

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
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CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
AboveNet, Inc.	Metromedia Fiber Network, Inc.	09/08/2003	CORPORATION: DELAWARE
AboveNet Communications, Inc.		09/08/2003	CORPORATION: DELAWARE

RECEIVING PARTY DATA	
Name:	Deutsche Bank Trust Company Americas, as Collateral Agent
Street Address:	60 Wall Street, 27th Floor
City:	New York
State/Country:	NEW YORK
Postal Code:	10005
Entity Type:	TRUSTEE: NEW YORK

PROPERTY NUMBERS Total: 11		
Property Type	Number	Word Mark
Registration Number:	2409295	UNLEASHING THE OPTICAL REVOLUTION
Registration Number:	2373799	ABOVESECURE
Registration Number:	2291034	WEBCONDO
Registration Number:	2383863	ISX
Registration Number:	2282972	ABOVENET
Registration Number:	2260979	APS
Registration Number:	2282969	ISPCONDO
Registration Number:	2165267	ETHERVALVE
Registration Number:	2250734	AS-UR-HERE
Registration Number:	2367331	WEBCONDO
Serial Number:	75488308	ASAP

CORRESPONDENCE DATA	
Fax Number:	(860)240-2800
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	

OP \$290.00 2409295

Phone: 860-240-2767
Email: william.kelly@bingham.com
Correspondent Name: William Kelly, Esq.
Address Line 1: One State Street
Address Line 2: Bingham McCutchen LLP
Address Line 4: Hartford, CONNECTICUT 06103

NAME OF SUBMITTER:

Rachel Panzica

Total Attachments: 25

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TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT

TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT (this “**Agreement**”) dated as of September 8, 2003, by and among **ABOVENET, INC.** (the “**Company**”), **ABOVENET COMMUNICATIONS, INC.**, each a Delaware corporation having its principal place of business at 360 Hamilton Avenue, White Plains, New York 10602, (each an “**Assignor**” and collectively, the “**Assignors**”), and **DEUTSCHE BANK TRUST COMPANY AMERICAS**, a trust company duly organized under the laws of the State of New York, having an office at 60 Wall Street, 27th Floor, New York, New York, 10005, as Collateral Agent (hereinafter, in such capacity, the “**Collateral Agent**”) for the benefit of other institutions (hereinafter, collectively, the “**Noteholders**”) which are, or may in the future become, parties to a Note Agreement dated as of September 8, 2003 (as amended and in effect from time to time, the “**Note Agreement**”), among the Company and the Noteholders.

WHEREAS, the Company has issued to the Noteholders \$78,435,213.80 in principal amount of its Resettable Rate Senior Secured Notes Due September 30, 2008 (the “**Notes**”) pursuant to the Note Agreement; and

WHEREAS, each of the Company’s Domestic Subsidiaries (each, a “**Guarantor**”) has agreed to guaranty the obligations of the Company under or in respect of the Note Documents pursuant to one or more guaranty agreements dated as of the date hereof (collectively, the “**Guaranties**”); and

WHEREAS, the Company and each Guarantor has agreed to secure its obligations under the Note Documents and the Guaranties by, inter alia, granting security interests in and Liens upon substantially all of its assets to the Collateral Agent all as more fully provided herein and in the Security Agreement, dated as on the date hereof, by and among the Company, the Guarantors and the Collateral Agent (the “**Security Agreement**”) and the other Senior Security Documents; and

WHEREAS, it is a condition precedent to the Noteholders’ agreeing to accept the Notes that the Assignors execute and deliver to the Collateral Agent an agreement in substantially the form hereof; and

WHEREAS, the Assignors wish to grant such a security interest as herein provided.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **DEFINITIONS.**

The following terms shall have the respective meanings set forth in this §1 or elsewhere in this Trademark Agreement. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Note Agreement, and if not defined in the Note Agreement, the Security Agreement.

Assignment of Marks. See §2.1.

Associated Goodwill. All goodwill of each Assignor and its business, products and services appurtenant to, associated with or symbolized by the Trademarks and the use thereof.

Financial Indebtedness. The aggregate amount outstanding from time to time under the Notes, the Note Agreement (whether for principal, interest, premium, expenses or otherwise) and the Senior Security Documents.

Obligations. The Financial Indebtedness, the Guaranties and all other obligations and liabilities of the Company or any Guarantor to the Noteholders or the Collateral Agent under or in respect of the Note Documents, whether direct or indirect, joint or several, absolute or contingent, due or to become due, now existing or hereafter arising.

