

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): June 29, 1999

CMGI, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware (State or Other Jurisdiction of Incorporation)	0-22846 (Commission File Number)	04-2921333 (IRS Employer Identification No.)
---	--	--

100 Brickstone Square, Andover, Massachusetts (Address of Principal Executive Offices)	01810 (Zip Code)
---	---------------------

Registrant's telephone number, including area code: (978) 684-3600

N/A

(Former Name or Former Address, if Changed Since Last Report)

Item 5. Other Events.

On June 29, 1999, CMGI, Inc., a Delaware corporation (the "Company") issued and sold pursuant to a Securities Purchase Agreement, dated as of June 29, 1999, by and among the Company and the Investors (as defined herein), an aggregate of 375,000 shares of its newly designated Series C Convertible Preferred Stock (the "Series C Preferred Stock") to funds managed by four institutional investment managers (the "Investors"). The shares were sold in a private placement pursuant to Regulation D under the Securities Act of 1933, as amended (the "Securities Act").

The rights and preferences of the Series C Preferred Stock are as set forth in a Certificate of Designations, Preferences, and Rights, in respect of the Series C Preferred Stock (the "Certificate of Designation"), which was filed with the Secretary of State of the State of Delaware on June 29, 1999, and a Certificate of Correction to the Certificate of Designation, which was filed with the Secretary of State of the State of Delaware on June 30, 1999. The Certificate of Designation segregates the shares of Series C Preferred Stock into three separate tranches of 125,000 shares each to be designated as "Tranche 1," "Tranche 2," and "Tranche 3" (individually, a "Tranche" and collectively, the "Tranches"). The shares in each Tranche have identical rights and preferences to shares in the other Tranches, except as to conversion price as set forth below. The Company will pay a semiannual dividend on the Series C Preferred Stock of 2% per annum, in arrears, on June 30 and December 30 of each year, at the Company's option, in cash or through an adjustment to the liquidation preference of the Series C Preferred Stock. Such adjustments, if any, will also increase the number of shares into which the Series C Preferred Stock is convertible.

Each Tranche may be converted, at the holder's option, into shares of common stock, \$0.01 par value per share (the "Common Stock"), of the Company at an initial conversion price per share equal to 150% of the average of the closing bid prices of the Common Stock on the Nasdaq National Market over the ten consecutive trading days immediately preceding the date of original issuance of the Series C Preferred Stock. The initial conversion price remains in effect until the conclusion of the pricing period in respect of a particular Tranche. Thereafter, shares of the Series C Preferred Stock for a particular Tranche are convertible into Common Stock at the conversion price set for that Tranche. The conversion price for each Tranche equals the ten day average of the closing bid prices of the Common Stock beginning on the initial trading day for the particular Tranche's pricing period multiplied by 90.75%. The pricing period for Tranche 1, Tranche 2, and Tranche 3 begins on the 15th, 45th and 75th calendar day after the date of original issuance of the Series C Preferred Stock, respectively. The initial conversion price and the conversion price calculated for each Tranche are subject to adjustment for certain actions taken by the Company. In addition, in no event will the conversion price calculated for each Tranche exceed the initial conversion price.

The Series C Preferred Stock may be converted into Common Stock by the holders at any time and automatically converts into Common Stock on June 30, 2002. The Series C Preferred Stock is redeemable at the option of the holders upon the occurrence of certain events.

Pursuant to the terms of a Registration Rights Agreement, dated as of June 29, 1999, by and among the Company and the Investors, the Company is obligated to file with the Securities and Exchange Commission, on or prior to October 27, 1999, a registration statement on Form S-3 under the Securities Act to register for resale the shares of Common Stock which are issuable upon conversion of the Series C Preferred Stock.

The Company's press release announcing this private placement is filed as an exhibit hereto along with the Securities Purchase Agreement, the Certificate of Designation, the Certificate of

Correction and the Registration Rights Agreement. This summary description of the private placement is qualified in its entirety by reference to the documents filed as exhibits hereto.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(c) Exhibits.

- Exhibit 99.1 Securities Purchase Agreement, dated as of June 29, 1999, by and among the Company and the Investors named therein.
- Exhibit 99.2 Registration Rights Agreement, dated as of June 29, 1999, by and among the Company and the Investors named therein
- Exhibit 99.3 Certificate of Designations, Preferences, and Rights of the Series C Preferred Stock
- Exhibit 99.4 Certificate of Correction of the Series C Preferred Stock
- Exhibit 99.5 Press Release issued by the Company on June 30, 1999

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: July 7, 1999

CMGI, INC.

By: /s/ Andrew J. Hajduky III

-----  
Name: Andrew J. Hajduky III  
Title: Executive Vice President,  
Chief Financial Officer  
and Treasurer

EXHIBIT INDEX

-----

- Exhibit 99.1 Securities Purchase Agreement, dated as of June 29, 1999, by and among the Company and the Investors named therein
- Exhibit 99.2 Registration Rights Agreement, dated as of June 29, 1999, by and among the Company and the Investors named therein
- Exhibit 99.3 Certificate of Designations, Preferences, and Rights of the Series C Preferred Stock
- Exhibit 99.4 Certificate of Correction of the Series C Preferred Stock
- Exhibit 99.5 Press Release issued by the Company on June 30, 1999

SECURITIES PURCHASE AGREEMENT

SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of June 29, 1999, by and among CMGI, Inc., a Delaware corporation, with headquarters located at 100 Brickstone Square, Andover, MA 01810 ("Company"), and each of the purchasers set forth on the signature pages hereto (the "Buyers").

WHEREAS:

A. The Company and the Buyers are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder (the "1933 Act");

B. The Company has authorized a new series of preferred stock, designated as Series C Convertible Preferred Stock (together with any Series C Preferred Stock issued in replacement thereof or otherwise with respect thereto in accordance with the terms thereof, the "Preferred Shares"), having the rights, preferences and privileges set forth in the Certificate of Designation, Rights and Preferences attached hereto as Exhibit A (the "Certificate of Designation");

C. The Preferred Shares are convertible into shares of common stock, \$0.01 par value per share, of the Company (the "Common Stock"), upon the terms and subject to the limitations and conditions set forth in the Certificate of Designation;

D. The Buyers desire to purchase and the Company desires to issue and sell, upon the terms and conditions set forth in this Agreement, an aggregate of 375,000 Preferred Shares for an aggregate purchase price of Three Hundred Seventy Five Million Dollars (\$375,000,000);

E. Each Buyer wishes to purchase, upon the terms and conditions stated in this Agreement, the number of Preferred Shares as is set forth immediately below its name on the signature pages hereto;

F. Contemporaneous with the execution and delivery of this Agreement, the parties hereto are executing and delivering a Registration Rights Agreement, in

the form attached hereto as Exhibit B (the "Registration Rights Agreement"),  
-----  
pursuant to which the Company has agreed to provide certain registration rights  
under the 1933 Act and the rules and regulations promulgated thereunder, and  
applicable state securities laws.

NOW THEREFORE, the Company and each of the Buyers severally (and not jointly)  
hereby agree as follows:

1. PURCHASE AND SALE OF PREFERRED SHARES

A. PURCHASE OF PREFERRED SHARES. On the Closing Date (as defined below),  
the Company shall issue and sell to each Buyer and each Buyer severally agrees  
to purchase from the Company such number of Preferred Shares of the respective  
Tranches (as defined in the Certificate of Designation) as is set forth  
immediately below such Buyer's name on the signature pages hereto.

B. FORM OF PAYMENT. On the Closing Date, (i) each Buyer shall pay the  
purchase price, which shall be \$1,000 for each Preferred Share, for the  
Preferred Shares to be issued and sold to it at the Closing (as defined below)  
(the "Purchase Price") by wire transfer of immediately available funds to the  
-----  
account designated pursuant to the Escrow Agreement by and among the Company,  
the Buyers and the Escrow Agent ("Escrow Agent") designated therein in the form  
-----  
attached hereto as Exhibit C (the "Escrow Agreement"), against delivery of duly  
-----  
executed certificates representing the number of Preferred Shares which such  
Buyer is purchasing and (ii) the Escrow Agent shall deliver such certificates  
duly executed on behalf of the Company, to such Buyer, against delivery of such  
Purchase Price.

C. CLOSING DATE. Subject to the satisfaction (or waiver) of the  
conditions thereto set forth in Section 5 and Section 6 below, the date and time  
of the issuance and sale of the Preferred Shares pursuant to this Agreement (the  
"Closing Date") shall be 5:00 p.m. Eastern Standard Time on June 29, 1999, or  
-----  
such other mutually agreed upon time (the "Closing").  
-----

2. BUYERS' REPRESENTATIONS AND WARRANTIES. Each Buyer severally (and not  
jointly) represents and warrants to the Company that:

A. INVESTMENT PURPOSE. As of the date hereof, the Buyer is purchasing  
the Preferred Shares and the shares of Common Stock issuable upon

conversion or otherwise pursuant to the Preferred Shares (such shares of Common Stock sometimes referred to herein as the "Conversion Shares" and, collectively -----  
with the Preferred Shares, the "Securities") for its own account and not with a -----  
present view towards the public sale or distribution thereof, except pursuant to sales registered or exempted from registration under the 1933 Act; provided, however, that by making the representation herein, the Buyer does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act. Notwithstanding the foregoing or anything else contained herein to the contrary, the Securities may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

B. ACCREDITED INVESTOR STATUS. The Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D (an "Accredited Investor"), -----  
and was not organized for the specific purpose of acquiring the Securities.

C. RELIANCE ON EXEMPTIONS. The Buyer understands that the Securities are being offered and sold to it in reliance upon specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and the Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of the Buyer to acquire the Securities. The Buyer acknowledges that it has reviewed the provisions of Rule 144 (as defined below) and in connection with the sale of the Securities other than pursuant to an effective registration statement under the 1933 Act will comply with terms of such rule or another available exemption from registration.

D. INFORMATION. The Buyer and its advisors, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been requested by the Buyer or its advisors. The Buyer and its advisors, if any, have been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigation conducted by Buyer or any of its advisors or representatives shall modify, amend or affect Buyer's right to rely on the Company's representations and warranties contained in Section 3 below. The Buyer understands that its investment in the Securities involves a significant degree of risk.



E. GOVERNMENTAL REVIEW. The Buyer understands that no United States federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities.

F. TRANSFER OR RE-SALE. The Buyer understands that: (i) except as provided in the Registration Rights Agreement, the sale or re-sale of the Securities has not been and is not being registered under the 1933 Act or any applicable state securities laws, and the Securities may not be transferred unless (a) the Securities are sold pursuant to an effective registration statement under the 1933 Act, (b) the Buyer shall have delivered to the Company an opinion of counsel (which opinion shall be in form, substance and scope reasonably satisfactory to the Company) to the effect that the Securities to be sold or transferred may be sold or transferred pursuant to a valid exemption from such registration, (c) the Securities are sold or transferred to an "affiliate" (as defined in Rule 144 promulgated under the 1933 Act (or a successor rule) ("Rule 144")) of the Buyer who agrees to sell or otherwise

-----  
transfer the Securities only in accordance with this Section 2(F) and who is an Accredited Investor or (d) the Securities are sold pursuant to Rule 144 if available; (ii) any sale of such Securities made in reliance on Rule 144 may be made only in accordance with the terms of said Rule 144 and further, if said Rule 144 is not applicable, any re-sale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC promulgated thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder (in each case, other than pursuant to the Registration Rights Agreement). Notwithstanding the foregoing or anything else contained herein to the contrary, the Securities may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

G. LEGENDS. The Buyer understands that the Preferred Shares and, until such time as the Conversion Shares have been registered under the 1933 Act as contemplated by the Registration Rights Agreement or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, the Conversion Shares, shall bear a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of the certificates for such Securities):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. THE SECURITIES REPRESENTED HEREBY MAY NOT BE OFFERED, SOLD, OR OTHERWISE TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE APPLICABLE SECURITIES LAWS OR AN OPINION OF COUNSEL, IN FORM, SUBSTANCE AND SCOPE REASONABLY SATISFACTORY TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER THE APPLICABLE SECURITIES LAWS OR UNLESS SOLD PURSUANT TO RULE 144 UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED AS COLLATERAL IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LENDING ARRANGEMENT."

The legend set forth above shall be removed and the Company shall issue a certificate without such legend to the holder of any Security upon which it is stamped, if, unless otherwise required by applicable state securities laws, (a) such Security is registered for sale under an effective registration statement filed under the 1933 Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, or (b) such holder provides the Company with an opinion of counsel, in form, substance and scope reasonably satisfactory to the Company, to the effect that a public sale or transfer of such Security may be made without registration under the 1933 Act and such sale or transfer is effected or (c) such holder provides the Company with reasonable assurances and counsel to the Company provides an opinion (which opinion must be provided if such reasonable assurances are provided by such holder and the Company is in compliance with the conditions set forth in Rule 144(c)) that such Security can be sold pursuant to Rule 144. The Buyer agrees to sell all Securities, including those represented by a certificate(s) from which the legend has been removed, in compliance with applicable prospectus delivery requirements, if any.

H. AUTHORIZATION; ENFORCEMENT. This Agreement and the Registration Rights Agreement have been duly and validly authorized by such Buyer. This Agreement has been duly executed and delivered on behalf of the Buyer, and this Agreement constitutes, and upon execution and delivery by the Buyer of the Registration Rights Agreement, such agreement will constitute, valid and binding agreements of the Buyer enforceable in accordance with their terms, subject, in each case,

to applicable bankruptcy, insolvency, reorganization or similar laws affecting generally the enforcement of creditors' rights and subject to a court's discretionary authority with respect to the granting of specific performance or other equitable remedies.

I. The execution and performance of this Agreement and the Registration Rights Agreement do not conflict with any agreement to which the Buyer is a party or is bound thereby, any court order or judgment addressed to the Buyer, or the constituent documents of the Buyer.

J. RESIDENCY. The Buyer is a resident of the jurisdiction set forth immediately below such Buyer's name on the signature pages hereto.

K. USE OF ASSETS. The assets being used by the Buyer to purchase the Securities do not constitute assets of any employee benefit plan (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended), or any plan (within the meaning of Section 4975 of the Internal Revenue Code of 1986, as amended).

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents and warrants to each Buyer that:

A. ORGANIZATION AND QUALIFICATION. The Company and each of its Subsidiaries (as defined below) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated, with full power and authority (corporate and other) to own, lease, use and operate its properties and to carry on its business as and where now owned, leased, used, operated and conducted. Schedule 3(A) sets forth a list of

-----  
all of the Subsidiaries of the Company and the jurisdiction in which each is incorporated. The Company and each of its Subsidiaries is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which its ownership or use of property or the nature of the business conducted by it makes such qualification necessary except where the failure to be so qualified or in good standing would not, individually or in the aggregate, have a Material Adverse Effect. "Material Adverse Effect" means any material adverse effect on (i) the Securities, (ii) the business, operations, assets or financial condition of the Company and its Subsidiaries taken as a whole, or (iii) on the transactions contemplated hereby or by the agreements or instruments to be entered into in connection herewith. "Subsidiaries" means any corporation or other organization, whether incorporated or unincorporated, in which

the Company owns, directly or indirectly, any equity or other ownership interest and in which such ownership interest entitles the Company to elect a majority of the board of directors or similar governing body.

B. AUTHORIZATION; ENFORCEMENT. (i) The Company has all requisite corporate power and authority to file and perform its obligations under the Certificate of Designation and to enter into and perform this Agreement and the Registration Rights Agreement and to consummate the transactions contemplated hereby and thereby and to issue the Securities, in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company, the filing of the Certificate of Designation and the consummation by it of the transactions contemplated hereby and thereby (including without limitation, the issuance of the Preferred Shares and the issuance and reservation for issuance of the Conversion Shares issuable upon conversion of or otherwise pursuant to the Preferred Shares) have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement has been duly executed and delivered by the Company, and (iv) this Agreement constitutes, and upon execution and delivery by the Company of the Registration Rights Agreement and the execution and filing of the Certificate of Designation, each of, such agreements and instruments will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or similar laws affecting generally the enforcement of creditors' rights and subject to a court's discretionary authority with respect to the granting of specific performance or other equitable remedies.

C. CAPITALIZATION. As of June 17, 1999, the authorized capital stock of the Company consists of: (i) 400,000,000 shares of Common Stock of which 95,301,250 shares are issued and outstanding, 21,518,841 shares are reserved for issuance pursuant to the Company's stock option plans, 1,346,154 shares are reserved for issuance upon conversion of the Series B Convertible Preferred Stock (the "Series B Stock") (in addition to any shares of Common Stock issuable pursuant to the anti-dilution provisions of such security), and less than 10,000,000 shares are reserved for issuance pursuant to securities (other than the Preferred Shares and the Series B Stock) exercisable for, or convertible into or exchangeable for shares of Common Stock except as set forth in Item 16 of Schedule 3(C)(i); and (ii) 5,000,000 shares of preferred stock, 250 of which -----  
are designated as Series A Preferred Stock, none of which are issued and outstanding and 50,000 of which are designated as

Series B Preferred Stock, 35,000 of which are issued and outstanding. All of such outstanding shares of capital stock are, or upon issuance will be, duly authorized, validly issued, fully paid and nonassessable. No shares of capital stock of the Company are subject to preemptive rights or any other similar rights of the stockholders of the Company or any liens or encumbrances imposed through the actions or failure to act of the Company. Except as disclosed in Schedule 3(C), as of the effective date of this Agreement, (i) there are no

-----  
outstanding options, warrants, scrips, rights to subscribe for, puts, calls, rights of first refusal, agreements, understandings, claims or other commitments or rights of any character whatsoever relating to, or securities or rights convertible into or exchangeable for any shares of capital stock of the Company or any of its Subsidiaries, or arrangements by which the Company or any of its Subsidiaries is or may become bound to issue additional shares of capital stock of the Company or any of its Subsidiaries, (ii) there are no agreements or arrangements under which the Company or any of its Subsidiaries is obligated to register the sale of any of its or their securities under the 1933 Act (except the Registration Rights Agreement) and (iii) there are no anti-dilution or price adjustment provisions contained in any security issued by the Company (or in any agreement providing rights to security holders) that will be triggered by the issuance of the Preferred Shares or the Conversion Shares. The Company has made available to the Buyer a certified copy of the Company's Amended and Restated Certificate of Incorporation as in effect on the date hereof ("Certificate of

-----  
Incorporation"), the Company's Restated By-laws, as in effect on the date hereof

-----  
(the "By-Laws"), and the agreements containing the terms of all securities

-----  
convertible into or exercisable for Common Stock. The Company shall provide the Buyer with a written update of this representation signed by the Company's Chief Executive Officer or Chief Financial Officer on behalf of the Company as of the Closing Date.

