities laws.

3. MISCELLANEOUS

3.1 Parties in Interest. All covenants, agreements, representations, warranties and undertakings in this Agreement made by and on behalf of any of the parties hereto shall bind and inure to the benefit of their respective successors and assigns.

3.2 Entire Agreement: Amendments and Waivers. This Agreement (including the attachments hereto) and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof and thereof. This Agreement may be amended, or compliance with any term, covenant, agreement, condition or provision set forth herein may be omitted or waived (either generally or in a particular instance and either retroactively or prospectively) if agreed to in writing by the Company and either: (a) the holders of at least two-thirds (2/3) of the outstanding Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock, voting together as a voting group, and, until the conclusion of the first public offering of the Company's Common Stock

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registered under the Securities Act, the Common Stock theretofore issued upon conversion of any of the Series B Preferred, Series C Preferred, Series D Preferred and Series E Preferred, or (b) the holders of at least 51% of the outstanding Series B Preferred Stock, the holders of at least 51% of the outstanding Series C Preferred Stock, the holders of at least 51% of the outstanding Series D Preferred Stock and the holders of at least 51% of the Series E Preferred Stock; provided, however, that the holder(s) of the Series E

Preferred Stock hereby agree to: (i) any amendment that is limited to adding holders of Common Stock or a new series of Common Stock or Preferred Stock or securities convertible into or carrying the rights to purchase Common Stock or a new series of Common Stock or Preferred Stock (the "New Securities") as parties to this Agreement as long as the New Securities have rights under this Agreement that are equivalent or subordinate to those of the Series E Preferred, and (ii) any amendment that does not (A) adversely affect the holders of Series E Preferred Stock but not the holders of the other series of Preferred Stock or (B) otherwise disadvantage disproportionately the holders of Series E Preferred Stock; and provided further, that if any amendment or omission or waiver of compliance with any term, covenant, agreement or condition or provision affects any Investor disproportionately, the written agreement of such Investor shall also be required. The Series B Holders and the Company expressly agree that this Agreement supersedes Sections 4 and 5 of the Series B Agreement in their entirety and that such sections of the Series B Agreement are no longer in force or effect, the Series B Holders, Series C Holders and the Company expressly agree that this Agreement supersedes the C Rights Agreement in its entirety and the C Rights Agreement is no longer in force and effect; and the Series B Holders, Series C Holders, Series D Holders, and the Company expressly agree that this Agreement supersedes the D Rights Agreement in its entirety and the D Rights Agreement is no longer in force and effect.

3.3 Governing Law, Severability. This Agreement, together with the rights and obligations of the parties hereunder, shall be governed by, construed and enforced in accordance with the laws of the State of Washington without regard to principles of conflicts of laws. In the event any provision of this Agreement or the application of any such provision to any party shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect.

3.4 Notices. All notices, requests, consents, and demands shall be in writing and shall be deemed to have been sufficiently given if sent, postage prepaid, by registered or certified mail, return receipt requested, to the Company at Progressive Networks, Inc., 1111 Third Avenue, Suite 500, Seattle, WA 98101, Attention: President, with a second copy addressed separately to the General Counsel; to the Investors at the addresses listed in Exhibits A, B and C and to Microsoft at Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052-6399, Attention: Robert A Eshelman, Assistant Secretary; or to such other address as may from time to time be furnished in writing to the other parties hereto.

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3.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

3.6 Captions. The captions and headings of this Agreement are for convenience only and are not to be construed as defining or limiting the scope or intent of any of the provisions hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

PROGRESSIVE NETWORKS, INC.

By: _____
Its: _____

INVESTOR

Rob Glaser

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

ACCEL IV L.P.

Accel IV Associates L.P.
Its: General Partner

By _____
General Partner

ACCEL KEIRETSU L.P.

By: Accel Partners & Co., Inc.
Its: General Partner

By _____

ACCEL INVESTORS '95, L.P.

By _____
General Partner

ELLMORE C. PATTERSON PARTNERS

By _____
General Partner

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Phillip Barrett

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Jeanine Glaser

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

JULIUS & BARBARA C. GLASER
TRUST U/A 09/03/91

Julius Glaser, Trustee

Barbara Glaser, Trustee

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Martha E. Glaser

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Norma Ann Crampton

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Dennis L. Heck

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Mitchell Kapor

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 35

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Michael B. Slade

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Howard P. Welt

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Elaine Yeomelakis

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Ziff Asset Management, L.P.

By: PBK Holdings, Inc.
General Partner

By: _____
Name: Philip B. Korsant
Title: President

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 39

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

Bayview Investors, Ltd.
By Robertson, Stephens &
Company Private Equity
Group LLC
Its General Partner

Authorized Signatory

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 40

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

IPG Network, Inc.

By _____
Its _____
Its General Partner

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTORS:

Technology Crossover Ventures, L.P.

By: Technology Crossover
Management, L.L.C.,
Its: General Partner

By: _____
Name:
Title:

Technology Crossover Ventures, C.V.

9/14/2020

<https://www.sec.gov/Archives/edgar/data/1046327/0000891020-97-001263.txt>

By: Technology Crossover
Management, L.L.C.,
Its: Investment General
Partner

By: _____
Name:
Title:

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 42

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as
of the date first set forth above.

INVESTOR:

Velocity Technology and
Communications Trust B

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 43

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as
of the date first set forth above.

INVESTOR:

Merrill Lynch KECALP L.P. 1994

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 44

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as
of the date first set forth above.

INVESTORS:

CSK Venture Capital Co., Ltd.

By: _____
Its: _____

CSK Corporation

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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<PAGE> 45

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTORS:

Encompass Group, Inc.

By: _____
Its: _____

Trans Cosmos USA, Inc.

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

The Goldman Sachs Group, L.P.

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INVESTOR:

PSP & Trust
PS Plan For The Benefit Of Peter
J. Rubin

By: _____
Peter J. Rubin, Trustee

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as
of the date first set forth above.

MICROSOFT CORPORATION

By: _____
Its: _____

[Signature Page to Second Amended and Restated Investors' Rights Agreement]

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EXHIBIT 21.1

SUBSIDIARIES OF REGISTRANT

RealNetworks, SARL

RealNetworks, Limited

Progressive Networks Kabushiki Kaisha (to be renamed RealNetworks Kabushiki
Kaisha)

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<PAGE> 1

EXHIBIT 23.2

REPORT AND CONSENT OF INDEPENDENT AUDITORS

The Board of Directors
RealNetworks, Inc.:

The audits referred to in our report dated March 14, 1997 included the related financial statement schedule for the period from February 9, 1994 (inception) to December 31, 1994 and the years ended December 31, 1995 and 1996, included in the registration statement on Form S-1 of RealNetworks, Inc. This financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement schedule based on our audits. In our opinion, such financial statement schedule, when considered in relation to the consolidated financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We consent to the use of our reports and to the reference of our firm under the headings "Summary Consolidated Financial Data", "Selected Consolidated Financial Data" and "Experts" in the prospectus.

KPMG Peat Marwick LLP

Seattle, Washington
September 26, 1997

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9/14/2020

<https://www.sec.gov/Archives/edgar/data/1046327/0000891020-97-001263.txt>

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-----END PRIVACY-ENHANCED MESSAGE-----