Pledged Trademarks. All of the Assignors' right, title and interest in and to all of the Trademarks, the Trademark Registrations, the Trademark License Rights, the Trademark Rights, the Associated Goodwill, the Related Assets, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

PTO. The United States Patent and Trademark Office.

Related Assets. All assets, rights and interests of the Assignors that uniquely reflect or embody the Associated Goodwill, including the following:

(a) all patents, inventions, copyrights, trade secrets, confidential information, formulae, methods or processes, compounds, recipes, know-how, methods and operating systems, drawings, descriptions, formulations, manufacturing and production and delivery procedures, quality control procedures, product and service specifications, catalogs, price lists, and advertising materials, relating to the manufacture, production, delivery, provision and sale of goods or services under or in association with any of the Trademarks; and

(b) the following documents and things in the possession or under the control of the Assignors, or subject to its demand for possession or control, related to the production, delivery, provision and sale by the Assignors, or any affiliate, franchisee, licensee or contractor, of products or services sold by or under the authority of the Assignors in connection with the Trademarks or Trademark Rights, whether prior to, on or subsequent to the date hereof:

(i) all lists, contracts, ancillary documents and other information that identify, describe or provide information with respect to any customers, dealers or distributors of the Assignors, its affiliates or franchisees or licensees or contractors, for products or services sold under or in connection with the Trademarks or Trademark Rights, including all lists and documents containing information regarding each customer's, dealer's or distributor's name and address, credit, payment, discount, delivery and other sale terms, and history, pattern and total of purchases by brand, product, style, size and quantity;

(ii) all agreements (including franchise agreements), product and service specification documents and operating, production and quality control manuals relating to or used in the design, manufacture, production, delivery, provision and sale of products or services under or in connection with the Trademarks or Trademark Rights;

(iii) all documents and agreements relating to the identity and locations of all sources of supply, all terms of purchase and delivery, for all materials, components, raw materials and other supplies and services used in the manufacture, production, provision, delivery and sale of products or services under or in connection with the Trademarks or Trademark Rights; and

(iv) all agreements and documents constituting or concerning the present or future, current or proposed advertising and promotion by the Assignors (or any of its affiliates, franchisees, licensees or contractors) of products or services sold under or in connection with the Trademarks or Trademark Rights.

Trademark Agreement. This Trademark Collateral Security and Pledge Agreement, as amended and in effect from time to time.

Trademark License Rights. Any and all present or future rights and interests of each Assignor pursuant to any and all present and future franchising or licensing agreements in favor of such Assignor, or to which such Assignor is a party, pertaining to any Trademarks, Trademark Registrations, or Trademark Rights owned or used by third parties in the past, present or future, including the right (but not the obligation) in the name of the Assignors or the Collateral Agent to enforce, and sue and recover for, any breach or violation of any such agreement to which such Assignor is a party.

Trademark Registrations. All present or future federal, state, local and foreign registrations of the Trademarks, all present and future applications for any such registrations (and any such registrations thereof upon approval of such applications), together with the right (but not the obligation) to apply for such registrations (and prosecute such applications) in the name of either Assignor or the Collateral Agent, and to take any and all actions necessary or appropriate to maintain such registrations in effect and renew and extend such registrations.

Trademark Rights. Any and all present or future rights in, to and associated with the Trademarks throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise, including the following: all such rights arising out of or associated with the Trademark Registrations; the right (but not the obligation) to register claims under any state, federal or foreign trademark law or regulation; the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of either Assignor or the Collateral Agent for any and all present and future infringements or dilution of or any other damages or injury to the Trademarks, the Trademark Rights, or the Associated Goodwill, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, dilution, damage or injury; and the Trademark License Rights.

Trademarks. All of the trademarks, service marks, designs, logos, indicia, trade names, corporate names, company names, business names, fictitious business names, trade styles, elements of package or trade dress, and other source and product or service identifiers, used or associated with or appurtenant to the products, services and businesses of each Assignor, that (i) are set forth on Schedule A hereto, or (ii) have been adopted, acquired, owned, held or used by such Assignor or are now owned, held or used by such Assignor, in such Assignor's business, or with such Assignor's products and services, or in which such Assignor has any right, title or interest, or (iii) are in the future adopted, acquired, owned, held and used by such Assignor in such Assignor's businesses or with such Assignor's products and services, or in which such Assignor in the future acquires any right, title or interest.