D. ISSUANCE OF SHARES. The Preferred Shares are duly authorized and, upon issuance in accordance with the terms of this Agreement and payment in respect thereof, will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of stockholders of the Company. The Conversion Shares are duly authorized and reserved for issuance, and, upon conversion of the Preferred Shares in accordance with the terms thereof, will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances and will not be subject to preemptive rights or other similar rights of stockholders of the Company.

E. ACKNOWLEDGMENT OF DILUTION. The Company understands and acknowledges the potentially dilutive effect to the Common Stock upon the issuance of the Conversion Shares upon conversion of the Preferred Shares. The Company further acknowledges that its obligation to issue Conversion Shares upon conversion of the Preferred Shares in accordance with the Agreement and the Certificate of Designation is absolute and unconditional regardless of the dilutive effect that such issuance may have on the ownership interests of other stockholders of the Company. The Company further acknowledges that its obligations to issue Conversion Shares upon conversion of the Preferred Shares is independent of, and notwithstanding, the fulfillment, breach or waiver of any covenant, representation, warranty or obligation of any Buyer, other than the obligation of a Buyer to tender the Preferred Shares in accordance with the terms of the Certificate of Designation.

F. SERIES OF PREFERRED STOCK. The terms, designations, powers, preferences and relative, participating and optional or other rights, and the qualifications, limitations and restrictions of each series of preferred stock of the Company currently outstanding (other than the Preferred Shares) are as stated in the Series B Stock Certificate of Designations, Preferences and Rights (the "Series B Stock Certificate of Designation"), filed on or prior to the date hereof, and the By-laws. The terms, designations, powers, preferences and relative, participating and optional or other rights, and the qualifications, limitations and restrictions of the Preferred Shares are as stated in the Certificate of Designation.

G. NO CONFLICTS. The execution, delivery and performance of this Agreement and the Registration Rights Agreement by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the filing of the Certificate of Designation and the issuance and reservation for issuance of the Conversion Shares) will not (i) conflict with or result in a violation of any provision of the Certificate of Incorporation, Series B Stock Certificate of Designation or By-laws or (ii) violate or conflict with, or result in a breach of any provision of, or constitute a default (or an event which with notice or lapse of time or both could become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement or indenture to which the Company or, to the Company's knowledge, any of its Subsidiaries, is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including Federal and state securities laws and regulations and regulations of any self-regulatory organizations to which the Company or its securities or, to the Company's knowledge, any of its Subsidiaries or their securities, are subject) applicable to the Company or, to the Company's knowledge, any of its

Subsidiaries, or by which any property or asset of the Company or, to the Company's knowledge, any of its Subsidiaries, is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). Neither the Company nor, to the Company's knowledge, any of its Subsidiaries, is in violation of its Certificate of Incorporation, By-laws or other organizational documents. The Company is not in default (and no event has occurred which with notice or lapse of time or both could put the Company in default) under, and the Company has not taken any action or failed to take any action that would give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party or by which any property or assets of the Company is bound or affected, except for possible defaults as would not, individually or in the aggregate, have a Material Adverse Effect. The business of the Company is not being conducted, and shall not be conducted so long as a Buyer owns any of the Securities, in violation of any law, ordinance or regulation of any governmental entity, except for any such violations as would not, individually or in the aggregate, have a Material Adverse Effect. Except as specifically contemplated by this Agreement and as required under the 1933 Act, any applicable state securities laws and the rules of the NASDAQ National Market ("NASDAQ"), the Company is not required to obtain any consent, authorization

-----  
or order of, or make any filing or registration with, any court, governmental agency, regulatory agency, self regulatory organization or stock market or any third party in order for it to execute, deliver or perform any of its obligations under this Agreement, the Registration Rights Agreement or the Certificate of Designation in accordance with the terms hereof or thereof or to issue and sell the Preferred Shares in accordance with the terms hereof and to issue the Conversion Shares upon conversion of the Preferred Shares. Except as disclosed in Schedule 3(G), all consents, authorizations, orders, filings and

-----  
registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof. The Company is not currently in violation of the listing requirements of NASDAQ. To the Company's knowledge, there are no facts or circumstances which might give rise to any of the foregoing.

H. SEC DOCUMENTS; FINANCIAL STATEMENTS. Since July 31, 1997, the Company has timely filed all reports, schedules, forms, statements and other documents and any amendments in respect of the foregoing required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date

-----  
hereof and all exhibits included therein and financial statements and schedules

thereto and documents (other than exhibits to such documents) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents").

-----  
Attached hereto as Schedule 3(H) is a complete listing of the SEC Documents. At

-----  
the time of their respective filing dates, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. To the Company's knowledge, none of the statements made in any such SEC Documents is, or has been, required to be amended or updated under applicable law (except for such statements as have been amended or updated in subsequent filings prior to the date hereof). As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with United States generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements) and fairly present in all material respects the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). Except as set forth in the financial statements of the Company included in the SEC Documents, the Company has no liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to July 31, 1998 and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under United States generally accepted accounting principles to be reflected in such financial statements, which, individually or in the aggregate, are not material to the financial condition or operating results of the Company. Neither the Company nor any of its Subsidiaries or any of their officers, directors, employees or agents have provided the Buyers with any material, nonpublic information.

I. ABSENCE OF CERTAIN CHANGES. Since July 31, 1998, there has been no material adverse change and no material adverse development in the assets, liabilities, business, properties, operations, financial condition or results of operations of the Company or any of its Subsidiaries, taken as a whole.



J. ABSENCE OF LITIGATION. There is no action, suit, claim, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company or any of its Subsidiaries, threatened against or affecting the Company or any of its Subsidiaries, or their officers or directors in their capacity as such, that could have a Material Adverse Effect, and the Company is unaware of any facts or circumstances which might give rise to any of the foregoing. Schedule 3(J) contains a complete list and summary description of any pending or

-----  
threatened proceeding against or affecting the Company or the Company's officers and directors in their capacity as such or any of its Subsidiaries, without regard to whether it would have a Material Adverse Effect. To the Company's knowledge, there are no facts or circumstances which might give rise to any of the foregoing.

K. PATENTS, COPYRIGHTS, ETC. The Company and each of its Subsidiaries owns or possesses the requisite licenses or rights to use all patents, patent applications, patent rights, inventions, know-how, trade secrets, trademarks, trademark applications, service marks, service names, trade names and copyrights ("Intellectual Property") necessary to enable it to conduct its business as now

-----  
operated (and, except as set forth in Schedule 3(K) hereof, to the best of the

-----  
Company's knowledge, as presently contemplated to be operated in the future); there is no material claim or action by any person pertaining to, or proceeding pending, or to the Company's knowledge threatened, which challenges the right of the Company or of a Subsidiary with respect to any material Intellectual Property necessary to enable it to conduct its business as now operated (and, except as set forth in Schedule 3(K) hereof, to the Company's knowledge, as

-----  
presently contemplated to be operated in the future); to the Company's knowledge, the Company's or its Subsidiaries' current products, services and processes do not infringe on any Intellectual Property or other rights held by any person; and the Company is currently unaware of any facts or circumstances which might give rise to any of the foregoing. The Company and each of its Subsidiaries have in their reasonable judgment taken reasonable security measures to protect the secrecy, confidentiality and value of their Intellectual Property.

L. TAX STATUS. Except as set forth on Schedule 3(L), the Company and

-----  
each of its Subsidiaries has made or filed all federal, state and foreign income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject or filed extensions therefor (unless and only to the extent that the Company and each of its Subsidiaries has set aside on its books provisions reason-

ably adequate for the payment of all unpaid and unreported taxes) and has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and has set aside on its books provisions reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim. Except as set forth on Schedule 3(L), the Company has not

-----  
executed a waiver with respect to the statute of limitations relating to the assessment or collection of any foreign, federal, state or local tax. Except as set forth on Schedule 3(L), none of the Company's tax returns is presently being  
-----  
audited by any taxing authority.

M. CERTAIN TRANSACTIONS. Except as set forth on Schedule 3(M) and

-----  
except for arm's length transactions pursuant to which the Company or any of its Subsidiaries makes payments in the ordinary course of business upon terms no less favorable than the Company or any of its Subsidiaries could obtain from third parties and other than the grant of stock options disclosed on Schedule

-----  
3(C), none of the officers, directors, or employees of the Company is presently

-----  
a party to any transaction with the Company or any of its Subsidiaries (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by or providing for rental of real or personal property to or from, or otherwise requiring payment to or from, any officer, director or such employee of the Company or, to the knowledge of the Company, any corporation, partnership, trust or other entity in which any officer, director or any such employee has a substantial interest or is an officer, director, trustee or partner.

N. DISCLOSURE. All information relating to or concerning the Company or any of its Subsidiaries set forth in this Agreement and provided to the Buyers pursuant to Section 2(D) hereof and otherwise in connection with the transactions contemplated hereby is true and correct in all material respects and the Company has not omitted to state any material fact necessary in order to make the statements made herein or therein, in light of the circumstances under which they were made, not misleading. No event or circumstance has occurred or exists with respect to the Company or any of its Subsidiaries or its or their business, properties, operations or financial conditions, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed (assuming for this purpose that the Company's

reports filed under the 1934 Act are being incorporated into an effective registration statement filed by the Company under the 1933 Act).

O. ACKNOWLEDGMENT REGARDING BUYERS' PURCHASE OF SECURITIES. The Company acknowledges and agrees that the Buyers are acting solely in the capacity of arm's length purchasers with respect to this Agreement and the transactions contemplated hereby. The Company further acknowledges that no Buyer is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby and any statement made by any Buyer or any of their respective representatives or agents in connection with this Agreement and the transactions contemplated hereby is not advice or a recommendation and is merely incidental to the Buyers' purchase of the Securities. The Company further represents to each Buyer that the Company's decision to enter into this Agreement has been based solely on the independent evaluation by the Company and its representatives.

P. NO INTEGRATED OFFERING. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has directly or indirectly made any offers or sales of any security or solicited any offers to buy any security under circumstances that would require registration under the 1933 Act of the issuance of the Securities to the Buyers. The issuance of the Securities to the Buyers will not be integrated with any other prior issuance of the Company's securities for purposes of any stockholder approval provisions applicable to the Company or its securities.

Q. NO BROKERS. Except as set forth in Schedule 3(Q), the Company has  
-----  
taken no action which would give rise to any claim by any person for brokerage commissions, finder's fees or similar payments relating to this Agreement or the transactions contemplated hereby.

R. PERMITS; COMPLIANCE. The Company and each of its Subsidiaries is in possession of all franchises, grants, authorizations, licenses, permits, easements, variances, exemptions, consents, certificates, approvals and orders necessary to own, lease and operate its properties and to carry on its business as it is now being conducted except those, the absence of which, would not, individually or in the aggregate, have a Material Adverse Effect (collectively, the "Company Permits"), and there is no action pending or, to the knowledge of  
-----  
the Company, threatened regarding suspension or cancellation of any of the Company Permits. Neither the Company nor any of its Subsidiaries is in conflict with, or in default or

violation of, any of the Company Permits, except for any such conflicts, defaults or violations which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Since July 31, 1998, neither the Company nor any of its Subsidiaries has received any written notification with respect to possible conflicts, defaults or violations of applicable laws, except for notices relating to possible conflicts, defaults or violations, which conflicts, defaults or violations would not have a Material Adverse Effect.

S. ENVIRONMENTAL MATTERS (i) Except as set forth in Schedule 3(S),

-----  
there are, to the Company's knowledge, with respect to the Company or any of its Subsidiaries or any predecessor of the Company, no past or present violations of Environmental Laws (as defined below), releases of any Hazardous Materials (as defined below) into the environment, actions, activities, circumstances, conditions, events, incidents, or contractual obligations which may give rise to any common law environmental liability or any liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or similar federal, state, local or foreign laws and neither the Company nor any of its Subsidiaries has received any notice with respect to any of the foregoing, nor is any action pending or, to the Company's knowledge, threatened in connection with any of the foregoing. The term "Environmental Laws" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise

-----  
relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder. (ii) Except as set forth in Schedule 3(S) and other than those that are or were stored, used or

-----  
disposed of in compliance with applicable law, no Hazardous Materials are contained on or about any real property currently owned, leased or used by the Company or any of its Subsidiaries, and no Hazardous Materials were released on or about any real property previously owned, leased or used by the Company or any of its Subsidiaries during the period the property was owned, leased or used by the Company or any of its Subsidiaries, except, in each case, in the ordinary course of the Company's or any of its Subsidiaries' business. (iii) Except as set forth in Schedule 3(S), there are no underground

storage tanks on or under any real property owned, leased or used by the Company or any of its Subsidiaries that are not in compliance with applicable law.

T. INTERNAL ACCOUNTING CONTROLS. The Company maintains a system of internal accounting controls sufficient, in the judgment of the Company's Board of Directors, to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with United States generally accepted accounting principles and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

U. FOREIGN CORRUPT PRACTICES. Neither the Company, nor any of its Subsidiaries, nor any director, officer, agent, employee or other person acting on behalf of the Company or any Subsidiary has, in the course of his actions for, or on behalf of, the Company, used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977; or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

V. EMPLOYEE RELATIONS. Neither the Company nor any of its Subsidiaries is involved in any labor dispute nor, to the knowledge of the Company, is any such dispute threatened. None of the Company's or its Subsidiaries' employees is a member of a union, neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relations with their employees are good. No executive officer of the Company (as defined in Rule 501(f) of the 1933 Act) has notified the Company that such officer intends to leave the Company or otherwise terminate such officer's employment with the Company. No executive officer of the Company, to the knowledge of the Company, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and, to the Company's knowledge, the continued employ-

ment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters.

W. APPLICATION OF TAKEOVER PROTECTIONS. The Company has taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination or other similar anti-takeover provision under the Certificate of Incorporation or the laws of the state of its incorporation which is or could become applicable to the Buyers as a result of the transactions contemplated by this Agreement, including, without limitation, the Company's issuance of the Securities and the Buyer's ownership of the Securities.

X. RIGHTS AGREEMENT. The Company has not adopted a shareholder rights plan or similar arrangement relating to accumulations of beneficial ownership of Common Stock or a change in control of the Company.

Y. YEAR 2000 COMPLIANCE. The Company has initiated a review and assessment of all areas within its and each Subsidiaries' business and operations that could be adversely affected by the "Year 2000 Problem" (that is, the risk that computer applications used by the Company or any of the Subsidiaries may be unable to recognize and perform properly date-sensitive functions involving certain dates prior to and any date after December 31, 1999). Based on the foregoing, the Company believes that the computer applications that are currently material to its or any Subsidiaries' business and operations are reasonably expected to be able to perform properly date-sensitive functions for all dates before and after January 1, 2000, except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.

Z. NO OTHER AGREEMENTS. The Company has not, directly or indirectly, made any agreements with any Buyers relating to the terms or conditions of the transactions contemplated by this Agreement, the Registration Rights Agreement and the Certificate of Designation except as set forth in this Agreement, the Registration Rights Agreement or the Certificate of Designation.

AA. INVESTMENT COMPANY. As of the date hereof, the Company has not received any correspondence from the Securities and Exchange Commission that would indicate that the exception under Rule 3(a)(2) of the Investment Company Act of 1940, as amended, would expire prior to October 31, 1999.

#### 4. COVENANTS.

A. BEST EFFORTS. The parties shall use their best efforts to satisfy timely each of the conditions described in Section 5 and 6 of this Agreement.

B. FORM D; BLUE SKY LAWS. The Company agrees to file a Form D with respect to the Securities as required under Regulation D of the Securities Act and to provide a copy thereof to each Buyer promptly after such filing. The Company shall take such action as the Company shall reasonably determine is necessary to qualify the Securities for sale to the Buyers at the applicable closing pursuant to this Agreement under applicable securities or "blue sky" laws of the states of the United States (or to obtain an exemption from such qualification).

C. REPORTING STATUS; ELIGIBILITY TO USE FORM S-3. The Common Stock is registered under Section 12(g) of the 1934 Act. So long as any Buyer beneficially owns any of the Securities, the Company shall timely file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not, so long as any Buyer beneficially owns any of the Securities, terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. The Company currently meets, and, so long as any Buyer beneficially owns any of the Securities, will take reasonable action to continue to meet, the "registrant eligibility" requirements set forth in the general instructions to Form S-3 under the Securities Act.

D. USE OF PROCEEDS. The Company shall use the proceeds from the sale of the Preferred Shares to fund working capital and for general corporate purposes including acquisitions and investments and to repay indebtedness.

