

ORIGINAL

DEPOSIT
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DATE
SEP 0 8 1998

8201 Greensboro Drive
Suite 1000
McLean, VA 22102
September 2, 1998

Overnight Delivery

Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oaks Boulevard
Gerald L. Gunter Bldg. Room 270
Tallahassee, FL 32399-0850
(904) 488-4733

RE: Initial Alternative Local Exchange Carrier Application of
YourTel, Inc.

981110-TX

Dear Mr. D'Haeseleer:

Enclosed for filing are the original and six (6) copies of the above referenced application of YourTel, Inc. to provide Alternative Local Exchange Carrier Service in Florida

Also enclosed is our check in the amount of \$250 for the filing fee. Questions pertaining to this application or tariff should be directed to my attention at (407) 740-8575.

Please acknowledge receipt of this filing by returning, file-stamped, the extra copy of this cover letter in the self-addressed, stamped envelope enclosed for this purpose

Thank you for your assistance.

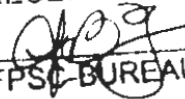
Sincerely,



Rohit Menezes
Director - Business Analysis

Enclosures

cc: Ken Boley, Blumenfeld & Cohen
tms: fl198000

RECEIVED & FILED

FPSC BUREAU OF RECORDS

SEP 08 1998



SEP 8 1998

APPLICATION FORM

1. This is an application for (check one):

Original authority (new company)

Approval of transfer (to another certificated company)

Example, a certificated company purchases an existing company and desires to retain the original certificate authority.

Approval of assignment of existing certificate
(to a noncertificated company)

Example, a non-certificated company purchases an existing company and desires to retain the certificate of authority rather than apply for a new certificate.

Approval for transfer of control (to another certificated company)

Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of applicant:

YourTel, Inc.

3. Name under which the applicant will do business (d/b/a):

YourTel, Inc.

4. If applicable, please provide proof of fictitious name (d/b/a) registration.

Fictitious name registration number: _____

APPLICATION FORM

8. State whether any of the officers, directors, or any of the ten largest stockholders have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, please explain.

No officer or director of YourTel, Inc., and none of the ten largest
stockholders in YourTel, Inc., has previously been adjudged bankrupt,
mentally incompetent, or found guilty of any felony or of any crime.

9. If incorporated, please provide proof from the Florida Secretary of State that the applicant has authority to operate in Florida.

Corporate charter number: F98000004189

10. Please provide the name, title, address, telephone number, Internet address, and facsimile number for the person serving as ongoing liaison with the Commission, and if different, the liaison responsible for this application.

Rohit Menezes, Assistant Corporate Secretary, YourTel, Inc.,

8201 Greensboro Drive, Suite 1000, McLean, VA 22102

Phone: 703-847-5411 Fax: 703-847-5457

E-mail : rohit@yourtel.com

11. Please list other states in which the applicant is currently providing or has applied to provide local exchange or alternative local exchange service.

YourTel, Inc., intends to apply in the very near future for authority
to provide local exchange service in the state of Maryland.

APPLICATION FORM

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Fictitious name registration number: _____

APPLICATION FORM

5. A. National mailing address including street name, number, post office box, city, state, zip code, and phone number.

YourTel, Inc.

8201 Greensboro Drive

Suite 1000

McLean, VA 22102

- B. Florida mailing address including street name, number, post office box, city, state, zip code, and phone number.

Same as above

6. Structure of organization: Check appropriate box(s)

<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation
<input checked="" type="checkbox"/> Foreign Corporation	<input type="checkbox"/> Foreign Partnership
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Joint Venture	<input type="checkbox"/> Other, Please explain _____

7. If applicant is an individual, partnership, or joint venture, please give name, title and address of each legal entity.

APPLICATION FORM

8. State whether any of the officers, directors, or any of the ten largest stockholders have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, please explain.

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APPLICATION FORM

12. Has the applicant been denied certification in any other state? If so, please list the state and reason for denial.

No.

13. Have penalties been imposed against the applicant in any other state? If so, please list the state and reason for penalty.

No.

14. Please indicate how a customer can file a service complaint with your company.

Mr. Rohit Menezes, Assistant Corporate Secretary, is the initial point of contact for all service complaints. His address and other contact information is provided above (see question 11)

Customers may also call (toll free) 877-4YOURTEL

15. Please complete and file a price list in accordance with Commission Rule 25-24.825.(Rule attached)

16. Please provide all available documentation demonstrating that the applicant has the following capabilities to provide alternative local exchange service in Florida.

A. Financial capability.

Regarding the showing of financial capability, the following applies:

The application should contain the applicant's financial statements for the most recent 3 years, including:

APPLICATION FORM

1. the balance sheet
2. income statement
3. statement of retained earnings.