Use. With respect to any Trademark, all uses of such Trademark by, for or in connection with any Assignor or its business or for the direct or indirect benefit of such Assignor or its business, including all such uses by such Assignor itself, by any of the affiliates of such Assignor, or by any franchisee, licensee or contractor of such Assignor.

Unless otherwise provided herein, the rules of interpretation set forth in the Note Agreement shall be applicable to this Trademark Agreement.

2. GRANT OF SECURITY INTEREST.

2.1. Security Interest; Assignment of Marks. As collateral security for the payment and performance in full of all of the Obligations, the Assignors hereby unconditionally grant to the Collateral Agent, for the benefit of the Noteholders, a continuing security interest in and first priority lien on the Pledged Trademarks, and pledges and mortgages (but does not transfer title to) the Pledged Trademarks to the Collateral Agent for the benefit of the Noteholders. In addition, the Assignors have executed in blank and delivered to the Collateral Agent an assignment of federally registered trademarks in substantially the form of Exhibit I and Exhibit II hereto (the "**Assignment of Marks**") The Assignors hereby authorize the Collateral Agent to complete as assignee and record with the PTO the Assignment of Marks upon the occurrence and during the continuance of an Event of Default.

2.2. Conditional Assignment. In addition to, and not by way of limitation of, the grant, pledge and mortgage of the Pledged Trademarks provided in §2.1, the Assignors grant, assigns, transfers, conveys and sets over to the Collateral Agent, each such Assignor's entire right, title and interest in and to the Pledged Trademarks; provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only if both (i) an Event of Default exists, and (ii) either (A) the Collateral Agent has given written notice of such effectiveness to such Assignor, or (B) an order for relief has been entered against such Assignor under the Bankruptcy Code.

2.3. Supplemental to Security Agreement. Pursuant to the Security Agreement the Assignors have granted to the Collateral Agent a continuing security interest in and lien on the Collateral (including the Pledged Trademarks). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Pledged Trademarks) thereunder, are hereby ratified and confirmed in all respects. In no event shall this Trademark Agreement, the grant, assignment, transfer and conveyance of the Pledged Trademarks

hereunder, or the recordation of this Trademark Agreement (or any document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Pledged Trademarks) pursuant to the Security Agreement and this Trademark Agreement, the attachment and perfection of such security interest under the Uniform Commercial Code (including the security interest in the Pledged Marks), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement, this Trademark Agreement or the Uniform Commercial Code. Any and all rights and interests of the Collateral Agent in and to the Pledged Trademarks (and any and all obligations of the Assignor with respect to the Pledged Trademarks) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Collateral Agent (and the obligations of the Assignor) in, to or with respect to the Collateral (including the Pledged Trademarks) provided in or arising under or in connection with the Security Agreement and shall not be in derogation thereof.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS.

The Assignors represent, warrant and covenant that other than as set forth in Schedule A: (i) Schedule A sets forth a true and complete list of all Trademark Registrations now owned, licensed, controlled or used by each Assignor; (ii) the Trademarks and Trademark Registrations are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, and there is no litigation or proceeding pending concerning the validity or enforceability of the Trademarks or Trademark Registrations; (iii) to the best of such Assignor's knowledge, each of the Trademarks and Trademark Registrations is valid and enforceable; (iv) to the best of such Assignor's knowledge, there is no infringement by others of the Trademarks, Trademark Registrations or Trademark Rights; (v) no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person, and to the best of such Assignor's knowledge, there is no infringement by such Assignor of the trademark rights of others; (vi) such Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks (other than ownership and other rights reserved by third party owners with respect to Trademarks that the Assignor is licensed to use), free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by such Assignor not to sue third persons, other than the security interest and assignment created by the Security Agreement and this Trademark Agreement or provided by such Assignor to third parties by license; (vii) such Assignor has the unqualified right to enter into this Trademark Agreement and to perform its terms and has entered and will enter into written agreements with each of its present and future employees, agents, consultants, licensors and licensees that will enable them to comply with the covenants herein contained; (viii) such Assignor has used, and will continue to use, proper statutory and other appropriate proprietary notices in connection with its use of registered Trademarks except for those registered Trademarks, the failure to use proper statutory and other appropriate proprietary notices in connection with their use would not, individually or in the aggregate, be expected to have a Material Adverse Effect; (ix) this Trademark Agreement, together with the Security Agreement, will create in favor of the Collateral Agent a valid and perfected first priority security interest in the Pledged Trademarks upon making the filings referred to in clause (x) of this §3; and (x) except for the filing of financing statements with the Secretary of State for the State of New York and the State of Delaware under the Uniform Commercial Code and the

recording of this Trademark Agreement with the PTO, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (A) for the grant by such Assignor or the effectiveness of the security interest and assignment granted hereby or for the execution, delivery and performance of this Trademark Agreement by such Assignor, or (B) for the perfection of or the exercise by the Collateral Agent of any of its rights and remedies hereunder.