E. FINANCIAL INFORMATION. The Company agrees to send the following reports to each Buyer until such Buyer transfers, assigns, or sells all of the Securities: (i) within ten (10) days after the filing with the SEC, a copy of its Annual Report on Form 10-K, its Quarterly Reports on Form 10-Q and any Current Reports on Form 8-K; and (ii) contemporaneously with the making available or giving to the stockholders of the Company, copies of any notices or other information the Company makes available or gives to such stockholders.

F. RESERVATION OF SHARES. The Company shall at all times have authorized, and reserved for the purpose of issuance, a sufficient number of shares of Common Stock to provide for the full conversion of the outstanding Preferred Shares and issuance of the Conversion Shares in connection therewith. Without limiting the

generality of the foregoing, the Company has irrevocably authorized and instructed its transfer agent to reserve approximately 5,000,000 shares of Common Stock for initial issuance upon conversion of the Preferred Shares. The Company shall not reduce the number of shares of Common Stock reserved for issuance upon conversion of Preferred Shares without the consent of the Buyers holding at least a majority of the Preferred Shares then outstanding, which consent shall not be unreasonably withheld. The Company shall use its best efforts at all times to maintain the number of shares of Common Stock so reserved for issuance at no less than the number that is then actually issuable upon full conversion of the Preferred Shares as set forth in the Certificate of Designation. If at any time the number of shares of Common Stock authorized and reserved for issuance is below the number of Conversion Shares issued and issuable upon conversion of the Preferred Shares, the Company will promptly take all corporate action necessary to authorize and reserve a sufficient number of shares, including, without limitation, calling a special meeting of stockholders to authorize additional shares to meet the Company's obligations under this Section 4(F), in the case of an insufficient number of authorized shares, and using its best efforts to obtain stockholder approval of an increase in such authorized number of shares.

G. LISTING. The Company shall promptly secure the listing of the Conversion Shares upon each national securities exchange or automated quotation system, if any, upon which shares of Common Stock are then listed (subject to official notice of issuance) and, so long as any Buyer or its assigns owns any of the Securities, shall maintain, so long as any other shares of Common Stock shall be so listed, such listing of the Conversion Shares. The Company will obtain and, so long as any Buyer owns any of the Securities, maintain the listing and trading of its Common Stock on NASDAQ, the NASDAQ Small Cap Market ("NASDAQ Scalecap"), the New York Stock Exchange ("NYSE"), or the American  
-----  
Stock Exchange ("AMEX") and will comply in all material respects with the  
-----  
Company's reporting, filing and other obligations under the bylaws or rules of the National Association of Securities Dealers, Inc. ("NASD") and such  
-----  
exchanges, as applicable. The Company shall promptly provide to each Buyer copies of any notices it receives from NASDAQ and any other exchanges or quotation systems on which the Common Stock is then listed regarding the continued eligibility of the Common Stock for listing on such exchanges and quotation systems; provided, however, that to the extent the Company discloses to a Buyer that the Company has material non-public information and a Buyer requests that such information not be disclosed to such Buyer, if such information is of the type required to be delivered pursuant to this



Section 4(G), the Company shall not be obligated to disclose such information pursuant to this Section 4(G).

H. NO INTEGRATION. The Company shall not make any offers or sales of any security (other than the Securities) under circumstances that would require registration of the Securities being offered or sold hereunder under the 1933 Act or cause the offering of Securities to be integrated with any other offering of securities by the Company for the purpose of any stockholder approval provision applicable to the Company or its securities.

I. TRADING GUIDELINES. So long as a Buyer holds Preferred Shares, such Buyer covenants and agrees that it will conduct all transactions in the Common Stock in compliance with applicable Federal and State securities laws. So long as a Buyer holds Preferred Shares, such Buyer will not on any given date have a net short position in the Common Stock which exceeds the number of shares of Common Stock which such Buyer reasonably expects to receive upon conversion of the Preferred Shares then held by such Buyer and upon conversion or exercise of other securities issued by the Company then held by such Buyer. Subject to the Buyer's compliance with the second sentence of this Section 4(I), and notwithstanding any other provision of this Agreement, the Buyer shall not be in breach of this Agreement (including without limitation the first sentence of this Section 4(I)) to the extent that (i) such Buyer does not effect purchases or sales of securities knowingly or with the intent of violating Federal or state securities laws or (ii) such Buyer's purchases or sales of securities are effected in a manner consistent with the transactions described in Exhibit 3 to

-----  
the Registration Rights Agreement (whether or not the Registration Statement is then effective) or do not involve securities acquired directly from the Company.

J. TRANSFER AGENT INSTRUCTIONS. The Company shall issue irrevocable instructions to its transfer agent to issue certificates, registered in the name of each Buyer or its nominee, for the Conversion Shares in such amounts as specified from time to time by each Buyer to the Company upon conversion of the Preferred Shares in accordance with the terms thereof (the "Irrevocable

-----  
Transfer Agent Instructions"). Prior to registration of the Conversion Shares

-----  
under the 1933 Act or the date on which the Conversion Shares may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, all such certificates shall bear the restrictive legend specified in Section 2(G) of this Agreement. The Company warrants that no instruction other than the Irrevocable Transfer Agent Instructions referred to in this Section

4(J), and stop transfer instructions to give effect to Section 2(F) hereof (in the case of the Conversion Shares, prior to registration of the Conversion Shares under the 1933 Act or the date on which the Conversion Shares may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold), will be given by the Company to its transfer agent and that the Securities shall otherwise be freely transferable on the books and records of the Company as and to the extent provided in this Agreement and the Registration Rights Agreement. Nothing in this Section shall affect in any way the Buyer's obligations and agreement set forth in Section 2(G) hereof to comply with all applicable prospectus delivery requirements, if any, upon re-sale of the Securities. If a Buyer provides the Company with (i) an opinion of counsel, reasonably satisfactory to the Company, to the effect that a public sale or transfer of such Securities may be made without registration under the 1933 Act and such sale or transfer is effected or (ii) the Buyer provides reasonable assurances and counsel to the Company provides an opinion (which opinion must be provided if such reasonable assurances are provided by such holder and the Company is in compliance with the conditions set forth in Rule 144(c)) that the Securities can be sold pursuant to Rule 144, the Company shall permit the transfer, and, in the case of the Conversion Shares, promptly instruct its transfer agent to issue one or more certificates, free from any restrictive legend, in such name and in such denominations as specified by such Buyer.

5. CONDITIONS TO THE COMPANY'S OBLIGATION TO SELL. The obligation of the Company hereunder to issue and sell the Preferred Shares to a Buyer at the Closing is subject to the satisfaction, on or before the Closing Date of each of the following conditions thereto, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion by prior delivery of written notice of such waiver to each Buyer:

A. The applicable Buyer shall have executed this Agreement, the Escrow Agreement, dated June 29, 1999, by and between the Company and the signatories thereto (the "Escrow Agreement"), and the Registration Rights Agreement, and delivered the same to Shoreline Pacific Institutional Finance, The Institutional Division of Financial West Group ("Shoreline").

B. The applicable Buyer shall have delivered the Purchase Price in accordance with Section 1(B) above.

C. The Certificate of Designation shall have been accepted for filing with the Secretary of State of the State of Delaware.

D. The representations and warranties of the applicable Buyer shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a particular date and in such case shall be true and correct as of that particular date), and the applicable Buyer shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the applicable Buyer at or prior to the Closing Date.

E. No litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement.

F. The Company shall have received an acknowledgment letter dated June 29, 1999 in the form attached hereto as Exhibit D from each Buyer regarding -----  
certain transactions the Company may be contemplating.

6. CONDITIONS TO EACH BUYER'S OBLIGATION TO PURCHASE. The obligation of each Buyer hereunder to purchase the Preferred Shares at the Closing is subject to the satisfaction, on or before the Closing Date of each of the following conditions, provided that these conditions are for such Buyer's sole benefit and may be waived by such Buyer at any time in its sole discretion by prior delivery of written notice by each Buyer to the Company:

A. The Company shall have executed this Agreement, the Escrow Agreement and the Registration Rights Agreement, and delivered the same to Shoreline.

B. The Company shall have delivered to the Escrow Agent duly executed certificates (in such denominations as the Buyer shall request) representing the Preferred Shares in accordance with Section 1(B) above.

C. The Certificate of Designation shall have been accepted for filing with the Secretary of State of the State of Delaware, and a copy thereof certified by such Secretary of State shall have been made available to such Buyer.

D. The Irrevocable Transfer Agent Instruction, in form and substance satisfactory to a majority in interest of the Buyers, shall have been delivered to and acknowledged in writing by the Company's Transfer Agent.

E. The representations and warranties of the Company shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made at such time (except for representations and warranties that speak as of a particular date and in such case shall be true and correct as of that particular date) and the Company shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the Closing Date. The Buyer shall have received a certificate, executed by the Chief Financial Officer of the Company, dated as of the Closing Date, to the foregoing effect.

F. No litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement.

G. The Buyer shall have received an opinion of the Company's counsel, dated as of the Closing Date, in form, scope and substance reasonably satisfactory to the Buyer and in substantially the same form as Exhibit E  
-----  
attached hereto.

H. The Buyer shall have received an officer's certificate described in Section 3(C) above, dated as of the Closing Date.

I. The Company shall have delivered to such Buyer an assistant secretary's certificate, dated as of the Closing Date, as to (i) the resolutions adopted by the Company's Board of Directors consistent with Section 3(B)(ii), (ii) the Certificate of Incorporation and (iii) the By-laws, each as in effect at the Closing.

J. Trading in the Common Stock on the NASDAQ National Market shall not have been suspended by the SEC or the NASDAQ National Market.

7. STANDSTILL AGREEMENT. A. Each Buyer agrees that, for a period beginning on the date hereof and ending on the date on which it no longer owns any Preferred Shares or Conversion Shares, it will not, directly or indirectly (unless in any such cases specifically invited in writing to do so by the Board of Directors of the Company), do any of the following except as required pursuant to or otherwise contemplated by this Agreement and the Certificate of Designation or as a result of any stock split, stock dividend, stock repurchase or similar recapitalization by the Company or otherwise to enforce such Buyer's rights under this Agreement and the Certificate of Designation or the Registration Rights Agreement:

(i) acquire, offer to acquire, or agree to acquire by purchase or otherwise, individually or by joining a partnership, limited partnership, syndicate or other "group" (as such term is used in Section 13(d)(3) of the 1934 Act) (any such act, to "acquire"), any securities of the Company entitled to vote, or securities convertible into or exercisable or exchangeable or redeemable for such securities (collectively, "Voting Securities") if, after

-----  
such acquisition, the Buyer would beneficially own (as such term is defined in Rule 13d-3 of the 1934 Act) 10% or more of the total combined voting power of the Voting Securities then outstanding;

(ii) form, join, participate in or encourage the formation of a partnership, limited partnership, syndicate or other group for the purpose of acquiring, holding or disposing of Voting Securities; provided, however, for purposes of this Section 7(ii), each Buyer and its affiliates shall not be considered to be a syndicate or other group;

(iii) make, or in any way participate in, directly or indirectly, any "solicitation" of "proxies" (as such terms are defined or used in Regulation 14A under the 1934 Act) or become a "participant" in any "election contest" (as such terms are defined or used in Rule 14a-11 under the Exchange Act) with respect to the Company (other than by way of such Buyer exercising its right to vote its Voting Securities), or initiate, propose or otherwise solicit stockholders of the Company for the approval of one or more stockholder proposals with respect to the Company or induce or attempt to induce any other person to initiate any stockholder proposal;

(iv) deposit any Voting Securities into a voting trust or subject them to any voting agreement or other agreement or arrangement with respect to the voting of such Voting Securities;

(v) otherwise act, directly or indirectly, alone or in concert with others, to seek to control the management, Board of Directors, policies or affairs of the

Company or any of its Subsidiaries, or solicit, propose, seek to effect or negotiate with any other person with respect to any form of business combination transaction involving, directly or indirectly, the Company or any of its Subsidiaries, or any restructuring, recapitalization or similar transaction with respect to the Company or any of its Subsidiaries, or announce or disclose an intent, purpose, plan or proposal with respect to the Company or any of its Subsidiaries or any Voting Securities inconsistent with the provisions of this Agreement, including an intent, purpose, plan or proposal that is conditioned on or would require the Company to waive the benefit of or amend any provision of this Agreement, or assist, participate in, facilitate or encourage or solicit any effort or attempt by any person to do or seek to do any of the foregoing; and

(vi) encourage or render advice to or make any recommendation or proposal to any person, or directly or indirectly participate, aid and abet or otherwise induce any person or engage in any of the actions prohibited by this Section 7 or to engage in any actions consistent with such prohibitions.

B. The Company and each of the Buyers agree that the initial purchase of the Preferred Shares by the Buyers hereunder and the conversion of the Preferred Shares into Conversion Shares in accordance with the provisions of the Certificate of Designation shall not constitute the formation of a group (as such term is used in Section 13d-3 of the 1934 Act) with respect to Voting Securities.

#### 8. GOVERNING LAW; MISCELLANEOUS.

A. GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Delaware without regard to the principles of conflict of laws. The parties hereto hereby submit to the exclusive jurisdiction of the United States Federal Courts and the state courts located in Delaware with respect to any dispute arising under this Agreement, the agreements entered into in connection herewith or the transactions contemplated hereby or thereby and irrevocably agree that all claims in respect of such suit or proceeding may be determined in such courts. The Company and each Buyer irrevocably waive any defense of an inconvenient forum to the maintenance of such suit or proceeding. The Company and each Buyer further agree that service of process upon a party mailed by first class mail shall be deemed in every respect effective service of process upon the party in any such suit or proceeding. Nothing herein shall affect any party's right to serve process in any other manner permitted by law. The Company and each Buyer agree a final non-appealable judgment in any such suit or

proceeding shall be conclusive and may be enforced in other jurisdictions by suit on such judgment or in any other lawful manner.

B. COUNTERPARTS; SIGNATURES BY FACSIMILE. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

C. HEADINGS. The headings of this Agreement are for convenience of reference only and shall not form part of, or affect the interpretation of, this Agreement.

D. SEVERABILITY. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

E. ENTIRE AGREEMENT; AMENDMENTS. This Agreement and the Schedules, Exhibits and instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived other than by an instrument in writing signed by the party to be charged with enforcement and no provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the holders of at least a majority of the Preferred Shares then outstanding. No such amendment shall be effective to the extent that it applies to less than all of the holders of the Preferred Shares then outstanding. No consideration shall be offered or paid to any person to amend or consent to a waiver or modification of any provision of this Agreement, the Registration Rights Agreement or the Certificate of Designation unless the same consideration also is offered to all the parties to this Agreement or the Registration Rights Agreement or holders of the Preferred Shares, as the case may be.

F. NOTICES. Any notices required or permitted to be given under the terms of this Agreement shall be sent overnight by express mail or delivered person-

ally or by courier (including an overnight delivery service) or by facsimile and shall be effective upon receipt, if delivered by overnight express mail, personally or by courier (including an overnight delivery service) or by facsimile, in each case addressed to a party. The addresses for such communications shall be:

If to the Company:

CMGI, Inc.  
100 Brickstone Square  
Andover, MA 01810  
Attention: Chief Executive Officer  
Facsimile: 978-684-3618

With copy to:

Skadden, Arps, Slate, Meagher & Flom LLP  
919 Third Avenue  
New York, NY 10022  
Attention: Morris J. Kramer, Esq.  
David J. Goldschmidt, Esq.  
Facsimile: 212-735-2000

If to a Buyer: To the contact information set forth immediately below such Buyer's name on the signature pages hereto.

Each party shall provide written notice to the other party of any change in address.

G. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor any Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other; provided, that, subject to Section 2(F), any Buyer may assign its rights and obligations hereunder to any person that purchases Securities in a private transaction from a Buyer or to any of its "affiliates," as that term is defined under the 1934 Act, without the consent of the Company; provided, further, however, that the transferee has agreed in writing to be bound by the provisions of this Agreement and acknowledges the assignment provisions of the Registration Rights Agreement with such transferee becoming a "Buyer" under this Agreement with all of the rights and obligations a Buyer has



hereunder and the Company shall have been notified of the name and address of the transferee.

H. THIRD PARTY BENEFICIARIES. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

I. INDEMNIFICATION. The Company agrees to indemnify and hold harmless each of the Buyers and their respective officers, directors, employees and agents for loss, cost or damage (including reasonable attorney's fees) arising as a result of or related to any breach or alleged breach by the Company of any of its representations, warranties, obligations and covenants set forth in this Agreement or in the Certificate of Designation or in connection with the enforcement by such Buyer of any of the Company's obligations hereunder or thereunder, including the enforcement of this indemnity.

J. PUBLICITY. The Company shall file either a press release or a Form 8-K under the 1934 Act with respect to the transactions contemplated hereby within five (5) business days of the Closing Date and Citadel Investment Group, L.L.C. on behalf of Wingate Capital Ltd. and Fisher Capital Ltd. shall be given a reasonable opportunity to review and comment on such disclosure document before it is released or filed, as the case may be.

K. FURTHER ASSURANCES. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

L. NO STRICT CONSTRUCTION. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

M. EXPENSES. Each of the parties hereto shall pay its own costs and expenses in connection with the transactions contemplated hereby, whether or not such transactions shall be consummated, except as shall be explicitly provided otherwise in the Registration Rights Agreement.