Further, a written explanation, which can include supporting documentation, regarding the following should be provided to show financial capability.

1. Please provide documentation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. Please provide documentation that the applicant has sufficient financial capability to maintain the requested service.
3. Please provide documentation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

If available, the financial statements should be audited financial statements.

If the applicant does not have audited financial statements, it shall be so stated. The unaudited financial statements should then be signed by the applicant's chief executive officer and chief financial officer. The signatures should attest that the financial statements are true and correct.

- B. Managerial capability.
- C. Technical capability.

(If you will be providing local intra-exchange switched telecommunications service, then state how you will provide access to 911 emergency service. If the nature of the emergency 911 service access and funding mechanism is not equivalent to that provided by the local exchange companies in the areas to be served, described in detail the difference.)

APPLICATION FORM

AFFIDAVIT

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative local exchange service in the State of Florida. I have read the foregoing and declare that to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083".

Official:  August 10, 1998
Signature Date

Title: Chairman & Acting CEO (202) 847-5411
Telephone Number

Address: 8201 Greensboro
Suite 1000
McLean, VA 22102

YOURTEL, INC.

Statement of Financial, Managerial, and Technical Capability

YourTel, Inc. ("YourTel" or "the Company") is a start-up alternative local exchange carrier (ALEC), which is currently in its initial planning phase. YourTel has identified Florida as one of the first two states in which it intends to offer local exchange services in competition with incumbent local exchange carriers and other ALECs. In Florida, YourTel will initially seek to provide local exchange services in the city of Tampa.

The attached financial statements reflect the initial capitalization of YourTel and a pro forma projection of revenues and earnings for the next three years. The Company intends to raise significant additional funding from private sources before the end of 1998. This funding, which YourTel expects to total \$20-\$30 million, will be used to finance a service rollout in 3-4 cities, including Tampa, Florida. After YourTel raises additional funding, it will be sufficiently capitalized to provide and maintain local telecommunications services in Tampa. Further, once the Company has raised additional funding, YourTel will have sufficient financial capability to meet its lease and/or ownership obligations. At this time, YourTel does not have audited financial statements.

Albert Halprin, former Chief of the Federal Communications Commission's Common Carrier Bureau, is Chairman and Acting Chief Executive Officer of YourTel. Dennis Elliott is President of YourTel. Individually and collectively, the senior managers and directors of YourTel have vast experience and expertise in all aspects of telecommunications service provision. In the start-up phase, they are YourTel's primary asset.

YourTel has not determined the exchanges within Florida in which it intends to offer services, nor has YourTel defined the precise service offerings and pricing for its services. Accordingly, YourTel has not attached a draft price list about the exchanges YourTel will serve or about YourTel's services and pricing. Once certified as an ALEC, YourTel will, of course, file a price list that will include all required information prior to the Company offering service in Florida.

YOURTEL, INC.
July 21, 1998


Current
(\$000)
Balance Sheet - July 31, 1998 (est.)

Current Assets	400
Fixed Assets	<u>0</u>
Total Assets	400
Current Liabilities	15
Long-Term Debt	0
Equity	<u>385</u>
Total Liab./Equity	400

ProForma
(\$ Millions)

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<i>Income Statement</i>				
Revenue	4.0	12.0	30.0	60.0
Expenses				
Customer Svc&Network Ops	2.2	6.0	12.0	20.0
SG&A	3.8	9.0	17.4	28.9
Depreciation/Amortization	<u>1.6</u>	<u>3.4</u>	<u>7.4</u>	<u>15.4</u>
Operating Income (Loss)	<u>(3.6)</u>	<u>(6.4)</u>	<u>(6.8)</u>	<u>(4.3)</u>
Interest (Income)	<u>(0.1)</u>	<u>(0.5)</u>	<u>(9.5)</u>	<u>(9.0)</u>
Pretax Income (Loss)	<u>(2.5)</u>	<u>(6.9)</u>	2.7	4.7
Net Income (Loss)	<u>(2.5)</u>	<u>(6.9)</u>	2.7	4.7
 <i>Balance Sheet</i>				
Current Assets	21.2	9.9	200.2	180.6
Fixed Assets	<u>6.4</u>	<u>12.0</u>	<u>24.6</u>	<u>49.2</u>
Total Assets	27.6	21.9	224.8	229.8
Liabilities	0.1	0.3	0.5	0.8
Equity	<u>27.5</u>	<u>21.6</u>	<u>224.3</u>	<u>229.0</u>
Total Liabilities & Equity	27.6	21.9	224.8	229.8

I hereby attest that the above mandated financial statements of YourTel, Inc., are true and correct.



Albert Halprin
Chairman and Acting Chief Executive
Officer
YourTel, Inc.
Dated: July 30, 1998

**CERTIFICATE OF INCORPORATION
OF
YOURTEL, INC.**

FIRST: The name of the Corporation is Yourtel, Inc.