4. NO TRANSFER OR INCONSISTENT AGREEMENTS.

Without the Collateral Agent's prior written consent, the Assignors will not (i) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license or alienate any of the Pledged Trademarks, or (ii) enter into any agreement (for example, a license agreement) that is inconsistent with the Assignors' obligations under this Trademark Agreement or the Security Agreement, *provided, however*, that each such Assignor may license the Pledged Trademarks to third parties as it determines in accordance with its business judgment, and provided further, that unless prohibited by Section 10 of the Note Agreement, and provided that such Assignor complies with Section 8.3 of the Note Agreement, if applicable, and otherwise complies with all applicable provisions of the Note Agreement, such Assignor may sell, transfer and dispose of the Pledged Trademarks free and clear of the Liens of the Collateral Agent and the Noteholders granted hereunder and under the other Note Documents, and upon such permitted sale or disposition the Collateral Agent and/or the Noteholders shall execute and deliver to such Assignor such releases, discharges and other agreements as may be reasonably requested with respect to such Liens and such Pledged Trademarks.

5. AFTER-ACQUIRED TRADEMARKS, ETC.

5.1. After-acquired Trademarks. If, before the Obligations shall have been finally paid and satisfied in full, an Assignor shall obtain any right, title or interest in or to any other or new Trademarks, Trademark Registrations or Trademark Rights, the provisions of this Trademark Agreement shall automatically apply thereto and such Assignor shall promptly provide to the Collateral Agent notice thereof in writing and execute and deliver to the Collateral Agent such documents or instruments as the Collateral Agent may reasonably request further to implement, preserve or evidence the Collateral Agent's interest therein.

5.2. Amendment to Schedule. The Assignors authorize the Collateral Agent to modify this Trademark Agreement and the Assignment of Marks, without the necessity of the Assignor's further approval or signature, by amending Exhibit A hereto and the Annex to the Assignment of Marks to include any future or other Trademarks, Trademark Registrations or Trademark Rights under §2 or §6.

6. TRADEMARK PROSECUTION.

6.1. Assignors Responsible. Subject to Section 2.2, the Assignors shall have full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Pledged Trademarks consistent with its business judgment, and shall hold each of the Collateral Agent and the Noteholders harmless from any and all costs, damages, liabilities and expenses that may be incurred by the Collateral Agent or

any Noteholder in connection with the Collateral Agent's interest in the Pledged Trademarks or any other action or failure to act in connection with this Trademark Agreement or the transactions contemplated hereby. In respect of such responsibility, the Assignor shall retain trademark counsel reasonably acceptable to the Collateral Agent.

6.2. Assignor's Duties, etc. Subject to Section 2.2, the Assignors shall have the right, through trademark counsel reasonably acceptable to the Collateral Agent, to prosecute diligently any trademark registration applications pending as of the date of this Trademark Agreement or thereafter, to preserve and maintain all rights in such Trademarks and Trademark Registrations, including the filing of appropriate renewal applications and other instruments to maintain in effect such Trademark Registrations and the payment when due of all registration renewal fees and other fees, taxes and other expenses that shall be incurred or that shall accrue with respect to any of the Trademarks or Trademark Registrations. Any expenses incurred in connection with such applications and actions shall be borne by the Assignors. The Assignors shall not abandon any filed trademark registration application, or any Trademark Registration or Trademark without the consent of the Collateral Agent (which consent shall not be unreasonably withheld) unless in the Assignor's business judgment, such trademark registration application, Trademark Registration or Trademark is no longer useful in the business of the Assignor and its Subsidiaries.

6.3. Notification by Assignor. Promptly upon obtaining knowledge thereof, the applicable Assignor will notify the Collateral Agent and the Noteholders in writing of the institution of, or any final adverse determination in, any proceeding in the PTO or any similar office or agency of the United States or any foreign country, or any court, regarding the validity of any of the Trademarks or Trademark Registrations material to Assignee's business, or the Assignor's rights, title or interests in and to the Pledged Trademarks that are material to Assignee's business, and of any event that does or reasonably could materially adversely affect the value of any of the Pledged Trademarks, the ability of the Assignor or the Collateral Agent to dispose of any of the Pledged Trademarks or the rights and remedies of the Collateral Agent in relation thereto (including but not limited to the levy of any legal process against any of the Pledged Trademarks).