N. SURVIVAL. The representations and warranties of the Company and the agreements and covenants set forth in Sections 3, 4, 5 and 8 shall survive the closing hereunder notwithstanding any due diligence investigation conducted by or on behalf of the Buyers, except that the representations and warranties contained in Section 3 shall terminate on the earlier to occur of December 31, 2002 or the expiration of the applicable statute of limitations period (other than with respect to any claim by a third party who is not an affiliate of such Buyer against the party to this Agreement who seeks to assert a claim based on such representations and warranties).

O. KNOWLEDGE CLAUSES. As used in this Agreement, the phrases "to the Company's knowledge," "to the knowledge of the Company" and phrases of similar import means the knowledge of the Chief Executive Officer, President, any Vice President and the Chief Financial Officer of the Company, after reasonable investigation and inquiry commensurate with that of a reasonable person holding such position with a public company in the ordinary course of business.

P. REMEDIES. The Company acknowledges that a breach by it of its obligations under this Agreement, the Registration Rights Agreement or the Certificate of Designation will cause irreparable harm to each Buyer by vitiating the intent and purpose of the transactions contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement, the Registration Rights Agreement or the Certificate of Designation will be inadequate and agrees, in the event of a breach or threatened breach by the Company of any of the provisions of this Agreement, the Registration Rights Agreement or the Certificate of Designation, that each Buyer shall be entitled, in addition to all other available remedies in law or in equity, to an injunction or injunctions to prevent or cure any breaches of the provisions of this Agreement, the Registration Rights Agreement or the Certificate of Designation and to enforce specifically the terms and provisions of the Agreement, the Registration Rights Agreement or the Certificate of Designation, without the necessity of showing economic loss and without any bond or other security being required.

IN WITNESS WHEREOF, the undersigned Buyers and the Company have caused this Agreement to be duly executed as of the date first above written.

CMGI, INC.

By: /s/ Andrew J. Hajducky III  
Andrew J. Hajducky III  
Executive Vice President, Chief Financial Officer & Treasurer

Wingate Capital Ltd.

By: /s/ Kenneth A. Simpler  
Name: Kenneth A. Simpler  
Title: Vice President  
RESIDENCE: Cayman Islands

ADDRESS: c/o Citadel Investment Group, L.L.C.  
225 W. Washington Street  
Chicago, IL 60606

AGGREGATE SUBSCRIPTION AMOUNT: \$54,322,000  
Number of Tranche 1 Preferred Shares: 18,108  
Number of Tranche 2 Preferred Shares: 18,107  
Number of Tranche 3 Preferred Shares: 18,107  
Aggregate Number of Preferred Shares: 54,322

Fisher Capital Ltd.

By: /s/ Kenneth A. Simpler  
Name: Kenneth A. Simpler  
Title: Vice President  
RESIDENCE: Cayman Islands

ADDRESS: c/o Citadel Investment Group, L.L.C.  
225 W. Washington Street  
Chicago, IL 60606

AGGREGATE SUBSCRIPTION AMOUNT: \$84,964,000  
Number of Tranche 1 Preferred Shares: 28,322  
Number of Tranche 2 Preferred Shares: 28,321  
Number of Tranche 3 Preferred Shares: 28,321  
Aggregate Number of Preferred Shares: 84,964

Westgate International, L.P  
By: Martley International, Inc. - Attorney in Fact

By: /s/ Elliot Greenberg  
Name: Elliot Greenberg  
Title: Vice-President  
RESIDENCE: Cayman Islands

ADDRESS: Westgate International, L.P.  
c/o Midland Bank Trust Corporation (Cayman) Limited  
P.O. Box 1109  
Grand Cayman, Cayman Islands

AGGREGATE SUBSCRIPTION AMOUNT: \$46,429,000  
Number of Tranche 1 Preferred Shares: 15,477  
Number of Tranche 2 Preferred Shares: 15,476  
Number of Tranche 3 Preferred Shares: 15,476  
Aggregate Number of Preferred Shares: 46,429

The Liverpool Limited Partnership

By: Liverpool Associates, Ltd. - its General Partner

By: /s/ Elliot Greenberg

Name: Elliot Greenberg

Title: Vice-President

RESIDENCE: Bermuda

ADDRESS: The Liverpool Limited Partnership  
Cedar House  
41 Cedar Avenue  
Hamilton, HM12, Bermuda

AGGREGATE SUBSCRIPTION AMOUNT: \$46,428,000

Number of Tranche 1 Preferred Shares: 15,476

Number of Tranche 2 Preferred Shares: 15,476

Number of Tranche 3 Preferred Shares: 15,476

Aggregate Number of Preferred Shares: 46,428

Silver Oak Capital, L.L.C.

As agent for and on behalf of the entities listed on Schedule 1

By: /s/ Michael L. Gordon  
-----

Name: Michael L. Gordon

Title: Managing Member

RESIDENCE:

ADDRESS: Angelo, Gordon & Company  
245 Park Avenue  
New York, NY 10167

Attn: Ari Storch

AGGREGATE SUBSCRIPTION AMOUNT: \$92,857,000

Number of Tranche 1 Preferred Shares: 30,953

Number of Tranche 2 Preferred Shares: 30,952

Number of Tranche 3 Preferred Shares: 30,952

Aggregate Number of Preferred Shares: 92,857

RGC International Investors, LDC  
Rose Glen Capital Management, L.P.

By: RGC General Partner Corp.

By: /s/ Wayne Bloch

-----  
Name: Wayne Bloch  
Title: Managing Director

RESIDENCE: Cayman Islands

ADDRESS: c/o Rose Glen Capital Management, L.P.  
3 Bala Plaza East, Suite 200  
251 St. Asaphs Road  
Bala Cynwyd, PA 19004

AGGREGATE SUBSCRIPTION AMOUNT: \$50,000,000  
Number of Tranche 1 Preferred Shares: 16,667  
Number of Tranche 2 Preferred Shares: 16,667  
Number of Tranche 3 Preferred Shares: 16,666  
Aggregate Number of Preferred Shares: 50,000

EXHIBIT A  
-----

Certificate of Designation  
-----

See Exhibits 99.3 and 99.4

EXHIBIT B

-----

Registration Rights Agreement

-----

See Exhibit 99.2



Exhibit C

-----

Escrow Agreement

-----

(Omitted)

Exhibit D

-----

Acknowledgment Letter

-----

(Omitted)

Exhibit E  
-----

Opinion of Counsel  
-----

(Omitted)

REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of June 29, 1999, by and among CMGI, Inc., a Delaware corporation, with its headquarters located at 100 Brickstone Square, Andover, MA 01810 (the "Company"), and each of the undersigned (together with any assignee or transferee of all of their respective rights hereunder, the "Initial Investors").

WHEREAS:

A. In connection with the Securities Purchase Agreement by and among the parties hereto of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions contained therein, to issue and sell to the Initial Investors (i) shares of its Series C Convertible Preferred Stock (the "Preferred Stock") that are convertible into shares (as converted, the "Conversion Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock"), upon the terms and subject to the limitations and conditions set forth in the Certificate of Designations, Preferences, and Rights with respect to the Preferred Stock (the "Certificate of Designation"); and

B. To induce the Initial Investors to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each of the Initial Investors hereby agree as follows:

1. DEFINITIONS.

A. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investors" means the Initial Investors and any transferee or assignee who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "Register," "Registered," and "Registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Conversion Shares issued or issuable upon conversion of or otherwise pursuant to the Preferred Shares and any securities issued or issuable as a dividend on or in exchange for or otherwise in respect to any of the foregoing.

(iv) "Registration Period" means the earliest to occur of (i) the sale of all the Registrable Securities under an effective Registration Statement or (ii) the expiration of the holding period that would be applicable thereto under Rule 144(k) under the 1933 Act were the Registrable Securities not held by an affiliate (as such term is defined in Rule 144 under the 1933 Act) (an "Affiliate") of the Company.

(v) "Registration Statement(s)" means a registration statement(s) of the Company under the 1933 Act covering the resale of the Registrable Securities.

B. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

## 2. REGISTRATION.

A. MANDATORY REGISTRATION. The Company shall prepare, and, on or prior to the date which is one hundred twenty (120) days after the date of the Closing under the Securities Purchase Agreement (the "Closing Date"), file with the SEC a Registration Statement on Form S-3 (or, if Form S-3 is not then available, on such form of Registration Statement as is then available to effect a registration of the Registrable Securities), covering the resale of the Registrable Securities. The number of shares of Common Stock initially included in such Registration Statement shall equal the number of Conversion Shares that are then issuable upon conversion of the Preferred Stock, plus the maximum number of Common Shares which may be

issuable as a dividend on the Preferred Stock. The Registration Statement, to the extent allowable under the 1933 Act and the rules and regulations promulgated thereunder (including Rule 416), shall state that such Registration Statement also covers such indeterminate number of additional shares of Common Stock as may become issuable upon conversion of the Preferred Stock to prevent dilution resulting from stock splits, stock dividends or similar transactions.

B. UNDERWRITTEN OFFERING. If any offering pursuant to a Registration Statement pursuant to Section 2(A) hereof involves an underwritten offering, the Company shall have the right to select one legal counsel and an investment banker or bankers and manager or managers to administer the offering, which investment banker or bankers or manager or managers and legal counsel shall be reasonably satisfactory to the Investors.

C. ILLIQUIDITY PAYMENTS BY THE COMPANY. The Company shall use its best efforts to obtain effectiveness of the Registration Statement as soon as practicable. The Company agrees to make payments to the Investors ("Illiquidity

Payments") for each Illiquidity Day (as defined below) in such amounts and at

such times as provided in this Section 2(C) as partial relief for any damages incurred by the Investors by reason of any delay in or reduction of their ability to sell the Registrable Securities (which remedy shall not be exclusive of any other remedies available at law or in equity). An Illiquidity Day shall be deemed to have occurred for each trading day that: (i) the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2(A) hereof is not declared effective by the SEC after the date that is one hundred eighty (180) days after the Closing Date (provided that such 180-day period shall be extended for any delays beyond the periods provided herein which are solely attributable to changes required by the Investors in the Registration Statement with respect to information relating to the Investors, including, without limitation, changes to the plan of distribution, the failure to supply information to be included in the selling securityholder table of the prospectus or the failure of the Investors to conduct their review of the Registration Statement pursuant to Section 3(H) below in a reasonably prompt manner); (ii) sales of all of the Registrable Securities cannot be made pursuant to the Registration Statement after the initial date that the Registration Statement has been declared effective by the SEC (including, without limitation, trading days when sales cannot be made by reason of the Company's failure to properly supplement or amend the prospectus included therein in accordance with the terms of this Agreement, but excluding any trading days during an Allowed Delay (as defined herein)) and prior to the expiration of the Registration Period; or (iii) the

Common Stock is not listed or included for quotation on the Nasdaq National Market ("Nasdaq"), the Nasdaq SmallCap Market ("Nasdaq Smallcap"), the New York

-----  
Stock Exchange (the "NYSE") or the American Stock Exchange (the "AMEX") or that  
-----

trading thereon is halted, in each case after the initial date that the Registration Statement has been declared effective by the SEC; provided that the occurrence of more than one of the events described in clauses (i), (ii) and (iii) on the same trading day shall constitute only one Illiquidity Day. Within five (5) business days following the end of any calendar month in which an Illiquidity Day has occurred, the Company shall pay to each holder of Registrable Securities (other than holders of Registrable Securities which are not entitled to such Illiquidity Payment due to such holders' Registrable Securities not being included in a Registration Statement as a result of such holders' failure to deliver information requested by the Company in a timely manner pursuant to Section 4(A)) an amount in cash for each Illiquidity Day occurring in such month equal to the product of (x) the sum of the purchase price of the Preferred Stock outstanding as of the last day of such month and the market price (based on the average of the closing bid prices of the Common Stock on Nasdaq, or the securities market or exchange where the Common Stock is then traded, for the last three trading days of such month) of the Conversion Shares outstanding as of the last day of such month (other than Conversion Shares held by holders of Registrable Securities which are not entitled to such Illiquidity Payment due to such holders' Registrable Securities not being included in a Registration Statement as a result of such holders' failure to deliver information requested by the Company in a timely manner pursuant to Section 4(A)) and (y) in the case of each of the initial sixty (60) Illiquidity Days (calculated on a cumulative basis), 1/360th of the 12-month London Interbank Offered Rate (as reported by Bloomberg) prevailing as of the last day of such month (the "Prevailing Rate") and, in the case of any Illiquidity Days

-----  
in excess of the sixtieth (60th) Illiquidity Day (calculated on a cumulative basis), 1/360th of the sum of the Prevailing Rate plus 2% per annum.

D. PIGGY-BACK REGISTRATIONS. Subject to the last sentence of this Section 2(D), if at any time prior to the expiration of the Registration Period, the Company shall determine to file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to each Investor who is entitled to registration rights under this Section 2(D) written notice of such determination and, if within ten (10) days after the date of such written notice, such Investor

shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities such Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate that such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only such limited number of the Registrable Securities with respect to which such Investor has requested inclusion hereunder as the underwriter shall advise. Any exclusion of Registrable Securities shall be made pro rata among the Investors seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such Investors; provided, however, that the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to demand registration rights in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities; and provided, further, however, that any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than (x) holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights or (y) Microsoft Corp. pursuant to that certain CMG Stock Purchase Agreement dated December 10, 1996. No right to registration of Registrable Securities under this Section 2(D) shall be construed to limit any registration required under Section 2(A) hereof. If an offering in connection with which an Investor is entitled to registration under this Section 2(D) is an underwritten offering, then each Investor whose Registrable Securities are included in such Registration Statement shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering. Notwithstanding anything to the contrary set forth herein, the registration rights of the Investors pursuant to this Section 2(D) shall only be available in the event and at such times as the Company fails to timely file, obtain effectiveness or maintain effectiveness of any Registration Statement to be filed pursuant to Section 2(A) in accordance with the terms of this Agreement; provided, however, that if the Company files a Registration Statement pursuant to this Section 2(D), the Company shall take the steps necessary to obtain the effectiveness of or shall take no steps to cause the lapse in effectiveness of, as the case may be, of any such Registration Statement even if a Registration Statement filed pursuant to



Section 2(A) or this Section 2(D) becomes effective; provided, further, however, that nothing contained in the preceding two provisos shall (i) be construed as requiring the Company to register or maintain the registration of any of the Registrable Securities pursuant to more than one Registration Statement; or (ii) diminish the Company's obligation to register all of the Registrable Securities.

E. ELIGIBILITY FOR FORM S-3. The Company represents and warrants that it currently complies with the registrant eligibility and transaction requirements for the use of Form S-3 for registration of the sale by the Initial Investors and any other Investors of the Registrable Securities and the Company shall use its best efforts to file all reports required to be filed by the Company with the SEC in a timely manner so as to maintain such eligibility for the use of Form S-3 until the expiration of the Registration Period.

F. ALLOCATION OF REGISTRABLE SECURITIES. The initial number of Registrable Securities included in any Registration Statement and each increase in the number of Registrable Securities included therein shall be allocated pro rata among the Investors based on the number of Registrable Securities held by each Investor at the time the Registration Statement covering such initial number of Registrable Securities or increase thereof is declared effective by the SEC. In the event that an Investor sells or otherwise transfers any of such Person's Registrable Securities, each transferee shall be allocated a pro rata portion of the then remaining number of Registrable Securities included in such Registration Statement for such transferor. Any shares of Common Stock included in the Registration Statement and which remain allocated to any Person which ceases to hold any Registrable Securities shall be allocated to the remaining Investors, pro rata based on the number of Registrable Securities then held by such Investors.

3. OBLIGATIONS OF THE COMPANY. In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

A. The Company shall prepare and file with the SEC on or prior to one hundred twenty (120) days after the Closing Date, a Registration Statement with respect to the number of Registrable Securities provided in Section 2(A), and thereafter use its best efforts to cause such Registration Statement relating to the Registrable Securities to become effective as soon as practicable after such filing (but in no event later than one hundred eighty (180) days after the Closing Date), and keep the Registration Statement effective pursuant to Rule 415 at all times until the expiration of the Registration Period and as a result of the event or circumstance

described in the foregoing clause, the legend with respect to transfer restrictions required under the Agreement is removed. The Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein not misleading (except for an untrue statement or alleged untrue statement of a material fact or omission or alleged omission of a material fact made in reliance on and in conformity with written information furnished to the Company by or on behalf of Investors specifically for use therein).

B. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statements and the prospectuses used in connection with the Registration Statements as may be necessary to keep the Registration Statement effective at all times during the Registration Period except for Allowed Delays, and, during such period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statements until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement. In the event the number of shares available under a Registration Statement filed pursuant to this Agreement is insufficient to cover all of the Registrable Securities issued or issuable upon conversion of the Preferred Stock, the Company shall amend the Registration Statement, or file a new Registration Statement (on the short form available therefor, if applicable), or both, so as to cover all of the Registrable Securities, in each case, as soon as practicable, but in any event within twenty (20) business days after the necessity therefor arises. The Company shall use its best efforts to cause such amendment and/or new Registration Statement to become effective as soon as practicable following the filing thereof.

C. The Company shall furnish to each Investor whose Registrable Securities are included in a Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of each Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and, in the case of the Registration Statement referred to in Section 2(A), each letter written by or on behalf of the Company to the SEC or the staff of the SEC, and each item of correspondence from the SEC or the staff of the SEC, in each case relating to such Registration Statement (other than any portion thereof which contains information for which the Company has sought confidential treatment), and

(ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as such Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such Investor. The Company will promptly notify each Investor by facsimile of the effectiveness of each Registration Statement or any post-effective amendment. The Company will promptly respond to any and all comments received from the SEC, with a view towards causing each Registration Statement or any amendment thereto to be declared effective by the SEC as soon as practicable and shall file an acceleration request as soon as practicable following the resolution or clearance of all SEC comments or, if applicable, following notification by the SEC that any such Registration Statement or any amendment thereto will not be subject to review.