SECOND: Its registered office is to be located at 1220 N. Market St., Suite 606, Wilmington, DE 19801, County of New Castle. The registered agent is American Incorporators Ltd. whose address is the same as above.

THIRD: The nature of business and purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Laws.

FOURTH: The total number of shares of stock which the corporation shall have authority to issue is twenty million (20,000,000). Of such shares, eighteen million, five hundred thousand (18,500,000) are to be Class A, Common Stock, with a par value of \$.10 per share and one million, five hundred thousand (1,500,000) are to be Class B, Common Stock, with a par value of \$.10 per share.

FIFTH: The name and mailing address of the incorporator is as follows:

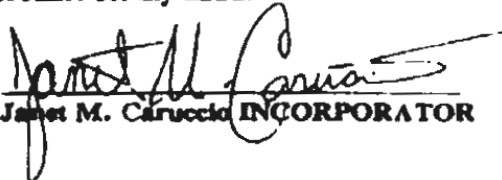
Janet M. Caruccio
1220 N. Market St., Suite 606
Wilmington, DE 19801

SIXTH: The powers of the undersigned incorporator will terminate upon filing of the certificate of incorporation. The names and mailing addresses of the persons who will serve as initial directors until the first annual meeting of stockholders or until a successor(s) is elected and qualified are:

Albert Halprin
1100 New York Ave. NW
Suite 650E
Washington, DC 20005

SEVENTH: Each person who serves or has served as a director shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision shall not eliminate or limit the liability of a director: (i) for any breach of loyalty to the corporation or its stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) for unlawful payment of dividend or unlawful stock purchase or redemption as such liability is imposed under Section 174 of the General Corporation Laws of Delaware; or (iv) for any transaction from which the director derived an improper personal benefit.

I, **THE UNDERSIGNED**, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts stated herein are true, and I have accordingly hereunto set my hand.


Janet M. Caruccio INCORPORATOR

**BY-LAWS
OF**

YourTel, Inc.

(A Delaware Corporation)

ARTICLE I

Offices

SECTION 1. *Registered Office.* The registered office of the Corporation within the State of Delaware shall be 1220 N. Market Street, Suite 606, Wilmington, DE, 19801.

SECTION 2. *Other Offices.* The corporation may also have an office or offices other than said registered office at such place or places, either within or without the State, as the Board of Directors shall from time to time determine or the business of the corporation may require.

ARTICLE II

Meetings of Stockholders

SECTION 1. *Place of Meetings.* All meetings of the stockholders shall be held at such place, within or without the State of Delaware, as the Directors may from time to time, fix.

SECTION 2. *Annual Meeting.* The annual meeting shall be held on the date and at the time fixed, from time to time, by the Board of Directors, provided that the first annual meeting shall be held on a date within thirteen (13) months after the organization of the Corporation, and each successive annual meetings shall be held on a date within thirteen (13) months after the date of the preceding annual meeting.

SECTION 3. *Special Meetings.* Special meetings of stockholders, unless otherwise prescribed by statute, may be called at any time by the Board of Directors, the Chairperson of the Board, or the President, and shall be called by the Secretary upon the request in writing of a stockholder or stockholders holding of record at least 20% of the voting power of the issued and outstanding shares

of stock of the Corporation entitled to vote at such meeting.

SECTION 4. *Notice of Meetings.* Written notice of each annual and special meeting of stockholders stating the date, place, and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each stockholder of record entitled to vote thereat not less than ten (10) nor more than sixty (60) days before the date of the meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. Notice shall be given (a) personally, (b) by courier, transmission of a telegram, cablegram, or other means of electronic transmission (including by facsimile transmission or electronic mail via the Internet) if a record of receipt or confirmation of completed transmission is obtained, or (c) by mail, which shall be sent in a postage prepaid envelope, addressed to the stockholder at his or her address as it appears on the records of the Corporation. Notice by mail shall be deemed given at the time when the same shall be deposited in the United States mail, postage prepaid. Notice of any meeting shall not be required to be given to any person who attends such meeting, except when such person attends the meeting in person or by proxy for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, or who, either before or after the meeting, shall submit a signed written waiver of notice, in person or by proxy. Neither the business to be transacted at, nor the purpose of, an annual or special meeting of stockholders need be specified in any written waiver of notice.