7. REMEDIES.

Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have, in addition to all other rights and remedies given it by this Trademark Agreement (including, without limitation, those set forth in §2.2), the Note Agreement, the Security Agreement and the other Note Documents, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the State of New York, and, without limiting the generality of the foregoing, the Collateral Agent may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Assignors, all of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Trademarks, or any interest that the Assignors may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Trademarks all expenses incurred by the Collateral Agent in attempting to enforce this Trademark Agreement (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such

proceeds toward the payment of the Obligations as set forth in or by reference in the Security Agreement. Notice of any sale, license or other disposition of the Pledged Trademarks shall be given to the Assignor at least five (5) days before the time that any intended public sale or other public disposition of the Pledged Trademarks is to be made or after which any private sale or other private disposition of the Pledged Trademarks may be made, which the Assignor hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Collateral Agent may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Trademarks or interests therein sold, licensed or otherwise disposed of.

8. COLLATERAL PROTECTION.

If either Assignor shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of such Assignor shall be breached, the Collateral Agent, in its own name or that of such Assignor (in the sole discretion of the Collateral Agent), may (but shall not be obligated to) do such act or remedy such breach (or cause such act to be done or such breach to be remedied), and such Assignor agrees promptly to reimburse the Collateral Agent for any cost or expense incurred by the Collateral Agent in so doing.

9. POWER OF ATTORNEY.

If any Event of Default shall have occurred and be continuing, the Assignors do hereby make, constitute and appoint the Collateral Agent (and any officer or agent of the Collateral Agent as the Collateral Agent may select in its exclusive discretion) as the Assignors' true and lawful attorney-in-fact, with full power of substitution and with the power to endorse the Assignor's name on all applications, documents, papers and instruments necessary for the Collateral Agent to use the Pledged Trademarks, or to grant or issue any exclusive or nonexclusive license of any of the Pledged Trademarks to any third person, or to take any and all actions necessary for the Collateral Agent to assign, pledge, convey or otherwise transfer title in or dispose of any of the Pledged Trademarks or any interest of either Assignor therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts that such Assignor is obligated to execute and do hereunder. The Assignors hereby ratify all that such attorney shall lawfully do or cause to be done by virtue hereof and releases each of the Collateral Agent and the Noteholders from any claims, liabilities, causes of action or demands arising out of or in connection with any action taken or omitted to be taken by the Collateral Agent under this power of attorney (except for the Collateral Agent's gross negligence or willful misconduct). This power of attorney is coupled with an interest and shall be irrevocable for the duration of this Trademark Agreement.

10. FURTHER ASSURANCES.

Each Assignor shall, at any time and from time to time, and at its expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Collateral Agent may request or as may be necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of

this Trademark Agreement, or to assure and confirm to the Collateral Agent the grant, perfection and priority of the Collateral Agent's security interest in the Pledged Trademarks.

11. TERMINATION.

At such time as all of the Obligations have been finally paid and satisfied in full, this Trademark Agreement shall terminate and the Collateral Agent shall, upon the request and at the expense of the Assignors, execute and deliver to the Assignors all deeds, assignments and other instruments as may be necessary or proper to reassign and reconvey to and re-vest in the Assignors the entire right, title and interest to the Pledged Trademarks previously granted, assigned, transferred and conveyed to the Collateral Agent by the Assignor pursuant to this Trademark Agreement, as fully as if this Trademark Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Collateral Agent pursuant hereto or the Security Agreement.

12. COURSE OF DEALING.

No course of dealing between the Assignors and the Collateral Agent, nor any failure to exercise, nor any delay in exercising, on the part of the Collateral Agent, any right, power or privilege hereunder or under the Security Agreement or any other agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13. EXPENSES.

Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Collateral Agent in connection with the preparation of this Trademark Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Pledged Trademarks, shall be borne and paid by the Assignors.

14. OVERDUE AMOUNTS.

Until paid, all amounts due and payable by the Assignors hereunder shall be a debt secured by the Pledged Trademarks and other Collateral and shall bear, whether before or after judgment, interest at the rate of interest for overdue principal set forth in the Note Agreement.