D. The Company shall use its best efforts to (i) register and qualify the Registrable Securities covered by the Registration Statements under all other securities or "blue sky" laws of all jurisdictions in the United States as the Investors who hold a majority-in-interest of the Registrable Securities being offered reasonably request, (ii) prepare and file in those jurisdictions such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (a) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(D), (b) subject itself to general taxation in any such jurisdiction, (c) file a general consent to service of process in any such jurisdiction, (d) provide any undertakings that cause the Company undue expense or burden, or (e) make any change in its charter or bylaws, which in each case the Board of Directors of the Company determines to be contrary to the best interests of the Company and its stockholders. The Company shall promptly notify each Investor who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

E. In the event of an underwritten offering of the Registrable Securities being offered in the offering, the Company shall select underwriters for the offering and shall enter into and perform its obligations under an underwriting agreement, in usual and customary form, including, without limitation, customary indemnification and contribution obligations, with the underwriters of such offering.

F. As promptly as practicable after becoming aware of such event, the Company shall notify each Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in any Registration Statement, as then in effect, includes an untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and use its best efforts promptly to prepare a supplement or amendment to any Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to each Investor as such Investor may reasonably request; provided that, at any time after the date which is 30 days after the Registration Statement is declared effective by the SEC for not more than thirty (30) consecutive calendar days (or a total of not more than ninety (90) calendar days in any twelve (12) month period), the Company may delay the disclosure of material non-public information concerning the Company (as well as prospectus or Registration Statement updating) the disclosure of which at the time is not, in the good faith opinion of the Company, in the best interests of the Company (an "Allowed Delay"); provided, further, that the Company shall promptly (i) notify

-----  
the Investors in writing of the existence of (but in no event, without the prior written consent of an Investor, shall the Company disclose to such investor any of the facts or circumstances regarding) material non-public information giving rise to an Allowed Delay and (ii) advise the Investors in writing to cease all sales under such Registration Statement until the end of the Allowed Delay. Upon expiration of the Allowed Delay, the Company shall again be bound by the first sentence of this Section 3(F) with respect to the information giving rise thereto.

G. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of any Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify each Investor who holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

H. The Company shall permit a single firm of counsel designated by the holders whose shares make up at least a majority of the Registrable Securities included in such Registration Statement to review such Registration Statement and all amendments and supplements thereto (as well as all requests for acceleration or effectiveness thereof) a reasonable period of time (but not less than five (5) business days prior to the filing of such Registration Statement or supplement or amendment thereto) prior to their filing with the SEC, and not file any document in a form to which such counsel reasonably objects and will not request acceleration of such Registration Statement without prior notice to such counsel. The sections of such Registration Statement covering information with respect to the Investors, the Investor's beneficial ownership of securities of the Company or the Investors intended method of disposition of Registrable Securities shall conform in all material respects to the information provided to the Company by each of the Investors.

I. The Company shall make generally available to its security holders as soon as practicable, but not later than ninety (90) days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Rule 158 under the 1933 Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the effective date of the Registration Statement.

J. At the request of a majority of the Investors, the Company shall furnish, on the date that Registrable Securities are delivered to an underwriter identified in the Registration Statement, if any, for sale in connection with any Registration Statement or, if such securities are not being sold by an underwriter identified in the Registration Statement, on the date of effectiveness thereof (i) an opinion, dated as of such date, from counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to the underwriters identified in the Registration Statement, if any, and the Investors and (ii) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters identified in the Registration Statement, if any, and the Investors.

K. The Company shall make available for inspection by (i) any Investor, (ii) any underwriter participating in any disposition pursuant to a Registration Statement, (iii) one firm of attorneys and one firm of accountants or other agents retained by the Initial Investors, and (iv) one firm of attorneys retained by all such

underwriters (collectively, the "Inspectors") all pertinent financial and other

-----

records, and pertinent corporate documents and properties of the Company  
(collectively, the "Records"), as shall be reasonably deemed necessary by each

-----

Inspector to enable each Inspector to exercise its due diligence responsibility, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request for purposes of such due diligence; provided, however, that each Inspector shall hold in confidence and shall not make any disclosure (except to an Investor) of any Record or other information which the Company determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (a) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement, (b) the release of such Records is ordered pursuant to a subpoena or other order from a court or government body of competent jurisdiction, or (c) the information in such Records has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company shall not be required to disclose any confidential information in such Records to any Inspector until and unless such Inspector shall have entered into confidentiality agreements (in form and substance satisfactory to the Company) with the Company with respect thereto, substantially in the form of this Section 3(K). Each Investor agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between the Company and any Investor) shall be deemed to limit the Investor's ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

L. The Company shall hold in confidence and not make any disclosure of information concerning an Investor provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning an Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to such Investor prior to making such disclosure, and allow the Investor, at its expense, to undertake appropri-

ate action to prevent disclosure of, or to obtain a protective order for, such information.

M. The Company shall (i) cause all the Registrable Securities covered by the Registration Statement to be listed on each national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, or (ii) to the extent the securities of the same class or series are not then listed on a national securities exchange, secure the designation and quotation of all the Registrable Securities covered by the Registration Statement on Nasdaq or, if not eligible for Nasdaq on the Nasdaq SmallCap and, without limiting the generality of the foregoing, to arrange for at least two market makers to register with the National Association of Securities Dealers, Inc. as such with respect to such Registrable Securities.

N. The Company shall provide a transfer agent and registrar, which may be a single entity, for the Registrable Securities not later than the effective date of the Registration Statement.

O. The Company shall cooperate with the Investors who hold Registrable Securities being offered and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investors may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investors may request, and, within three (3) business days after a Registration Statement which includes Registrable Securities is ordered effective by the SEC, the Company shall deliver to the transfer agent for the Registrable Securities (with copies to the Investors whose Registrable Securities are included in such Registration Statement) an instruction in the form attached hereto as Exhibit 1 and an opinion of such counsel in the form attached hereto as Exhibit 2.

P. At the request of any Investor, the Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to a Registration Statement and any prospectus used in connection with the Registration Statement as may be necessary in order to supplement the plan of distribution set forth in such Registration Statement.

Q. Any Registration Statement shall include a section entitled "Plan of Distribution", which section shall include the description substantially in the form attached hereto as Exhibit 3, subject to any comments or requirements of

-----

the SEC.

4. OBLIGATIONS OF THE INVESTORS. In connection with the registration of the Registrable Securities, the Investors shall have the following obligations.

A. Each Investor shall promptly furnish (but in no event later than three (3) business days prior to the filing of any Registration Statement or amendment(s) or supplement(s) thereto with respect to the Registrable Securities) to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least six (6) business days prior to the anticipated filing date of the Registration Statement and any amendment(s) or supplement(s) thereto, the Company shall notify each Investor of the information the Company requires from each Investor and such investor shall supply or cause its representatives to supply such information within three (3) business days; provided, however, any Investor which fails to deliver to the Company the information referred to in the first sentence of this paragraph prior to the filing of the Registration Statement or amendment(s) or supplement(s) thereto shall bear the cost of any additional Registration Statement or amendment(s) or supplement(s) thereto which the Company is required to file due solely to such failure; provided, further, however, that the failure of any Investor to provide such information shall not delay or otherwise prevent the Company from the filing of the Registration Statement or amendment(s) or supplement(s) thereto.

B. Each Investor, by such Investor's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless such Investor has notified the Company in writing of such Investor's election to exclude all of such Investor's Registrable Securities from the Registration Statement.

C. In the event all of the Investors determine to engage the services of an underwriter, each Investor agrees to enter into and perform such Investor's obligations under an underwriting agreement, in usual and customary form, including, without limitation, customary indemnification and contribution obligations, with the



managing underwriter of such offering and take such other actions as are reasonably required in order to expedite or facilitate the disposition of the Registrable Securities, unless such Investor has notified the Company in writing of such Investor's election to exclude all of such Investor's Registrable Securities from the Registration Statement.

D. Each Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(F) or 3(G), such Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until such Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(F) or 3(G) or notice from the Company that such supplement or amendment is not necessary and, if so directed by the Company, such Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in such Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

E. No Investor may participate in any underwritten registration hereunder unless such Investor (i) agrees to sell such Investor's Registrable Securities on the basis provided in any underwriting arrangements in usual and customary form entered into by the Company, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements, and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions and any expenses in excess of those payable by the Company pursuant to Section 5 below.

F. At any time after the date which is thirty (30) days after the date the Registration Statement is declared effective by the SEC, the underwriters in connection with any firm commitment underwritten public offering of the Common Stock resulting in gross proceeds to the Company of at least \$125,000,000 led by at least one underwriter of nationally recognized standing (a "Qualified Public

Offering") shall have the right to require that the Investors enter into an

agreement (a "Lock-Up Agreement") restricting the Investors from selling

Registrable Securities pursuant to the Registration Statement in any public sale for a period not to exceed ninety (90) days following the consummation of such Qualified Public Offering (the "Underwriters Lock-Up Period"); provided that

such underwriters deem this to be reasonably necessary to effect such Qualified Public Offering; and further, provided that all of the Company's directors, executive officers and affiliates shall have also agreed to

similar restrictions. The Investors shall be subject to no more than one such restriction in each twelve (12) month period during the Registration Period.

5. EXPENSES OF REGISTRATION. All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualification fees, printers and accounting fees, the fees and disbursements of counsel for the Company, and the reasonable fees and reasonable disbursements of up to one counsel selected by the Initial Investors pursuant to Sections 2(B) and 3(H) hereof shall be borne by the Company (provided that the reasonable fees and reasonable disbursements of the counsel selected by the Initial Investors pursuant to Section 3(H) to be paid by the Company in connection with the Registration Statement shall not exceed \$15,000), whether or not the Registration Statement is declared effective by the SEC.

6. INDEMNIFICATION. In the event any Registrable Securities are included in a Registration Statement under this Agreement:

A. To the extent permitted by law, the Company will indemnify, hold harmless and defend: (i) each Investor who holds such Registrable Securities, (ii) the directors, officers, partners, employees, agents and each person who controls any Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (iii) any underwriter

-----  
(as defined in the 1933 Act) for the Investors (subject to the Company receiving customary indemnification from any such underwriter), and (iv) the directors, officers, partners, employees and each person who controls any such underwriter within the meaning of the 1933 Act or the 1934 Act, if any (each, an "Indemnified Person"), against any joint or several losses, claims, damages,

-----  
liabilities or expenses (collectively, together with actions, proceedings or inquiries by any regulatory or self-regulatory organization, whether commenced or threatened, in respect thereof, "Claims") to which any of them may become

-----  
subject insofar as such Claims arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state therein a material fact required to be stated or necessary to make the statements therein not misleading; (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light

of the circumstances under which the statements therein were made, not misleading; or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other securities laws including without limitation, any state securities laws, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the

-----

restrictions set forth in Section 6(C) with respect to the number of legal counsel, the Company shall reimburse the Indemnified Person, promptly as such expenses are incurred and are due and payable, for any reasonable legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person or underwriter for such Indemnified Person expressly for use in connection with such Registration Statement or preliminary or final prospectus or any such amendment thereof or supplement thereto; (ii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld; and (iii) with respect to any preliminary prospectus, shall not inure to the benefit of any Indemnified Person if the untrue statement or omission or alleged untrue statement or omission of a material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented, such corrected prospectus was timely made available by the Company pursuant to Section 3(C) hereof, and the Indemnified Person was promptly advised in writing not to use the incorrect prospectus prior to the use giving rise to a Violation and such Indemnified Person, notwithstanding such advice, used it. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investors.

B. In connection with any Registration Statement in which an Investor is participating, each such Investor agrees severally and not jointly to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(A), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (an "Indemnified Party"), against any Claim to which any

-----

-----

of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation by such Investor, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Investor expressly for use in connection with such Registration Statement or preliminary or final prospectus or any such amendment or supplement thereof or thereto; and subject to Section 6(C) such Investor will reimburse any legal or other expenses promptly as such expenses are incurred and are due and payable reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(B) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Agreement (including this Section 6(B) and Section 7) for only that amount as does not exceed the net proceeds to such Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investors pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(B) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

C. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel reasonably satisfactory to the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential conflict of

interest under applicable rules of professional conduct. The indemnifying party shall pay for up to one separate legal counsel for the Indemnified Persons or the Indemnified Parties, as applicable, and such legal counsel shall be selected by Investors holding a majority-in-interest of the Registrable Securities included in the Registration Statement to which the Claim relates (with the approval of a majority-in-interest of the Initial Investors), if the Investors are entitled to indemnification hereunder, or the Company, if the Company is entitled to indemnification hereunder, as applicable. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is actually prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

D. The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to law.

7. CONTRIBUTION. To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution (together with any indemnification or other obligations under this Agreement) by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Registration Statement.

8. REPORTS UNDER THE 1934 ACT. With a view to making available to the Investors the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the investors to sell

securities of the Company to the public without registration ("Rule 144"), the

-----

Company agrees to:

A. make and keep public information available, as those terms are understood and defined in Rule 144;

B. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(C) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

C. furnish to each Investor so long as such Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Investors to sell such securities pursuant to Rule 144 without registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS. The rights under this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment, (ii) the Company is, prior to such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) following such transfer or assignment, the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence, the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, (vi) such transfer shall have been conducted in accordance with all applicable Federal and State securities laws and (vii) such transferee shall be an "Accredited Investor" as that term defined in Rule 501 of Regulation D promulgated under the 1933 Act.

10. AMENDMENT OF REGISTRATION RIGHTS. Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company, each of the Initial Investors (to the extent such Initial Investor still owns Registrable Securities) and Investors who hold a majority-in-interest of the Registrable Securities. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon each Investor and the Company.

11. MISCELLANEOUS. A. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record or beneficially such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of an instruction, notice or election received from the registered owner of such Registrable Securities and the Company shall have no liability for following instructions from the registered owner of the Registrable Securities and the registered owner by providing such instructions agrees to indemnify the Company in accordance with the provisions of Section 6(B).

B. Any notices required or permitted to be given under the terms hereof shall be sent overnight by express mail or delivered personally or by courier (including an overnight delivery service) or by facsimile and shall be effective upon receipt, if delivered by overnight express mail, personally or by courier (including an overnight delivery service) or by facsimile, in each case addressed to a party. The addresses for such communications shall be:

If to the Company:

CMGI, Inc.  
100 Brickstone Square  
Andover, MA 01810  
Attention: Chief Executive Officer  
Facsimile: (978) 684-3618

With copy to:

Skadden, Arps, Slate, Meagher & Flom LLP

919 Third Avenue  
New York, NY 10022  
Attention: Morris J. Kramer, Esq.  
David J. Goldschmidt, Esq.  
Facsimile: 212-735-2000

If to an Investor: to the address set forth immediately below such Investor's name on the signature pages to the Securities Purchase Agreement.

C. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

D. This Agreement shall be enforced, governed by and interpreted in accordance with the laws of the State of Delaware without regard to the principles of conflicts of laws. The parties hereto hereby submit to the exclusive jurisdiction of the United States Federal Courts and the state courts located in Delaware with respect to any dispute arising under this Agreement or the transactions contemplated hereby and irrevocably agree that all claims in respect of such suit or proceeding may be determined in such courts. The Company and each Investor irrevocably waive any defense of an inconvenient forum to the maintenance of such suit or proceeding. The Company and each Investor further agree that service of process upon a party mailed by first class mail shall be deemed in every respect effective service of process upon the party in any such suit or proceeding. Nothing herein shall affect any party's right to serve process in any other manner permitted by law. The Company and each Investor agree a final non-appealable judgment in any such suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on such judgment or in any other lawful manner.

E. This Agreement and the Securities Purchase Agreement (including all schedules and exhibits thereto) constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

F. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the



parties hereto and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

G. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

H. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

I. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

J. Except as otherwise provided herein, all consents and other determinations to be made by the Investors pursuant to this Agreement shall be made by Investors holding a majority-in-interest of the Registrable Securities.

K. Each of the parties shall pay its own costs and expenses in connection with the transactions contemplated hereby, whether such transactions are consummated, except as otherwise specifically provided herein.

L. This Agreement and the obligations of the parties hereunder shall terminate on the earlier to occur of subclause (i) or (ii) of Section 3(A), except for any liabilities or obligations under the following Sections 2(C), 3(C), 3(D), 3(J), 3(K), 3(L), 3(M), 5, 6, 7 and 11.

M. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

N. The Company acknowledges that a breach by it of its obligations under this Agreement will cause irreparable harm to each Investor by vitiating the intent and purpose of the transactions contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened

breach by the Company of any of the provisions of this Agreement, that each Investor shall be entitled, in addition to all other available remedies in law or in equity, to an injunction or injunctions to prevent or cure any breaches of the provisions of this Agreement and to enforce specifically the terms and provisions of this Agreement, without the necessity of showing economic loss and without any bond or other security being required.

0. The Company agrees to indemnify and hold harmless each of the Investors and their respective officers, directors, employees and agents for loss, cost or damages (including reasonable attorney's fees) arising as a result of or related to any breach or alleged breach by the Company of its obligations under this Agreement or in connection with the enforcement by such Investor of any of the Company's obligations hereunder, including the enforcement of this indemnity.

IN WITNESS WHEREOF, the Company and the undersigned Initial Investors have caused this Agreement to be duly executed as of the date first above written.

CMGI, INC.