SECTION 5. *List Of Stockholders.* The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city, town, or village where the meeting is to be held, which place shall be specified, in the notice of meeting, or if not specified, at the place where the meeting is to be held. The list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

SECTION 6. *Quorum, Adjournments.* The holders of a majority of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of stockholders, except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such a quorum shall not be present or represented at any meeting of stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally called. If the adjournment is for more than thirty (30) days, or, if after adjournment a new

record date is set, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

SECTION 7. *Organization.* At each meeting of stockholders, the Chairperson of the Board or, in the Chairperson's absence, the President shall act as chairperson of the meeting. The Secretary, or in his or her absence or inability to act, the person whom the chair of the meeting shall appoint, shall act as secretary of the meeting and keep the minutes thereof.

SECTION 8. *Order of Business.* The order of business at all meetings of the stockholders shall be as determined by the chair of the meeting.

SECTION 9. *Voting.* Each stockholder of either or both of Class A and Class B shares of the Corporation shall be entitled at each meeting of stockholders to one vote for each share of capital stock of the Corporation standing in his or her name on the record of stockholders of the Corporation, regardless of Class:

- (a) on the date fixed by the Board of Directors pursuant to these bylaws or the Delaware General Corporation Law as the record date for the determination of the stockholders who shall be entitled to notice of and to vote at such meeting;
or
- (b) if no such record date shall have been so fixed, then at the close of business on the day next preceding the day on which notice thereof shall be given, or, if notice is waived, at the close of business on the date next preceding the day on which the meeting is held.

Except as set forth in the Certificate of Incorporation, all classes of capital stock of the Corporation shall vote together as one class on all matters submitted to, or requiring a vote by, the Corporation's stockholders. Each stockholder entitled to vote at any meeting of stockholders may authorize another person or persons to act for him or her by a proxy signed by such stockholder or his or her attorney-in-fact, but no proxy shall be voted after one (1) year from its date, unless the proxy provides for a longer period. Any such proxy shall be delivered to the secretary of the meeting at or prior to the time designated in the order of business for so delivering such proxies. When a quorum is present at any meeting, the vote of the holders of a majority of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereon, present in person or represented by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation or of these bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Unless required by statute, or determined by the chair of the meeting to be advisable, the vote on any question need not be by ballot. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by his proxy, if there be such proxy, and shall state the

number of shares voted.

SECTION 10. *Inspectors.* The Board of Directors may, in advance of any meeting of stockholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If any of the inspectors so appointed shall fail to appear or act, the chair of the meeting shall, or if inspectors shall not have been appointed, the chair of the meeting may appoint one or more inspectors. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his or her ability. The inspectors shall determine the number of shares of capital stock of the Corporation outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots, or consents, hear and determine the results, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the chair of the meeting the inspectors shall make a report in writing of any challenge, request, or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as an inspector of an election of directors. Inspectors need not be stockholders.

SECTION 11. *Action by Consent.* Whenever the vote of stockholders at any special or annual meeting thereof is required or permitted to be taken for or in connection with any corporate action, by a statute or provision of the Certificate of Incorporation or of these bylaws, the meeting and vote of stockholders may be dispensed with, and the action taken without such meeting and vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock entitled to vote thereon having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

ARTICLE III

Board of Directors

SECTION 1. *General Powers.* The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or the Certificate of Incorporation directed or required to be exercised or done by the stockholders.

SECTION 2. *Number, Qualifications, Election, and Term of Office.* The number of directors constituting the initial Board of Directors shall be six (6). Thereafter, the number of directors may be fixed, from time to time, by the affirmative vote of a majority of the entire Board of Directors or by action of the stockholders of the Corporation. Any decrease in the number of directors shall be effective at the time of the next succeeding annual meeting of stockholders unless there shall be

vacancies in the Board of Directors, in which case such decrease may become effective at any time prior to the next succeeding annual meeting to the extent of the number of such vacancies. Directors need not be stockholders. Each director shall hold office until his or her successor shall have been elected and qualified, or until his or her death, resignation, or removal as hereinafter provided in these bylaws.

SECTION 3. *Place of Meetings.* Meetings of the Board of Directors shall be held at such place or places, within or without the State, as the Board of Directors may from time to time determine or as shall be specified in the notice of any such meeting.

SECTION 4. *First Meeting.* The Board of Directors shall meet for the purpose of organization, the election of officers, and the transaction of other business, as soon as practicable after each annual meeting of stockholders, on the same day where such annual meeting shall be held. Notice of such meeting need not be given. Such meeting may be held at any other time or place (within or without the State) which shall be specified in a notice thereof given as hereinafter provided in Section 7 of this Article III.

SECTION 5. *Regular Meetings.* Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may fix. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting, which would otherwise be held on that day shall be held at the same hour on the next succeeding business day. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by statute or these bylaws.

SECTION 6. *Special Meetings.* Special meetings of the Board of Directors may be called by the Chairperson of the Board or by two or more directors of the Corporation, or by the President.