15. NO ASSUMPTION OF LIABILITY; INDEMNIFICATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NEITHER THE COLLATERAL AGENT NOR ANY NOTEHOLDER ASSUMES ANY LIABILITIES OF THE ASSIGNOR WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE ASSIGNOR'S OWNERSHIP OR PURPORTED

OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED TRADEMARKS OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE ASSIGNORS, AND THE ASSIGNORS SHALL INDEMNIFY THE COLLATERAL AGENT AND THE NOTEHOLDERS FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING LEGAL FEES, INCURRED BY THE COLLATERAL AGENT OR ANY NOTEHOLDER WITH RESPECT TO SUCH LIABILITIES.

16. NOTICES.

All notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(a) If to either Assignor: c/o AboveNet, Inc.
360 Hamilton Avenue
White Plains, New York 10602
Attn: General Counsel
Phone: 914.421.6700
Fax: 914.421.6793

or at such other address for notice as such Assignor shall last have furnished in writing to the person giving the notice; and

(b) If to the Collateral Agent: 60 Wall Street, 27th Floor
Mail Stop NYC60-2710
New York, New York 10005
Attn: Dorothy Robinson
Phone: 212.250.7345
Fax: 212.797.8615

or at such other address for notice as the Collateral Agent shall last have furnished in writing to the person giving the notice.

Notices under this Section 17 will be deemed given (a) if sent by telecopy, when sent, (b) if sent by registered or certified mail, three Business Days after being deposited in the mail, and (c) if sent by a recognized overnight delivery service, on the next Business Day.

17. AMENDMENT AND WAIVER.

This Trademark Agreement is subject to modification only by a writing signed by the Collateral Agent (with the consent of the Required Holders) and the Assignors, except as provided in §6.2. The Collateral Agent shall not be deemed to have waived any right hereunder

unless such waiver shall be in writing and signed by the Collateral Agent and the Required Holders. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

18. GOVERNING LAW; CONSENT TO JURISDICTION.

THIS TRADEMARK AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. The Assignors agree that any suit for the enforcement of this Trademark Agreement may be brought in the courts of the State of New York or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon either Assignor by mail at the address specified in §17. The Assignors hereby waive any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

19. WAIVER OF JURY TRIAL.

EACH ASSIGNOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS TRADEMARK AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, each Assignor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. Each Assignor (i) certifies that neither the Collateral Agent or any Noteholder nor any representative, agent or attorney of the Collateral Agent or any Noteholder has represented, expressly or otherwise, that the Collateral Agent or any Noteholder would not, in the event of litigation, seek to enforce the foregoing waivers, and (ii) acknowledges that, in entering into the Note Agreement and the other Note Documents to which the Collateral Agent or any Noteholder is a party, the Collateral Agent and the Noteholders are relying upon, among other things, the waivers and certifications contained in this §20.

20. MISCELLANEOUS.

The headings of each section of this Trademark Agreement are for convenience only and shall not define or limit the provisions thereof. This Trademark Agreement and all rights and obligations hereunder shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of the Collateral Agent, the Noteholders and their respective successors and assigns. In the event of any irreconcilable conflict between the provisions of this Trademark Agreement and the Note Agreement, or between this Trademark Agreement and the Security Agreement, the provisions of the Note Agreement or the Security Agreement, as the case may be, shall control. If any term of this Trademark Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Trademark Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Assignor acknowledges receipt of a copy of this Trademark Agreement.

21. SUBJECT TO COLLATERAL AGENCY AGREEMENT.

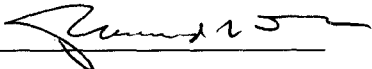
Any and all rights granted to the Collateral Agent under this Agreement are to be held and exercised by the Collateral Agent as agent for the benefit of the Noteholders pursuant to the provisions of the Collateral Agency Agreement dated of even date herewith among Deutsche Bank Trust Company Americas, the Company and the Noteholders (the “**Agency Agreement**”). Each of the Noteholders shall be a beneficiary of the terms of this Agreement. Any and all obligations under this Agreement of the parties to this Agreement, and the rights and indemnities granted to the Collateral Agent under this Agreement, are created and granted subject to, and in furtherance (and not in limitation) of, the terms of the Agency Agreement and the rights and indemnities of the Noteholders contained therein shall apply equally to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any Person other than the Assignors, the Noteholders and the Collateral Agent any legal or equitable right, remedy, or claim under or in respect of this Agreement or any covenant, condition, or provision herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Assignors, the Noteholders and the Collateral Agent. Notwithstanding anything herein to the contrary, the Collateral Agent shall exercise its rights and powers subject to the direction and indemnity of the Noteholders as provided in the Agency Agreement.