By: /s/ Andrew J. Hajducky III

-----  
Andrew J. Hajducky III

Executive Vice President, Chief Financial Officer and Treasurer

BUYERS:

Wingate Capital Ltd.

By: /s/ Kenneth A. Simpler  
Name: Kenneth A. Simpler  
Title: Vice President  
Date:

FISHER CAPITAL LTD.

By: /s/ Kenneth A. Simpler  
Name: Kenneth A. Simpler  
Title: Vice President  
Date:

Westgate International, L.P.

By: Martley International, Inc. D Attorney in Fact

By: /s/ Elliot Greenberg  
Name: Elliot Greenberg  
Title: Vice-President  
Date:

The Liverpool Limited Partnership  
By: Liverpool Associates, Ltd., its General Partner

By: /s/ Elliot Greenberg  
Name: Elliot Greenberg  
Title: Vice-President  
Date:

Silver Oak Capital, L.L.C.

As agent for and on behalf of the entities listed on Schedule 1

By: /s/ Michael L. Gordon

-----  
Name: Michael L. Gordon  
Title: Managing Member  
Date: 6/29/99

RGC International Investors, LDC

Rose Glen Capital Management, L.P.

By: RGC General Partner Corp.

By: /s/ Wayne Bloch  
Name: Wayne Bloch  
Title: Managing Director  
Date:

CERTIFICATE OF  
DESIGNATIONS, PREFERENCES, AND RIGHTS

of

SERIES C CONVERTIBLE PREFERRED STOCK

of

CMGI, INC.

(Pursuant to Section 151 of the  
Delaware General Corporation Law)

CMGI, Inc. (the "Corporation"), a corporation organized and existing under the Delaware General Corporation Law (the "DGCL") hereby certifies that the following resolution was adopted by the Board of Directors of the Corporation on June 24, 1999 pursuant to authority of the Board of Directors as required by Section 151(g) of the DGCL:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors of this Corporation (the "Board of Directors") in accordance with the provisions of its Amended and Restated Certificate of Incorporation, the Board of Directors does hereby create, authorize and provide for the issuance of a series of the Corporation's previously authorized Preferred Stock, par value \$0.01 per share (the "Preferred Stock"), and hereby states the number of shares and the powers, designations, preferences and relative, participating, optional or other rights or the qualifications, limitations or restrictions thereof are as follows:

I. DESIGNATION AND AMOUNT

-----

The designation of this series is Series C Convertible Preferred Stock (the "Series C Preferred Stock"). This series consists of three tranches of shares totaling 375,000 shares as follows: "Tranche 1" consists of 125,000 shares; "Tranche 2" consists of 125,000 shares; and "Tranche 3" consists of 125,000 shares (collectively, the "Tranches"). The initial stated value is \$1,000 per share of Series C Preferred Stock (the "Initial Stated Value Per Share"). Each certificate representing Preferred Shares shall bear language designating the Preferred Shares represented by such certificate as part of Tranche 1, Tranche 2 or Tranche 3.

II. RANK

----

The Series C Preferred Stock shall rank (i) prior to the Corporation's common stock, par value \$0.01 per share (the "Common Stock") and the Series D Preferred Stock (as defined below); (ii) prior to any class or series of capital stock of the Corporation hereafter created (unless, with the consent of the holders of Series C Preferred Stock obtained in accordance with Article VII hereof, such class or series of capital stock specifically, by its terms, ranks senior to or pari passu with the Series C Preferred Stock) (collectively, with

-----

the Common Stock, "Junior Securities"); (iii) junior to the Corporation's Series B Convertible Preferred Stock, par value \$0.01 per share ("Series B Preferred Stock"); (iv) pari passu with any class or series of capital stock of the

-----

Corporation hereafter created (with the consent of the holders of Series C Preferred Stock obtained in accordance with Article VII hereof) specifically ranking, by its terms, on parity with the Series C Preferred Stock ("Pari Passu

-----

Securities"); and (v) junior to any class or series of capital stock of the Corporation hereafter created (with the consent of the holders of Series C Preferred Stock obtained in accordance with Article VII hereof) specifically ranking, by its terms, senior to the Series C Preferred Stock (the "Senior Securities"), in each case as to distribution of assets upon liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary.

III. DIVIDENDS

-----

A. The holders of the Series C Preferred Stock shall be entitled to receive when, as and if declared by the Board of Directors, out of funds legally available therefor, dividends on the Series C Preferred Stock equal to two percent (2.00%) of the Initial Stated Value Per Share payable at the Corporation's option (i) in cash on each

Semiannual Dividend Payment Date (as defined below) or (ii) by an upward adjustment (each an "Adjustment," collectively, the "Adjustments") (a) to the Initial Stated Value Per Share on the Initial Semiannual Dividend Payment Date and (b) to the Adjusted Stated Value Per Share on each Semiannual Dividend Payment Date occurring after the Initial Semiannual Dividend Payment Date. The Initial Stated Value per Share as cumulatively adjusted shall be referred to as the "Adjusted Stated Value Per Share." The Corporation shall provide written notice on the Semiannual Dividend Record Date (as defined below) as to whether the Corporation elects to pay the dividend in accordance with subclause (i) or subclause (ii) on each Semiannual Dividend Payment Date; provided, however, if the Corporation elects to pay the dividend in accordance with subclause (i) and such payment has not been credited to the account of the record holder (pursuant to prior written instructions furnished to the Corporation) within five (5) business days after the applicable Semiannual Dividend Payment Date or the Corporation fails to give such notice on the Semiannual Dividend Record Date, the Corporation shall be deemed to have elected to pay the dividend in accordance with subclause (ii) and shall take all appropriate action to pay such dividend in accordance with subclause (ii).

B. Dividends on the Series C Preferred Stock shall be cumulative and shall accrue daily from the date of original issuance or the date that the Corporation executes the Securities Purchase Agreement (as defined herein), if earlier (the "Issue Date"). Dividends on the Series C Preferred Stock shall be payable on June 30 and December 30 of each year (each such date being referred to herein as a "Semiannual Dividend Payment Date"), commencing on December 30, 1999 (the "Initial Semiannual Dividend Payment") (and in the case of any accrued but unpaid dividends, at such additional times and for such interim periods as may be determined by the Board of Directors) to the holders of record as they appear on the stock books of the transfer agent for the Corporation (the "Transfer Agent") on such record dates, which shall be ten (10) business days preceding each Semiannual Dividend Payment Date (each such date being referred to herein as a "Semiannual Dividend Record Date"). The amount of dividends payable per share of Series C Preferred Stock for each semiannual dividend period shall be computed by multiplying the Initial Stated Value Per Share by the annual dividend amount of two percent (2.00%) per share of Series C Preferred Stock divided by two. The amount of dividends payable for the initial dividend period and dividends payable for any other period that is shorter or longer than a full semiannual dividend period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Holders of shares of Series C Preferred Stock shall not be entitled to receive any dividends, whether payable in cash or otherwise, which are in excess of the cumulative dividends provided for herein. Accrued but unpaid dividends shall not bear interest.

C. The Series C Preferred Stock shall rank, as to payment of dividends, senior to the Common Stock and any other class or series of stock of the Corporation which is not by its terms expressly made senior to, or on a parity with, the Series C Preferred Stock as to dividends, except as provided in Section (D) below.

D. Except as provided in this section (D), in no event, so long as any shares of Series C Preferred Stock shall remain outstanding, shall any dividend whatsoever be declared or paid upon, nor shall any distribution be made upon, any Junior Securities, nor shall any shares of Junior Securities be purchased or redeemed by the Corporation nor shall any moneys be paid to or made available for a sinking fund for the purchase or redemption (collectively a "Junior Securities Distribution") of any Junior Securities (other than a distribution of Junior Securities), without the written consent of the holders of a majority of outstanding shares of Series C Preferred Stock obtained in accordance with Article VII. Notwithstanding the foregoing, the Corporation may (i) make a Junior Securities Distribution (other than an extraordinary distribution not made in the ordinary course of business) on its Series D Preferred Stock (the "Series D Preferred Stock") issuable in connection with that certain Purchase and Contribution Agreement, dated as of June 29, 1999, by and among Compaq Computer Corporation ("Compaq"), a Delaware corporation, Digital Equipment Corporation ("Digital"), a Massachusetts corporation and a wholly owned subsidiary of Compaq, AltaVista Company, a Delaware corporation and a wholly owned subsidiary of Digital, the Corporation and Xoom New Co Inc., a Delaware corporation and a wholly owned subsidiary of the Corporation pursuant to the terms and subject to the conditions of a Certificate of Designations, Preferences and Rights in respect of the Series D Preferred Stock, in each case, with no right of participation in such dividend or distribution by the holders of Series C Preferred Stock notwithstanding this Section (D) and Article V.C(ii) and (iii), (ii) declare or pay upon any Junior Securities any dividend payable in equity interests of a subsidiary of the Corporation; provided that, the holders of the Series C Preferred Stock then outstanding shall have first received, or simultaneously received, a like distribution on each outstanding share of Series C Preferred Stock, based on the number of shares of Common Stock into which each share of Series C Preferred Stock is convertible on the record date for such distribution (without regard to any limitations on conversion and based upon the then Applicable Conversion Price (as defined below) using the record date as the Conversion Date (as defined below)) or (iii) redeem shares of Common Stock which had been issued as restricted stock pursuant to a stock option plan approved by the stockholders of the Corporation. No dividends shall be declared, set aside or paid in respect of shares of the Series C Preferred Stock unless the Corporation complies with Section 170 and Section 173 of the DGCL.



E. For purposes of the Series C Preferred Stock, the amount of dividends which "accrue" on any share of Series C Preferred Stock as of any date shall be calculated as the amount of any unpaid dividends accrued thereon to and including the next preceding Semiannual Dividend Payment Date, plus an amount calculated on the basis of the annual dividend rate fixed for the shares of Series C Preferred Stock for the period after such next preceding Semiannual Dividend Payment Date to and including the date as of which the calculation is made.

IV. LIQUIDATION PREFERENCE  
-----

A. Liquidation Event. If the Corporation shall commence a voluntary case  
-----

under the Federal bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law, or consent to the entry of an order for relief in an involuntary case under any law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property, or make an assignment for the benefit of its creditors, or admit in writing its inability to pay its debts generally as they become due, or if a decree or order for relief in respect of the Corporation shall be entered by a court having jurisdiction in the premises in an involuntary case under the Federal bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law resulting in the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and any such decree or order shall be unstayed and in effect for a period of thirty (30) consecutive days, or if the Corporation shall otherwise liquidate, dissolve or wind up (each such event being considered a "Liquidation Event"), no distribution shall be made to the holders of any shares of capital stock of the Corporation (other than Series B Preferred Stock and Senior Securities) upon liquidation, dissolution or winding up, unless prior thereto, the holders of shares of Series C Preferred Stock, subject to Article V, shall have received the Liquidation Preference (as defined in Article IV.C) with respect to each share; provided, however, if upon the occurrence of a Liquidation Event, the assets and funds available for distribution among the holders of the Series C Preferred Stock and holders of Pari Passu Securities

-----  
(including any dividends or distribution payable on any shares of Series C Preferred Stock and Pari Passu Securities after the date of filing of this

-----  
Certificate of Designation) shall be insufficient to permit the payment to such holders of the preferential amounts payable thereon, then the entire assets and funds of the Corporation legally available for distribution to the Series C Preferred Stock and the Pari Passu Securities shall be distributed ratably among

-----  
such shares in proportion to the ratio that the Liquida-

tion Preference payable on each such share bears to the aggregate liquidation preference payable on all such shares.

B. Certain Acts Deemed Liquidation Event. At the option of the holders

-----  
of at least two-thirds (2/3) of the outstanding shares of Series C Preferred Stock, (i) the sale, conveyance or disposition of all or substantially all of the assets of the Corporation, (ii) the effectuation by the Corporation of a transaction or series of related transactions in which more than 50% of the voting power of the Corporation is transferred or otherwise disposed of, unless, as a result of such transaction, the Corporation has become a wholly owned subsidiary of another corporation and at least fifty percent (50%) of the beneficial ownership of such corporation immediately thereafter is held by former stockholders of the Corporation or (iii) the consolidation, merger or other business combination of the Corporation with or into any other Person (as defined below) or Persons (other than (a) a consolidation, merger or other business combination in which holders of the Corporation's voting power immediately prior to the transaction continue after the transaction to hold, directly or indirectly, the voting power of the surviving entity or entities necessary to elect a majority of the members of the board of directors (or their equivalent if other than a corporation) of such entity or entities, including pursuant to a holding company merger effected under Section 251(g) of the DGCL or any successor provision or (b) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Corporation) shall either: (x) be deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to which the Corporation shall be required to distribute upon consummation of and as a condition to such transaction an amount equal to the Liquidation Preference or (y) be treated pursuant to Article V.C(ii) hereof. "Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, association, trust or other entity or organization.

C. Liquidation Preference. For purposes hereof, the "Liquidation

-----  
Preference" with respect to a share of Series C Preferred Stock shall mean an amount equal to the sum of: (i) the Initial Stated Value Per Share; plus (ii) all Adjustments plus; (iii) accrued but unpaid dividends with respect to which no Adjustment has been made. The liquidation preference with respect to any Pari

-----  
Passu Securities shall be as set forth in the Certificate of Designations filed  
-----  
in respect thereof.

V. CONVERSION

A. Optional Conversion. Each holder of shares of Series C Preferred

-----  
Stock may, at its option at any time and from time to time, upon surrender of the certificates

therefor, convert any or all of its shares of Series C Preferred Stock into Common Stock as set forth below (an "Optional Conversion"). Each share of Series C Preferred Stock shall be convertible into such number of fully paid and nonassessable shares of Common Stock as such Common Stock exists on the Issue Date, or any other shares of capital stock or other securities of the Corporation into which such Common Stock is thereafter changed or reclassified, as is determined by dividing (i) the Liquidation Preference by (ii) the then Applicable Conversion Price; provided, however, that in no event (other than pursuant to the Automatic Conversion as defined in Section (G)) shall a holder of shares of Series C Preferred Stock be entitled to convert any such shares in excess of that number of shares upon conversion of which the sum of (a) the number of shares of Common Stock beneficially owned by the holder and its affiliates (other than shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of the shares of Series C Preferred Stock or the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (b) the number of shares of Common Stock issuable upon the conversion of the shares of Series C Preferred Stock with respect to which the determination of this proviso is being made, would result in beneficial ownership by a holder and such holder's affiliates of more than the Ownership Limitation Percentage (as defined below) of the outstanding shares of Common Stock. For purposes of the proviso to the immediately preceding sentence, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended, and Regulation 13D-G thereunder, except as otherwise provided in clause (a) of such proviso. For purposes of this Article V.A, "Ownership Limitation Percentage" means (x) with respect to any shares of Series C Preferred Stock which are held by any Person which holds shares of Series B Preferred Stock, 4.9%, and (y) with respect to any shares of Series C Preferred Stock which are held by any Person which does not hold any shares of Series B Preferred Stock, 9.9%.

B. Conversion Price. Subject to adjustment pursuant to section (C)

-----

below, the "Applicable Conversion Price" for each Tranche shall be as follows:

(i) Each Tranche shall be convertible into Common Stock pursuant to section (A) above at the Initial Conversion Price (as defined below) until the conclusion of the pricing period in respect of a particular Tranche. Thereafter, each Tranche shall be convertible into Common Stock at, in the case of Tranche 1, the Tranche 1 Conversion Price (as defined below), in the case of Tranche 2, the Tranche 2 Conversion Price (as defined below), and, in the case of Tranche 3, the Tranche 3 Conversion Price (as defined below). The "Initial Conversion Price" shall be one-hundred fifty percent (150%) of the Closing Price, subject to adjustment as provided in Article V.C.

The "Closing Price" shall be the average of the Closing Bid Prices (as defined below) over the ten (10) consecutive Trading Days (as defined below) ending on the Trading Day immediately preceding the Issue Date. "Closing Bid Price" means, for the Common Stock, the closing bid price on the Nasdaq National Market ("Nasdaq") as reported by Bloomberg Financial Services ("Bloomberg") or, if Nasdaq is not the principal trading market for the Common Stock, the closing bid price of the Common Stock on the principal securities exchange or trading market where the Common Stock is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the closing bid price of the Common Stock in the over-the-counter market on the electronic bulletin board for the Common Stock as reported by Bloomberg, or, if no closing bid price of the Common Stock is available in the over-the-counter market on the electronic bulletin board for the Common Stock or in any of the foregoing manners, the average of the bid prices of any market makers for the Common Stock that are listed in the "pink sheets" by the National Quotation Bureau, Inc. If the Closing Bid Price cannot be calculated for such security on such date in the manner provided above, the Closing Bid Price shall be the fair market value as mutually determined by the Board of Directors and the holders of a majority of outstanding shares of Series C Preferred Stock being converted for which the calculation of the Closing Bid Price is required in order to determine the Applicable Conversion Price of such Series C Preferred Stock. "Trading Day" shall mean any day on which the Common Stock is traded for any period on Nasdaq, or on the principal securities exchange or other securities market on which the Common Stock is then being traded.

(ii) The pricing period in respect of Tranche 1 (the "Tranche 1 Pricing Period") shall occur over the ten (10) consecutive Trading Days beginning on the fifteenth (15th) calendar day after the Issue Date; provided, however if such fifteenth (15th) calendar day is not a Trading Day, the Tranche 1 Pricing Period shall begin on the next calendar day that is a Trading Day. The "Tranche 1 Conversion Price" shall be equal to the product of (a) the average of the Closing Bid Prices during the Tranche 1 Pricing Period (subject to adjustment for stock splits, stock dividends, combinations or other similar transactions) and (b) 90.75%; provided, however, in the event that the Tranche 1 Conversion Price as calculated pursuant to this subsection exceeds the Initial Conversion Price, the Tranche 1 Conversion Price shall be reduced so that it equals the Initial Conversion Price (as defined in Article V.B(i)).