SECTION 7. *Notice of Meetings.* Notice of each special meeting of the Board of Directors (and of each regular meeting for which notice shall be required) shall be given by the Secretary as hereinafter provided in this Section 7, in which notice shall be stated the time and place of the meeting. Except as otherwise required by these bylaws, such notice need not state the purpose of such meeting. Notice of each such meeting shall be mailed, postage prepaid, to each director, addressed to his or her residence or usual place of business, by first-class mail, at least three (3) days before the day on which such meeting, is to be held, or shall be sent addressed to him or her at such place by telegraph, cable, telex, courier, electronic transmission (including by facsimile transmission or electronic mail via the Internet), or other similar means, or be delivered personally or be given by telephone or other similar means, at least twenty-four (24) hours before the time at which such meeting is to be held. Notice of any such meeting need not be given to any director who shall, either before or after the meeting, submit a signed waiver of notice or who shall attend such meeting, except when he or she shall attend for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

SECTION 8. *Quorum and Manner of Acting.* A majority of the Board of Directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and, except as otherwise expressly required by statute or the Certificate of Incorporation or these bylaws, the act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum at any meeting of the Board of Directors, a majority of the directors present thereat may adjourn such meeting to another time and place. Notice of the time and place of any such adjourned meeting shall be given to the directors unless such time and place were announced at the meeting at which the adjournment was taken to the other directors. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The directors shall act only as a Board and the individual directors shall have no power as such.

Section 9. *Organization.* At each meeting of the Board of Directors, the Chairperson of the Board, or, in the absence of the Chairperson of the Board, the President (or, in his or her absence, another director chosen by a majority of the directors present), shall act as the Chair of the meeting and preside thereat. The Secretary (or, in his or her absence, any person appointed by the chair) shall act as secretary of the meeting and keep the minutes thereof.

SECTION 10. *Resignations.* Any director of the Corporation may resign at any time by giving written notice of his or her resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 11. *Vacancies.* Any vacancy in the Board of Directors, whether arising from death, resignation, removal (with or without cause), an increase in the number of directors, or any other cause, may be filled by the vote of a majority of the directors then in office, though less than a quorum, or by the sole remaining director, or by the stockholders at the next annual meeting thereof or at a special meeting thereof.

SECTION 12. *Removal of Directors.* Any director may be removed, either with or without cause, at any time by the holders of a majority of the voting power of the issued and outstanding capital stock of the Corporation entitled to vote at an election of directors. Any director may be removed for cause by the Board of Directors.

SECTION 13. *Compensation.* The Board of Directors shall have authority to fix the compensation, including fees and reimbursement of expenses, of directors for services to the Corporation.

SECTION 14. *Committees.* The Board of Directors may, by resolution passed by a majority of the Board of Directors, designate one or more committees, including an Executive Committee, each

committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee who may replace any absent or disqualified member at any meeting of the committee. Except to the extent restricted by statute or the Certificate of Incorporation, each such committee, to the extent provided in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors and may authorize the seal of the Corporation to be affixed to all papers which require it. Each such committee shall serve at the pleasure of the Board of Directors and have such name as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors.

SECTION 15. *Action by Consent.* Unless restricted by the Certificate of Incorporation, any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting of all members of the Board of Directors or such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board of Directors or such committee, as the case may be.

ARTICLE IV

Officers

SECTION 1. *Number and Qualifications.* The officers of the Corporation shall be elected by the Board of Directors and shall include the President, one or more Vice-Presidents, the Secretary, and the Treasurer. The Board of Directors shall elect as an officer of the Corporation a Chairperson of the Board, and may elect other officers including one or more Assistant Treasurers and one or more Assistant Secretaries as may be necessary or desirable for the business of the Corporation. Any two or more offices may be held by the same person except the offices of President and Secretary. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified, or until his or her death, resignation, or removal, as hereinafter provided in these bylaws.

SECTION 2. *Resignations.* Any officers of the Corporation may resign at any time by giving written notice of his or her resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

SECTION 3. *Removal.* Any officer of the corporation may be removed, either with or without cause, at any time by the Board of Directors at any meeting thereof.

SECTION 4. *Chairperson of the Board.* The Chairperson of the Board shall be a member of the Board, an officer of the Corporation, and, if present, shall preside at each meeting of the Board of

Directors or of the stockholders. He or she shall advise and counsel with the President, and, in his or her absence, with other executives of the Corporation, and shall perform such other duties as may from time to time be assigned by the Board of Directors. Until such time as the Board of Directors has elected a Chief Executive Officer of the Corporation, the Chairperson shall serve as Chief Executive Officer of the Corporation.

SECTION 5. *Vice Chairperson of the Board.* The Vice Chairperson of the Board shall in the absence of the Chairperson of the Board preside at each meeting of the Board of Directors or the stockholders. The Vice Chairperson of the Board shall also perform such duties as may from time to time be assigned by the Board of Directors.