Notwithstanding anything to the contrary in this Agreement, in the event that any term or provision of the Agency Agreement conflicts with any term or provision of this Agreement, the relevant terms and provisions of the Agency Agreement shall control concerning such specific term or provision.

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ASSIGNEE


**DEUTSCHE BANK TRUST COMPANY AMERICAS,
solely as Collateral Agent for the benefit of the Noteholders**

By: 
Name: **Richard L. Buckwalter**
Title: **Vice President**

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 29th day of December, 2003, personally appeared Richard L. Buckwalter to me known personally, and who, being by me duly sworn, deposes and says that he is the Vice President of **DEUTSCHE BANK TRUST COMPANY AMERICAS**, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Richard L. Buckwalter acknowledged said instrument to be the free act and deed of said corporation.



Notary Public
My commission expires:

ONELARA HENDRICKS Notary Public, State of New York Registration #01HE6363947 Qualifies in Kings County My Commission Expires Sept. 10, 2005

TRADEMARK

IN WITNESS WHEREOF, this Trademark Agreement has been executed as of the day and year first above written.

ASSIGNOR

ABOVENET, INC.

By: [Signature]
Name: Robert Sokota
Title: Senior Vice President + General Counsel.

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF New York)
) ss.
COUNTY OF Westchester)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 22 day of January, 2004, personally appeared Robert Sokota to me known personally, and who, being by me duly sworn, deposes and says that he is the Senior Vice President ~~General Counsel~~ of ABOVENET, INC., and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said he acknowledged said instrument to be the free act and deed of said corporation.

[Signature]
Notary Public

My commission expires:

YVETTE KITROSSER
Notary Public, State of New York
No. 31-5008842
Qualified in New York County 2007
Commission Expires Mar. 1, 2007

Schedule A

Trademarks and Trademark Registrations

I. Trademark Applications

Applicant	Title	Application Number	Date
AboveNet Communications, Inc.	ASAP	App. No. 75 / 488,308	05/20/98

II. Trademarks (domestic)

Owner	Title	Registration Number	Date
AboveNet, Inc. (f/k/a Metromedia Fiber Network, Inc.)	UNLEASING THE OPTICAL REVOLUTION	2,409,295	11/28/00
AboveNet Communications, Inc.	ABOVESECURE	2,373,799	08/01/00
AboveNet Communications, Inc.	WEBCONDO	2,291,034	11/09/99
AboveNet Communications, Inc.	ISX	2,383,863	09/05/00
AboveNet Communications, Inc.	ABOVENET	2,282,972	10/05/99
AboveNet Communications, Inc.	APS	2,260,979	07/13/99
AboveNet Communications, Inc.	ISPCONDO	2,282,969	10/05/99
AboveNet Communications, Inc.	ETHERVALVE	2,165,267	06/16/98
AboveNet Communications, Inc.	AS-UR-HERE	2,250,734	03/16/99
AboveNet Communications, Inc.	WEBCONDO	2,367,331	07/18/00

II. Trademarks (foreign)

Owner	Title	Country	Registration Number	Date
AboveNet, Inc. (f/k/a Metromedia Fiber Network, Inc.)	Wavechannel Optical Network	Switzerland	483,831	10/17/00
AboveNet Communications, Inc.	ABOVENET	France	98741428	07/10/98
AboveNet Communications, Inc.	ABOVENET	Germany	39838395	04/09/99
AboveNet Communications, Inc.	ABOVENET	Hong Kong	b16790/1999	05/20/98
AboveNet Communications, Inc.	ABOVENET	New Zealand	303700	06/21/99
AboveNet Communications, Inc.	ABOVENET	United Kingdom	2170781	02/26/99
AboveNet Communications, Inc.	ABOVENET	Austria	185111	11/11/99
AboveNet Communications, Inc.	ABOVESECURE	EU	Community Trademark # 897777	03/03/00