(iii) The pricing period in respect of Tranche 2 (the "Tranche 2 Pricing Period") shall occur over the ten (10) consecutive Trading Days beginning on the forty-fifth (45th) calendar day after the Issue Date; provided, however if such forty-fifth (45th) calendar day is not a Trading Day, the Tranche 2 Pricing Period shall begin on the next calendar day that is a Trading Day. The "Tranche 2 Conversion Price" shall be equal to

the product of (a) the average of the Closing Bid Prices during the Tranche 2 Pricing Period (subject to adjustment for stock splits, stock dividends, combinations or other similar transactions) and (b) 90.75%; provided, however, in the event that the Tranche 2 Conversion Price as calculated pursuant to this subsection exceeds the Initial Conversion Price, the Tranche 2 Conversion Price shall be reduced so that it equals the Initial Conversion Price (as defined in Article V.B(i)).

(iv) The pricing period in respect of Tranche 3 (the "Tranche 3 Pricing Period") shall occur over the ten (10) consecutive Trading Days beginning on the seventy-fifth (75th) calendar day after the Issue Date; provided, however if such seventy-fifth (75th) calendar day is not a Trading Day, the Tranche 3 Pricing Period shall begin on the next calendar day that is Trading Day. The "Tranche 3 Conversion Price" shall be equal to the product of (a) the average of the Closing Bid Prices during the Tranche 3 Pricing Period (subject to adjustment for stock splits, stock dividends, combinations or other similar transactions) and (b) 90.75%; provided, however, in the event that the Tranche 3 Conversion Price as calculated pursuant to this subsection exceeds the Initial Conversion Price, the Tranche 3 Conversion Price shall be reduced so that it equals the Initial Conversion Price (as defined in Article V.B(i)).

(v) Notwithstanding anything to the contrary in this Article V.B, (a) each of the Tranche 1 Pricing Period, the Tranche 2 Pricing Period and the Tranche 3 Pricing Period shall be extended by one (1) Trading Day for each Trading Day (an "Excluded Trading Day") in such period that the Common Stock is (1) traded on Nasdaq (or the principal securities exchange or market on which the Common Stock is then traded) for less than 4 1/2 hours, or (2) suspended from trading on Nasdaq (or the principal securities exchange or market on which the Common Stock is then traded) during the final hour of trading, and (b) each such Excluded Trading Day shall be excluded from the calculation of the Applicable Conversion Price for such pricing period.

C. Adjustments to Applicable Conversion Price. The Applicable Conversion Price shall be subject to adjustment from time to time as follows:

(i) Adjustment to Applicable Conversion Price Due to Stock Split, Stock Dividend, Etc. If at any time when Series C Preferred Stock is issued and outstanding, the number of outstanding shares of Common Stock is increased or decreased by a stock split, stock dividend, combination, reclassification, rights offering below the Trading Price (as defined below) to all holders of Common Stock or other similar event, then the Applicable Conversion Price shall be adjusted to give appropriate effect to the stock split, stock dividend, combination, reclassification or other similar

event. In such event, the Corporation shall notify the Transfer Agent of such change on or before the effective date thereof. "Trading Price," which shall be measured as of the date as of which the purchase price is determined in the rights offering, means (a) the average of the last reported sale prices for the shares of Common Stock on Nasdaq as reported by Bloomberg, as applicable, for the five (5) Trading Days immediately preceding such date, or (b) if Nasdaq is not the principal trading market for the shares of Common Stock, the average of the last reported sale prices on the principal trading market for the Common Stock during the same period as reported by Bloomberg, or (c) if market value cannot be calculated as of such date on any of the foregoing bases, the Trading Price shall be the fair market value as reasonably determined in good faith by (y) the Board of Directors or (z) at the option of a majority-in-interest of the holders of the outstanding Series C Preferred Stock by an independent investment bank of nationally recognized standing in the valuation of businesses similar to the business of the Corporation.

(ii) Adjustment to Applicable Conversion Price Due to Merger,  
-----

Consolidation, Etc. If at any time when Series C Preferred Stock is issued and  
-----

outstanding, there shall be any merger, consolidation, share exchange, recapitalization, reorganization, or other similar event, as a result of which shares of Common Stock shall be changed into the same or a different number of shares of another class or classes of stock or securities of the Corporation or another Person, or in case of any sale or conveyance of all or substantially all of the assets of the Corporation other than in connection with a plan of complete liquidation of the Corporation (each a "Change of Control Transaction"), then the holders of any Series C Preferred Stock shall thereafter have the right to receive upon conversion of the Series C Preferred Stock, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore issuable upon conversion, such stock, securities or assets which the holders of Series C Preferred Stock would have been entitled to receive in such transaction had the Series C Preferred Stock been converted in full immediately prior to such transaction (without regard to any limitations on conversion contained herein), and in any such case appropriate provisions shall be made with respect to the rights and interests of the holders of Series C Preferred Stock to the end that the provisions hereof (including, without limitation, provisions for adjustment of the Applicable Conversion Price and of the number of shares of Common Stock issuable upon conversion of the Series C Preferred Stock) shall thereafter be applicable, as nearly as may be practicable in relation to any securities or assets thereafter deliverable upon the conversion of the Series C Preferred Stock. The Corporation shall not effect any transaction described in this subsection (ii) unless (a) it first gives, to the extent practical, thirty (30) days' prior written notice (but in any event at least ten (10) business days prior written notice) of the

record date of the special meeting of stockholders to approve, or if there is no such record date, the consummation of, such merger, consolidation, share exchange, recapitalization, reorganization or other similar event or sale of assets (during which time the holders of Series C Preferred Stock shall be entitled to convert the Series C Preferred Stock) and (b) the resulting successor or acquiring Person (if not the Corporation) and, if an entity different from the successor or acquiring entity, the entity whose capital stock or assets the holders of the Common Stock are entitled to receive as a result of such Change of Control Transaction, assumes by written instrument the obligations of this Certificate of Designation including this subsection (ii). The above provisions shall similarly apply to successive mergers, consolidations, share exchanges, recapitalizations, reorganizations or other similar events or sales of assets.

(iii) Adjustment to Applicable Conversion Price Due to Distribution.

-----  
Subject to the limitations of Article III.D, if the Corporation shall declare or make any distribution of its assets (or rights to acquire its assets) to holders of Common Stock as a dividend, stock repurchase, by way of return of capital or otherwise (including any dividend or distribution to the Corporation's stockholders in cash or shares (or rights to acquire shares) of capital stock of a subsidiary (i.e., a spin-off)) (a "Distribution"), the holders of outstanding Series C Preferred Stock shall be entitled to receive, on the date that such Distribution is made to the Corporation's stockholders, the amount of such assets which such holder would have been entitled to receive if such holder had held the number of shares of Common Stock issuable upon complete conversion (based on a conversion price equal to the Modified Applicable Conversion Price (as defined in this subsection)) of the Series C Preferred Stock (without regard to any limitations on conversions contained herein) immediately before the date on which a record is taken for the determination of stockholders entitled to such Distribution, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the Distribution. For purposes of this Article V.C(ii), "Modified Applicable Conversion Price" shall mean, with respect to any Tranche, (a) with respect to any Distribution for which "ex-" trading of the Common Stock with respect to such Distribution begins on a Trading Day other than a Trading Day during the pricing period for such Tranche described in Article V.B(ii), (iii) or (iv), as applicable (a "Pricing Period"), the Applicable Conversion Price then in effect, or (b) with respect to any Distribution for which "ex-" trading of the Common Stock with respect to such Distribution begins on a Trading Day during the Pricing Period for such Tranche, the product of (x) the average of the Closing Bid Prices for each Trading Day during such Pricing Period which is prior to the date that "ex-" trading of the Common Stock with respect to such Distribution begins (subject to adjustment for stock splits, stock dividends, combinations or other similar transactions), and (y) 90.75%; provided, however, in the event that the Modified

Applicable Conversion Price calculated pursuant to the immediately preceding subclause (b) exceeds the Initial Conversion Price, then the Modified Applicable Conversion Price determined pursuant to the immediately preceding subclause (b) shall be reduced to the Initial Conversion Price.

(iv) Adjustment to Applicable Conversion Price Due to Purchase  
-----

Rights. Subject to the limitations of Article III.D, if at any time when any  
-----

Series C Preferred Stock is outstanding, the Corporation issues any convertible securities or rights to purchase stock, warrants, securities or other property (the "Purchase Rights") pro rata to the record holders of Common Stock, the holders of Series C Preferred Stock shall be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which such holder would have been entitled to acquire if such holder had held the number of shares of Common Stock issuable upon complete conversion (based on a conversion price equal to the Modified Applicable Conversion Price (as defined in this subsection)) of the Series C Preferred Stock (without regard to any limitations on conversions contained herein) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issuance or sale of such Purchase Rights. For purposes of this Article V.C(iv), "Modified Applicable Conversion Price" shall mean, with respect to any Tranche, (a) with respect to any Purchase Rights for which "ex-" trading of the Common Stock with respect to such Purchase Rights begins on a Trading Day other than a Trading Day during the Pricing Period for such Tranche, the Applicable Conversion Price then in effect, or (b) with respect to any Purchase Rights for which "ex-" trading of the Common Stock with respect to such Purchase Rights begins on a Trading Day during the Pricing Period for such Tranche, the product of (x) the average of the Closing Bid Prices for each day during such Pricing Period which is prior to the date that "ex-" trading of the Common Stock with respect to such Purchase Rights begins (subject to adjustment for stock splits, stock dividends, combinations or other similar transactions), and (y) 90.75%; provided, however, in the event that the Modified Applicable Conversion Price determined pursuant to the immediately preceding subclause (b) exceeds the Initial Conversion Price, then the Modified Applicable Conversion Price calculated pursuant to the immediately preceding subclause (b) shall be reduced to the Initial Conversion Price.

(v) Notice of Adjustments. Upon the occurrence of each adjustment  
-----

or readjustment of the Applicable Conversion Price pursuant to this Article V.C, the Corporation, at its expense, shall promptly compute such adjustment or readjustment and prepare and furnish to each holder of Series C Preferred Stock a certificate setting forth (a) such adjustment or readjustment, (b) the Applicable Conversion Price, as adjusted,



and (c) the number of shares of Common Stock and the amount, if any, of other securities or property which at the time would be received upon conversion of a share of Series C Preferred Stock.

D. Mechanics of Conversion. In order to convert Series C Preferred Stock

-----  
into full shares of Common Stock, a holder of Series C Preferred Stock shall:

(1) submit a copy of the fully executed notice of conversion in the form attached hereto as Exhibit A ("Notice of Conversion") by facsimile dispatched on

-----  
the Conversion Date (or by other means resulting in, or reasonably expected to result in, notice to the Corporation on the Conversion Date) at the office of the Corporation or its Transfer Agent that the holder elects to convert the same, which notice shall specify the number of shares of each Tranche of Series C Preferred Stock to be converted, the Applicable Conversion Price and a calculation of the number of shares of Common Stock issuable upon such conversion (together with a copy of the first page of each certificate to be converted) prior to 6:00 p.m., New York City time (the "Conversion Notice Deadline") on the date of conversion specified on the Notice of Conversion; and (2) surrender the original certificates representing the shares of each Tranche of Series C Preferred Stock being converted (the "Preferred Stock Certificates"), duly endorsed, along with a copy of the Notice of Conversion to the office of the Corporation or the Transfer Agent as soon as practicable thereafter. The Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion, unless either the Preferred Stock Certificates are 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 (subject to the requirements of subsection (i) below). In the case of a dispute as to the calculation of the Applicable Conversion Price, the Corporation shall promptly issue such number of shares of Common Stock that are not disputed in accordance with subsection (ii) below. The Corporation shall submit the disputed calculations to its outside accountant via facsimile within three (3) business days of receipt of the Notice of Conversion. The accountant shall audit the calculations and notify the Corporation and the holder of the results no later than three (3) business days from the time it receives the disputed calculations. The accountant's calculation shall be deemed conclusive absent manifest error.

(i) Lost or Stolen Certificates. Upon receipt by the Corporation of

-----  
evidence of the loss, theft, destruction or mutilation of any Preferred Stock Certificates representing shares of Series C Preferred Stock, and (in the case of loss, theft or destruction) of indemnity reasonably satisfactory to the Corporation, and upon surrender and cancellation of the Preferred Stock Certificate(s), if mutilated, the Corporation shall execute and deliver new Preferred Stock Certificate(s) of like tenor and date.

(ii) Delivery of Common Stock upon Conversion. Upon the surrender  
-----

of Preferred Stock Certificates as described above together with a Notice of Conversion, the Corporation shall issue and, within three (3) business days after such surrender (or, in the case of lost, stolen or destroyed certificates, after provision of agreement and indemnification pursuant to subsection (i) above) (the "Delivery Period"), deliver (or cause its Transfer Agent to so issue and deliver) in accordance with the terms hereof and the Securities Purchase Agreement, dated June 28, 1999 by and among the Corporation and the buyers named on the signature pages thereto (the "Buyers") (the "Purchase Agreement") (including, without limitation, in accordance with the requirements of Section 2(G) of the Purchase Agreement) to or upon the order of the holder (1) that number of shares of Common Stock for the portion of the shares of Series C Preferred Stock converted as shall be determined in accordance herewith and (2) a certificate representing the balance of the shares of Series C Preferred Stock not converted, if any. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Transfer Agent is participating in The Depository Trust Company ("DTC") Fast Automated Securities Transfer program, upon request of the holder and its compliance with the provisions contained in Article V.A and in this Article V.D, the Corporation shall use its best efforts to cause its Transfer Agent to electronically transmit the Common Stock issuable upon conversion to the holder by crediting the account of the holder's prime broker with DTC through its Deposit Withdrawal Agent Commission system.

(iii) Cash in Lieu of Fractional Shares. If any conversion of  
-----

Series C Preferred Stock would result in a fractional share of Common Stock or the right to acquire a fractional share of Common Stock, the Corporation shall pay to the holder of such fractional share, cash in lieu of such fractional share in an amount equal to such fraction multiplied by the Closing Bid Price on the Conversion Date.

(iv) Conversion Date. The "Conversion Date" shall be the date  
-----

specified in the Notice of Conversion, provided that the Notice of Conversion is submitted by facsimile (or by other means resulting in, or reasonably expected to result in, notice) to the Corporation or its Transfer Agent before 6:00 p.m., New York City time, on the Conversion Date. The person or persons entitled to receive the shares of Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such securities as of the Conversion Date and all rights with respect to the shares of Series C Preferred Stock surrendered shall forthwith terminate except the right to receive the shares of Common Stock or other securities or property issuable on such conversion and except that the holders preferential rights as a holder of Series C Preferred Stock shall survive to the extent the Corporation fails to deliver such securities.

E. Reservation of Shares. The requisite number of shares of the

-----

authorized but unissued Common Stock sufficient to provide for the conversion of the Series C Preferred Stock outstanding shall at all times be reserved by the Corporation, free from preemptive rights. As of the date of issuance of the Series C Preferred Stock, the requisite number of authorized and unissued shares of Common Stock have been duly reserved for issuance upon conversion of the Series C Preferred Stock (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Corporation's obligations pursuant to Section 4(F) of the Purchase Agreement. In addition, if the Corporation shall issue any securities or make any change in its capital structure which would change the number of shares of Common Stock into which each share of the Series C Preferred Stock shall be convertible, the Corporation shall at the same time also make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of the outstanding Series C Preferred Stock.

F. Status as Stockholders. Upon receipt of a Notice of Conversion by the

-----

Corporation from a holder of Series C Preferred Stock in accordance with subsection (ii) of section (D), (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed the Optional Conversion limitation proviso in section (A)) shall be deemed converted into shares of Common Stock and (ii) the holder's rights as a holder of such converted shares of Series C Preferred Stock shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such holder because of a failure by the Corporation to comply with the terms of this Certificate of Designation. Notwithstanding the foregoing, if a holder has not received certificates for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Delivery Period with respect to a conversion of shares of Series C Preferred Stock for any reason, then (unless the holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Corporation) the holder shall regain the rights of a holder of such shares of Series C Preferred Stock with respect to such unconverted shares of Series C Preferred Stock and the Corporation shall, as soon as practicable, return such unconverted shares of Series C Preferred Stock to the holder or, if such shares of Series C Preferred Stock have not been surrendered, adjust its records to reflect that such shares of Series C Preferred Stock have not been converted. In all cases, the holder shall retain all of its rights and remedies at law and in equity.