SECTION 6. *Chief Executive Officer.* The Chief Executive Officer of the Corporation shall perform all duties incidental to the office of the Chief Executive Officer and such other duties as may from time to time be assigned by the Board of Directors.

SECTION 7. *The President.* The President shall be the chief operating officer of the Corporation. He or she shall perform all duties incidental to the office of the President and chief operating officer and such other duties as may from time to time be assigned by the Board of Directors.

SECTION 8. *Vice-President.* Each Vice-President shall perform all such duties as from time to time may be assigned to him or her by the Board of Directors or the President. At the request of the President, or in his or her absence or in the event of his or her inability or refusal to act, the Vice-President, or if there shall be more than one, the Vice-Presidents, in the order determined by the Board of Directors (or if there be no such determination, the Vice-Presidents in the order of their election), shall perform the duties of the President, and, when so acting, shall have the powers of and be subject to the restrictions placed upon the President in respect of the performance of such duties.

SECTION 9. *Treasurer.* The Treasurer shall

- a. Have charge and custody of, and be responsible for, all the funds and securities of the Corporation;
- b. Keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation;
- c. Deposit all moneys and other valuables to the credit of the Corporation in such depositories as may be designated by the Board of Directors or pursuant to its direction;
- d. Receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever.

- e. Disburse the funds of the Corporation and supervise the investments of its funds, taking proper vouchers therefore;
- f. Render to the Board of Directors, whenever the Board of Directors may require, an account of the financial condition of the Corporation; and
- g. In general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Directors.

SECTION 10. *Secretary.* The Secretary shall

- a. Keep or cause to be kept, in one or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors, and the stockholders;
- b. See that all notices are duly given in accordance with the provisions of these bylaws and as required by law;
- c. Be custodian of the records and the seal of the Corporation and affix and attest the seal to all certificates for shares of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal;
- d. See that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and
- e. In general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Directors.

SECTION 11. *The Assistant Treasurer.* The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers, in the order determined by the Board of Directors (or if there be no such determination then in the order of their election) shall, in the absence of the Treasurer or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 12. *The Assistant Secretary.* The Assistant Secretary, or if there be more than one, the Assistant Secretaries, in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election) shall, in the absence of the Secretary or in the event

of his or her inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 13. *Officers' Bonds or Other Security.* If required by the Board of Directors, any officer of the Corporation shall give a bond or other security for the faithful performance of his or her duties, in such amount and with such surety as the Board of Directors may require.

SECTION 14. *Compensation.* The compensation of the Officers of the Corporation for their services as such officers shall be fixed from time to time by the Board of Directors. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he or she is also a director of the Corporation.

ARTICLE V

Stock Certificates and Their Transfer

SECTION 1. *Stock Certificates.* Every holder of stock in the corporation shall be entitled to have a certificate, signed by or in the name of the Corporation, by the President or a Vice-President and by the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him or her in the Corporation. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the designations, preferences, and relative, participating, optional, or other special rights of each class of stock or series thereof, and the qualifications, limitations, or restriction of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in the Delaware General Corporation Law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the designations, preferences, and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations, or restrictions of such preferences and/or rights.

SECTION 2. *Facsimile Signatures.* Any or all of the signatures on a certificate may be a facsimile. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue.

SECTION 3. *Lost Certificates.* The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged

to have been lost, stolen, or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen, or destroyed certificate or certificates, or his or her legal representative, to give the Corporation a bond, in such sum as it may direct, sufficient to indemnify it against any claim that may be made against the corporation on account of the alleged loss, theft, or destruction of any certificate, or the issuance of such new certificate.

SECTION 4. *Transfers of Stock.* Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon its records, provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer. Whenever any transfer of stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the certificates are presented to the Corporation for transfer, both the transferor and the transferee request the Corporation to do so.

SECTION 5. *Transfer Agents and Registrars.* The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

SECTION 6. *Regulations.* The Board of Directors may make such additional rules and regulations, not inconsistent with these bylaws, as it may deem expedient concerning the issue, transfer, and registration of certificates for shares of stock of the Corporation.

SECTION 7. *Fixing Record Date.* In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion, or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) nor fewer than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

SECTION 8. *Registered Stockholders.* The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments a person registered on its records as the owner of shares of stock, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of

Delaware.

ARTICLE VI

Indemnification of Directors and Officers

SECTION 1. *General.* The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if such person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. The termination of any action, suit, or proceeding by, judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

SECTION 2. *Derivative Actions.* The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation. No indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

SECTION 3. *Indemnification in Certain Cases.* To the extent that a director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit,

or proceeding referred to in Sections 1 and 2 of this Article VI, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith.