Owner	Title	Country	Registration Number	Date
AboveNet Communications, Inc.	ONE-HOP CONSORTIUM	EU	Community Trademark # 1096585	05/18/00
AboveNet Communications, Inc.	ONE-HOP CONSORTIUM MEMBER	EU	Community Trademark # 1096619	03/30/00
AboveNet Communications, Inc.	POWERED BY ABOVENET	EU	Community Trademark # 1197896	02/13/01
AboveNet Communications, Inc.	ISX	EU	Community Trademark # 1472125	06/06/01
AboveNet Communications, Inc.	ISPCONDO	United Kingdom	2170772	03/10/00
AboveNet Communications, Inc.	ABOVENET ONE-HOP SOLUTION	United Kingdom	2171715	01/04/99
AboveNet Communications, Inc.	WEBCONDO	United Kingdom	2171745	09/10/99
AboveNet Communications, Inc.	ISX	United Kingdom	2177817	03/24/00
AboveNet Communications, Inc.	ONE-HOP CONSORTIUM	United Kingdom	2190317	08/06/99
AboveNet Communications, Inc.	ONE-HOP CONSORTIUM MEMBER	United Kingdom	2190320	08/06/99
AboveNet Communications, Inc.	POWERED BY ABOVENET	United Kingdom	2199364	02/04/00

Note: The Company believes that "Above-Net, Inc.," with an address at 5511 Butternut Circle, Minnetonka, Minnesota, 55343, and which maintains the Web site www.above-net.com, is infringing on one or more of the Company's trademarks, service marks and related other intellectual property rights.

EXHIBIT I

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, ABOVENET, INC., a corporation organized and existing under the laws of the State of Delaware, having a place of business at 360 Hamilton Avenue, White Plains, New York 10602 (the “**Assignor**”), has adopted and used and is using the trademarks and service marks (the “**Marks**”) identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS and **DEUTSCHE BANK TRUST COMPANY AMERICAS**, a trust company organized and existing under the laws of the State of New York, having a place of business at 60 Wall Street, 27th Floor, New York, New York, 10005 (the “**Assignee**”), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

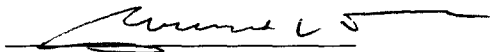
NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks (U.S.) is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks (U.S.) below.

The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Assignor to the Assignee is hereby accepted as of the 29th day of December, 2003.

ASSIGNEE


**DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Collateral Agent for itself or the other Noteholders**

By: 
Name: _____
Title: **Richard L. Buckwalter
Vice President**

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 29th day of December, 2003, personally appeared Richard L. Buckwalter to me known personally, and who, being by me duly sworn, deposes and says that he is the Vice President of **DEUTSCHE BANK TRUST COMPANY AMERICAS**, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Richard L. Buckwalter acknowledged said instrument to be the free act and deed of said corporation.



Notary Public

My commission expires:

ONEAKA HENDRICKS
Notary Public, State of New York
Registration #01HE6063947
Qualified in Kings County
My Commission Expires Sept. 10, 2005

Annex to Exhibit I

Trademarks

I. Trademarks (U.S.)

Owner	Title	Registration Number	Date
AboveNet, Inc. (f/k/a Metromedia Fiber Network, Inc.)	UNLEASING THE OPTICAL REVOLUTION	2,409,295	11/28/00

EXHIBIT II

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, ABOVENET COMMUNICATIONS, INC., a corporation organized and existing under the laws of the State of Delaware, having a place of business at 360 Hamilton Avenue, White Plains, New York 10602 (the “**Assignor**”), has adopted and used and is using the trademarks and service marks (the “**Marks**”) identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS and **DEUTSCHE BANK TRUST COMPANY AMERICAS**, a trust company organized and existing under the laws of the State of New York, having a place of business at 60 Wall Street, 27th Floor, New York, New York, 10005 (the “**Assignee**”), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

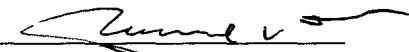
NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

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The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Assignor to the Assignee is hereby accepted as of the 29th day of December, 2003.

ASSIGNEE


**DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Collateral Agent for itself or the other Noteholders**

By: 
Name:
Title: **Richard L. Buckwalter
Vice President**

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 29th day of December, 2003, personally appeared Richard L. Buckwalter to me known personally, and who, being by me duly sworn, deposes and says that he is the Vice President of **DEUTSCHE BANK TRUST COMPANY AMERICAS**, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Richard L. Buckwalter acknowledged said instrument to be the free act and deed of said corporation.


Notary Public

My commission expires:

ONEAKA HENDRICKS
Notary Public, State of New York
Registration #01HE6063647
Qualified in Kings County
My Commission Expires Sept. 10, 2005

Annex to Exhibit II

Trademarks

I. Trademark Applications

Applicant	Title	Application Number	Date
AboveNet Communications, Inc.	ASAP	App. No. 75 / 488,308	05/20/98

II. Trademarks (U.S.)

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