G. Mandatory Conversion. So long as all of the shares of Common Stock

-----

issuable upon conversion of all outstanding shares of Series C Preferred Stock are then (i) authorized and reserved for issuance, (ii) registered for resale under the Securities Act

of 1933, as amended (the "Securities Act"), by the holders of the Series C Preferred Stock (or may otherwise be resold publicly pursuant to Rule 144(k) under the Securities Act (or any successor provision)), and (iii) eligible to be traded on Nasdaq, the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("AMEX"), or The Nasdaq SmallCap Market ("Nasdaq SmallCap"), each share of Series C Preferred Stock issued and outstanding on June 30, 2002 (the "Automatic Conversion Date"), automatically shall be converted into shares of Common Stock on such date at the then Mandatory Applicable Conversion Price (as defined below) in accordance with, and subject to, the provisions of this Article V (the "Automatic Conversion"). The Automatic Conversion Date shall be delayed by one (1) Trading Day for each Trading Day occurring prior thereto and prior to the full conversion of the Series C Preferred Stock that (x) any Registration Statement (as defined in the Registration Rights Agreement, dated June 28, 1999, by and among the Corporation and the Buyers (the "Registration Rights Agreement") required to be filed and to be effective pursuant to the Registration Rights Agreement in accordance with its terms is not effective or sales of all of the Registrable Securities (as defined in the Registration Rights Agreement) otherwise cannot be made thereunder or pursuant to Rule 144 under the Securities Act (or any successor provision) or (y) at the option of each holder of Series C Preferred Stock, such holder is subject to a Lock-Up Agreement (as defined in the Registration Rights Agreement). The Automatic Conversion Date shall be the effective date from which certificates representing the Common Stock must be delivered to the holder pursuant to section (D) above. The "Mandatory Applicable Conversion Price" shall be the average of the Closing Bid Prices over the ten (10) consecutive Trading Days ending on the Trading Day immediately preceding the Automatic Conversion Date.

H. No Reissuance of Series C Preferred Stock. Shares of Series C

-----  
Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

#### VI. VOTING RIGHTS

-----

The holders of the Series C Preferred Stock have no voting power whatsoever, including with respect to the issuance of the Series D Preferred Stock except as otherwise provided by the DGCL and the limited protective provisions in Article VII below.

Notwithstanding the above, the Corporation shall provide each holder of Series C Preferred Stock with prior notification of any meeting of the stockholders (and copies of proxy materials and other information sent to stockholders). In the event of any taking

by the Corporation of a record of its stockholders for the purpose of determining stockholders who are entitled to receive payment of any dividend or other distribution, any right to subscribe for, purchase or otherwise acquire (including by way of merger, consolidation or recapitalization) any share of any class or any other securities or property, or to receive any other right, or for the purpose of determining stockholders who are entitled to vote in connection with any proposed sale, lease or conveyance of all or substantially all of the assets of the Corporation, or any proposed liquidation, dissolution or winding up of the Corporation, the Corporation shall mail a notice to each holder, at least ten (10) days prior to the record date specified therein (or thirty (30) days prior to the transaction or event, whichever is earlier), of the date on which any such record is to be taken for the purpose of such dividend, distribution, right or other event.

To the extent that under the DGCL the vote of the holders of the Series C Preferred Stock, voting separately as a class, is required to authorize a given action of the Corporation, the affirmative vote or consent of the holders of at least a majority of outstanding shares of the Series C Preferred Stock represented at a duly held meeting at which a quorum is present or by written consent of a majority of outstanding shares of Series C Preferred Stock (except as otherwise may be required under the DGCL) shall constitute the approval of such action by the holders. To the extent that under the DGCL the holders of the Series C Preferred Stock are entitled to vote on a matter with holders of Common Stock, voting together as one class, each share of Series C Preferred Stock shall be entitled to a number of votes equal to the number of shares of Common Stock into which it is then convertible using the record date for the taking of such vote of stockholders as the date as of which the Applicable Conversion Price is calculated.

#### VII. PROTECTIVE PROVISIONS

-----

So long as shares of Series C Preferred Stock are outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by the DGCL) of the holders of at least a majority of the outstanding shares of Series C Preferred Stock:

A. alter or change the rights, preferences or privileges (provided that in the case of a Change of Control Transaction this subsection shall not expand or otherwise grant additional voting rights to the holders of Series C Preferred Stock, whether voting separately as a class or together with the Common Stock, from the rights provided in the DGCL) of (i) the Series C Preferred Stock or (ii) any capital stock of the Corporation so as to affect adversely the Series C Preferred Stock;

B. create any new class or series of capital stock having a preference over the Series C Preferred Stock as to distribution of assets upon liquidation, dissolution or winding up of the Corporation;

C. create any new class or series of capital stock ranking pari passu  
-----  
with the Series C Preferred Stock as to distribution of assets upon liquidation, dissolution or winding up of the Corporation (as previously defined in Article II hereof, "Pari Passu Securities");  
-----

D. increase the authorized number of shares of Series C Preferred Stock;

E. issue any Senior Securities or Pari Passu Securities; or  
-----

F. increase the par value of the Common Stock.

In the event holders of at least a majority of outstanding shares of Series C Preferred Stock agree to allow the Corporation to alter or change the rights, preferences or privileges of the shares of Series C Preferred Stock, pursuant to section (A) above, so as to affect adversely the Series C Preferred Stock, the Corporation shall deliver notice of such approved change to the holders of the Series C Preferred Stock that did not agree to such alteration or change (the "Dissenting Holders") and Dissenting Holders shall have the right for a period of ten (10) days to convert pursuant to the terms of this Certificate of Designation as they exist prior to such alteration or change or continue to hold their shares of Series C Preferred Stock; provided that upon expiration of the above ten (10) day period, each adversely affected holder shall deliver to the Corporation a certificate signed by an officer or other responsible party of the holder acknowledging that the Corporation altered or amended the Certificate of Designation in a manner which affected adversely the rights, preferences and privileges of the Series C Preferred Stock and that such holder elected not to exercise their conversion rights as they existed prior to such alteration or amendment during the ten (10) day period.

#### VIII. MANDATORY REDEMPTION -----

If any of the following events (each, a "Mandatory Redemption Event") shall occur: (i) the Corporation fails to issue shares of Common Stock to any holder of Series C Preferred Stock upon exercise by such holder of its conversion rights in accordance with the terms of this Certificate of Designation, fails to transfer (electronically or in certificated form) any certificate for shares of Common Stock issued to the holders upon

conversion of the Series C Preferred Stock as and when required by this Certificate of Designation, the Registration Rights Agreement or the Purchase Agreement, fails to remove any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any certificate in respect of any shares of Common Stock issued to the holders of Series C Preferred Stock upon conversion of the Series C Preferred Stock as and when required by this Certificate of Designation, the Registration Rights Agreement or the Purchase Agreement (or makes any announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for ten (10) business days after the Corporation shall have been notified thereof in writing by any holder of the Series C Preferred Stock; (ii) the Corporation or successor Person in a Change of Control Transaction ceases to be a publicly traded corporation whose equity interest is listed for trading on Nasdaq, Nasdaq Smallcap, NYSE or AMEX (a "Listed Company"); provided, however, a holding company merger pursuant

-----  
to Section 251(g) of the DGCL or any successor provision in which a holding company is a Listed Company and the holders of Series C Preferred Stock have the right to receive the publicly traded securities of such Listed Company pursuant to Article V(C)(ii) hereof, shall not trigger this mandatory redemption provision, or (iii) at any time after June 30, 2000, and through the expiration of the Registration Period (as defined in the Registration Rights Agreement), sales of any Registrable Securities cannot be made pursuant to an effective Registration Statement or pursuant to Rule 144 under the Securities Act, then (x) upon the occurrence and during the period of any Mandatory Redemption Event specified in subsection (ii) or subsection (iii) at the option of the holders of at least two-thirds (2/3) of the then outstanding Series C Preferred Stock by written notice to the Corporation (in each case, a "2/3 Mandatory Redemption Notice") of such Mandatory Redemption Event, or (y) upon the occurrence and during the period of any Mandatory Redemption Event specified in subsection (i), at the option of any holder of outstanding Series C Preferred Stock by written notice (an "Individual Mandatory Redemption Notice" and together with the (2/3) Mandatory Redemption Notice collectively, the "Mandatory Redemption Notice") to the Corporation of such Mandatory Redemption Event, the Corporation shall purchase within five (5) business days of receipt of a Mandatory Redemption Notice by the Corporation, such holder's shares of Series C Preferred Stock submitted for redemption pursuant to a Mandatory Redemption Notice for an amount per share equal to the Liquidation Preference on the date the Mandatory Redemption Notice is received by the Corporation.

IX. REMEDIES

-----

The Corporation acknowledges that a breach by it of its obligations under this Certificate of Designation will cause irreparable harm to each holder of Series C Preferred Stock by vitiating the intent and purpose of the transactions contemplated hereunder. Accordingly, the Corporation acknowledges that the remedy at law for a breach of its obligations under this Certificate of Designation will be inadequate and agrees, in the event of a breach or threatened breach by the Corporation of any of the provisions of this Certificate of Designation that each holder of Series C Preferred Stock shall be entitled, in addition to all other available remedies in law or in equity, to an injunction or injunctions to prevent or cure any breaches of the provisions of this Certificate of Designation, and to enforce specifically the terms and provisions of this Certificate of Designation without the necessity of showing economic loss and without any bond or other security being required.



IN WITNESS WHEREOF, this Certificate of Designation is executed on behalf of the Corporation this 29th day of June, 1999.

CMGI, INC.

By: /s/ Andrew J. Hajducky III

-----  
Name: Andrew J. Hajducky III  
Title: Executive Vice President,  
Chief Financial Officer and  
Treasurer

21

-----

NOTICE OF CONVERSION

(To be Executed by the Registered Holder  
in order to Convert the Series C Preferred Stock)

The undersigned (the "Holder") hereby irrevocably elects to convert \_\_\_\_\_ shares of Series C Preferred Stock, represented by stock certificate No(s). \_\_\_\_\_ (the "Preferred Stock Certificates") into shares of common stock, par value \$0.01 per share (the "Common Stock") of CMGI, Inc., a Delaware corporation (the "Corporation") according to the terms and conditions of the Certificate of Designation of Series C Preferred Stock, as of the date written below. If securities are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

The Corporation shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with The Depository Trust Company ("DTC") through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime Broker: \_\_\_\_\_

Account Number: \_\_\_\_\_

[ ] In lieu of receiving shares of Common Stock issuable pursuant to this Notice of Conversion by way of a DWAC Transfer, the undersigned hereby requests that the Corporation issue a certificate or certificates for the number of shares of Common Stock set forth above (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

The undersigned represents and warrants that all offers and sales by the undersigned of the securities issuable to the undersigned upon conversion of the Series C Preferred Stock shall be made pursuant to registration of the securities under the Securities Act of 1933, as amended (the "Securities Act"), or pursuant to an exemption from registration under the Securities Act.

Date of Conversion: \_\_\_\_\_  
Tranche of Preferred Stock: \_\_\_\_\_  
Applicable Conversion Price: \_\_\_\_\_

Number of Shares of  
Common Stock to be Issued: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

\* The Corporation is not required to issue shares of Common Stock until the original Series C Preferred Stock Certificate(s) (or evidence of loss, theft or destruction thereof) to be converted are received by the Corporation or its Transfer Agent. The Corporation shall issue and deliver shares of Common Stock to the Holder or its designee not later than three (3) business days following receipt of the original Preferred Stock Certificate(s) to be converted.

CERTIFICATE OF CORRECTION  
TO THE  
CERTIFICATE OF  
DESIGNATIONS, PREFERENCES, AND RIGHTS  
OF THE  
SERIES C CONVERTIBLE PREFERRED STOCK  
OF  
CMGI, INC.

(Pursuant to Section 103(f) of the  
Delaware General Corporation Law)

CMGI, Inc. (the "Corporation"), a corporation organized and existing under the Delaware General Corporation Law (the "DGCL") hereby certifies as follows:

FIRST: On June 29, 1999 the Corporation filed a Certificate of Designations, Preferences, and Rights of Series C Convertible Preferred Stock (the "Certificate") in which certain typographical errors set forth on pages 14 and 16 of the Certificate created an inaccurate record of the corporate action.

SECOND: Specifically, the date set forth in Article V.D(ii) of the Certificate titled "Delivery of Common Stock upon Conversion" for the Securities Purchase Agreement on line 7 of page 14 and the date set forth in Article V.G of the Certificate titled "Mandatory Conversion" for the Registration Rights Agreement on line 16 of page 16 should read, in each case, as corrected, June 29, 1999. Accordingly, the text of Article V.D(ii) of page 14 and Article V.G of page 16 of the Certificate, respectively, shall be corrected to read in its entirety as follows:

(ii) Delivery of Common Stock upon Conversion. Upon the surrender of  
-----

Preferred Stock Certificates as described above together with a Notice of Conversion, the Corporation shall issue and, within three (3) business days after such surrender (or, in the case of lost, stolen or destroyed certificates, after provision of agreement and indemnification pursuant to subsection (i) above) (the "Delivery Period"), deliver (or cause its Transfer Agent to so issue and deliver) in accordance with the terms hereof and the Securities Purchase Agreement, dated June 29, 1999 by and among the Corporation and the buyers named on the signature pages thereto (the "Buyers") (the

"Purchase Agreement") (including, without limitation, in accordance with the requirements of Section 2(G) of the Purchase Agreement) to or upon the order of the holder (1) that number of shares of Common Stock for the portion of the shares of Series C Preferred Stock converted as shall be determined in accordance herewith and (2) a certificate representing the balance of the shares of Series C Preferred Stock not converted, if any. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Transfer Agent is participating in The Depository Trust Company ("DTC") Fast Automated Securities Transfer program, upon request of the holder and its compliance with the provisions contained in Article V.A and in this Article V.D, the Corporation shall use its best efforts to cause its Transfer Agent to electronically transmit the Common Stock issuable upon conversion to the holder by crediting the account of the holder's prime broker with DTC through its Deposit Withdrawal Agent Commission system.

G. Mandatory Conversion. So long as all of the shares of Common

-----  
Stock issuable upon conversion of all outstanding shares of Series C Preferred Stock are then (i) authorized and reserved for issuance, (ii) registered for resale under the Securities Act of 1933, as amended (the "Securities Act"), by the holders of the Series C Preferred Stock (or may otherwise be resold publicly pursuant to Rule 144(k) under the Securities Act (or any successor provision)), and (iii) eligible to be traded on Nasdaq, the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("AMEX"), or The Nasdaq SmallCap Market ("Nasdaq SmallCap"), each share of Series C Preferred Stock issued and outstanding on June 30, 2002 (the "Automatic Conversion Date"), automatically shall be converted into shares of Common Stock on such date at the then Mandatory Applicable Conversion Price (as defined below) in accordance with, and subject to, the provisions of this Article V (the "Automatic Conversion"). The Automatic Conversion Date shall be delayed by one (1) Trading Day for each Trading Day occurring prior thereto and prior to the full conversion of the Series C Preferred Stock that (x) any Registration Statement (as defined in the Registration Rights Agreement, dated June 29, 1999, by and among the Corporation and the Buyers (the "Registration Rights Agreement")) required to be filed and to be effective pursuant to the Registration Rights Agreement in accordance

with its terms is not effective or sales of all of the Registrable Securities (as defined in the Registration Rights Agreement) otherwise cannot be made thereunder or pursuant to Rule 144 under the Securities Act (or any successor provision) or (y) at the option of each holder of Series C Preferred Stock, such holder is subject to a Lock-Up Agreement (as defined in the Registration Rights Agreement). The Automatic Conversion Date shall be the effective date from which certificates representing the Common Stock must be delivered to the holder pursuant to section (D) above. The "Mandatory Applicable Conversion Price" shall be the average of the Closing Bid Prices over the ten (10) consecutive Trading Days ending on the Trading Day immediately preceding the Automatic Conversion Date.

THIRD: This Certificate of Correction was prepared and executed in accordance with Section 103(f) of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this instrument to be signed in its corporate name this 30th day of June, 1999.

CMGI, INC.

By: /s/ Andrew J. Hajducky III

-----  
Name: Andrew J. Hajducky III  
Title: Executive Vice President, Chief  
Financial Officer and Treasurer

P R E S S   R E L E A S E

MEDIA CONTACT

Krista Thomas  
CMGI  
978/684-3141  
kthomas@cmgi.com

CMGI Completes Private Placement

Andover, MA, June 30, 1999 - CMGI, Inc., (Nasdaq: CMGI) has completed a \$375 million private placement of its Series C Convertible Preferred Stock. The shares were purchased by funds managed by four institutional investment managers. Shoreline Pacific Institutional Finance, The Institutional Division of Financial West Group, arranged for the private placement transaction.

Proceeds of the private placement will be used for acquisitions of controlling positions in companies and working capital purposes.

About CMGI

A recognized leader in the Internet economy, CMGI (Nasdaq: CMGI) has built a substantial base of Internet operating companies and, through its @Ventures affiliates, has invested in a growing portfolio of synergistic Internet enterprises which enhance the value of its core holdings. This unique method of generating equity for its shareholders is what CMGI calls "creating net value." Microsoft, Intel and Sumitomo hold minority positions in CMGI.

CMGI's majority-owned subsidiaries include Activerse, Adsmart, Engage, iCast, Magnitude Network, NaviSite, NaviNet, Planet Direct and ZineZone. The Company's @Ventures affiliates have ownership interests in Lycos, Inc. (Nasdaq: LCOS), Critical Path (Nasdaq: CPTH), Silknet (Nasdaq: SILK), Ancestry.com, Asimba, blaxxun, BizBuyer.com, CarParts.com, Chemdex, eCircles.com, Furniture.com, HotLinks, KOZ.com, MotherNature.com, NextMonet.com, NextPlanetOver.com, OneCore.com, ONElist, Productopia, Promedix.com, Raging Bull, Softway Systems, Speech Machines, ThingWorld.com, Universal Learning Technology, Vicinity, Virtual Ink and Visto.

CMGI is also the majority-owner of SalesLink, InSolutions and On-Demand Solutions, leaders in direct marketing, fulfillment and turnkey arenas. CMGI Corporate headquarters is located at 100 Brickstone Square, Andover, MA 01810. Telephone: 978-684-3600. Fax: 978-684-3814. Additional information is available on the company's Web site at <http://www.CMGI.com>.

-----

# # #