SECTION 4. *Procedure.* Any indemnification under Section 1 and 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in such Section 1 and 2. Such determination shall be made: (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding; or (b) if such a quorum is not obtainable, or, even if obtainable and a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or (c) by the stockholders.

SECTION 5. *Advances for Expenses.* Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Corporation as authorized in this Article VI.

SECTION 6. *Rights Not Exclusive.* The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law, bylaw, agreement, vote of stockholders, or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

SECTION 7. *Insurance.* The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him or her and incurred by him or her in any capacity or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article VI.

SECTION 8. *Definition of Corporation.* For the purposes of this Article VI, references to "the Corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation, so that any person who is or was a director, officer, employee, or agent of such a constituent corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as he

or she would if he or she had served the resulting or surviving corporation in the same capacity.

ARTICLE VII

General Provisions

SECTION 1. *Dividends.* Subject to statute and the Certificate of Incorporation, dividends upon the shares of stock of the Corporation may be declared by the Board of Directors. Dividends may be paid in cash, in property, or in shares of stock of the Corporation, unless otherwise provided by statute or the Certificate of Incorporation.

SECTION 2. *Reserves.* Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors may, from time to time, in its absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Board of Directors may think conducive to the interest of the Corporation. The Board of Directors may modify or abolish any such reserves in the manner in which the reserves were created,

SECTION 3. *Seal.* The seal of the Corporation shall be in such form as shall be approved by the Board of Directors.

SECTION 4. *Fiscal Year.* The fiscal year of the Corporation shall be fixed, and once fixed, may thereafter be changed by resolution of the Board of Directors.

SECTION 5. *Checks, Notes, Drafts, and So Forth.* All checks, notes, drafts, or other order for the payment of money of the Corporation shall be signed, endorsed, or accepted in the name of the Corporation by such officer, officers, person, or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.

SECTION 6. *Execution of Contracts, Deeds, and So Forth.* The Board of Directors may authorize any officer or officers, agent or agents, in the name and on behalf of the Corporation, to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts, and other obligations or instruments, and such authority may be general or confined to specific instances.

SECTION 7. *Voting of Stock in Other Corporations.* Unless otherwise provided by resolution of the Board of Directors, the Chairperson of the Board or the President, from time to time, may (or may appoint one or more attorneys or agents to) cast the votes which the Corporation may be entitled to cast as a shareholder or otherwise in any other corporation, any of whose shares or securities may

be held by the Corporation, at meetings of the holders of the shares or other securities of such other corporation, or to consent in writing to any action by any such other corporation. In the event one or more attorneys or agents are appointed, the Chairperson of the Board or the President may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent. The Chairperson of the Board or the President may, or may instruct the attorneys or agents appointed to, execute or cause to be executed in the name and on behalf of the Corporation and under its seal or otherwise, such written proxies, consents, waivers, or other instruments as may be necessary or proper in the premises.

ARTICLE VIII

Amendments

These bylaws may be amended or repealed or new bylaws adopted (a) by action of the stockholders entitled to vote thereon at any annual or special meeting of stockholder, or (b) by action of the Board of Directors.

**RESTATED CERTIFICATE OF INCORPORATION
OF YOURTEL, INC.**

The undersigned, the Chairman and Chief Executive Officer of YourTel, inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the Corporation is: YourTel, Inc. The Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on June 19, 1998.

2. This Restated Certificate of Incorporation restates and amends the provisions of the original Certificate of Incorporation of this Corporation as heretofore in effect and was duly adopted by the Corporation's Board of Directors prior to the Corporation's receipt of any payment for any of its stock in accordance with the provision of Sections 241 and 245 of the General Corporation Law of the State of Delaware.

3. The text of the Certificate of Incorporation is hereby restated to read as herein set forth in full:

FIRST: The name of the Corporation is: YourTel, Inc.

SECOND: The registered office of the Corporation in the State of Delaware is located at 1220 N. Market St., Suite 606, Wilmington, DE 19801, County of New Castle.

The name of the Corporation's registered agent at such address is American Incorporators Ltd.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is Twenty Million (20,000,000) shares of which Three Million Five Hundred Thousand (3,500,000) shares shall be Class A Common Stock of the par value of \$0.10 per share, One Million Five Hundred Thousand (1,500,000) shares shall be Class B Common Stock of the par value of \$0.10 per share, and Fifteen Million (15,000,000) shares shall be Preferred Stock of the par value of \$0.10 per share. A statement of the designations of the authorized classes of stock or any series thereof, and the powers, preferences, and relative, participating, optional, or other special rights and qualifications, limitations, or restrictions thereof, or of the authority of the Board of Directors to fix by resolution or resolutions such designations and other terms, is as follows:

A. PREFERRED STOCK

The shares of Preferred Stock may be issued from time to time to time in one or more series. The Board of Directors is hereby vested with authority to fix by resolution or resolutions the designation of each series of Preferred Stock and the powers, preferences, and relative, participating, optional or other special rights and qualifications, limitations, or restrictions thereof, including, without limiting the generality of the foregoing, such provisions as may be desired concerning the dividend rights, the dividend rate, conversion rate, conversion rights, voting rights, rights in terms of redemption (including sinking fund provisions), the redemption price or prices, and the liquidation preferences and such other subjects or matters as may be fixed by resolution or resolutions of the Board of Directors under the General Corporation Law of the State of Delaware; and to fix the number of shares constituting any such series, and to increase or decrease the number of shares of any such series (but not below the number of shares thereof then outstanding). In case the number of shares of any such series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution or resolutions originally fixing the number of shares of such series.

B. COMMON STOCK

Subject to all of the preferences and rights of the Preferred Stock or a series thereof that may be fixed by resolution or resolutions of the Board of Directors, (i) dividends may be paid on the Class A Common Stock and Class B Common Stock of the Corporation as and when declared by the Board of Directors, out of funds of the Corporation legally available for the payment of such dividends, and (ii) except as otherwise provided in this Certificate of Incorporation, each share of Class A Common Stock and Class B Common Stock of the Corporation, voting together as one class, shall be entitled to one vote on all matters on which common stock is entitled to vote and in such manner as may be provided by law.

If at any time the holders of stock of the Corporation are entitled to vote on or in respect of (a) any stock split, combination of shares, recapitalization, or any other change in the capital structure of the Corporation; (b) any merger, consolidation, spin-off, split-off, spin-out, split-up, reorganization, partial or complete liquidation or other distribution of the Corporation's assets or issuance of rights or warrants to purchase securities; or (c) any other corporate transaction or event having an effect similar to any of the foregoing (a "Corporate Transaction"), then, in addition to the Class B Common Stock voting together with the other stock of the Corporation on such Corporate Transaction, the affirmative vote of the holders of a majority or more of the outstanding shares of Class B Common Stock of the Corporation, voting together as a separate class, shall also be required to authorize such Corporate Transaction.

FIFTH: At all elections of directors of the Corporation, or at elections held under specified circumstances, each holder of stock or of any class or classes or of a series or series thereof entitled to vote for the election of directors shall be entitled to as many votes as shall equal the number of votes which (except for this cumulative voting provision) such holder would be entitled to cast for the election of directors with respect to such holder's shares of stock multiplied by the number of directors to be elected by such holder; such holder may cast all of such votes for a single director or may distribute them among the number of directors to be voted for, or for any two or more of such directors as such holder may see fit. Election of directors need not be by written ballot unless and to the extent the By-Laws of the Corporation so provide.

SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal from time to time the By-Laws of the Corporation in any manner not inconsistent with the laws of the State of Delaware or the Certificate of Incorporation of the Corporation.

SEVENTH: The Corporation reserves the right at any time and from time to time to amend, alter or repeal any provision contained in this Certificate of Incorporation in

the manner now or hereafter prescribed by law, and all rights, preferences, and privileges conferred upon stockholders, directors, and officers by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are subject to the right reserved in this Article.

EIGHTH: A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of a director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law of the State of Delaware is hereafter amended to further reduce or to authorize, with the approval of the Corporation's stockholders, further reductions in the liability of the Corporation's directors for breach of fiduciary duty, then a director of the Corporation shall not be liable for any such breach to the fullest extent permitted by the General Corporation Law of the State of Delaware as so amended.

To the extent not prohibited by applicable law, this Corporation shall provide indemnification of (and advancement of expenses to) such agents (and any other persons to which Delaware law permits this Corporation to provide indemnification) through by-law provisions, agreements with such agents and other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law of the State of Delaware, subject only to the limits created by applicable Delaware law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders, and others.

Any repeal or modification of any of the foregoing provisions of this Article EIGHTH shall not adversely affect any right or protection of a director, officer or agent of this Corporation (or any other person to which Delaware law permits this Corporation to provide indemnification) existing at the time of, or increase the liability of any director, officer or agent of the Corporation (or other person) with respect to any acts or omissions of such director, officer or agent (or other person) occurring prior to, such repeal or modification.

NINTH: The Corporation shall have perpetual existence.

TENTH: Notwithstanding any other provisions of this Certificate of Incorporation or the By-Laws of this Corporation (and notwithstanding the fact that some lesser percentage may be specified in law, this Certificate of Incorporation, or the By-Laws of this Corporation), the affirmative vote of the holders of a majority or more of the outstanding shares of Class B Common Stock, voting together as a separate class, shall also be required to (a) amend, alter or repeal any provision contained in paragraph "B.


YOURTEL, INC.

COMMON STOCK" of Article FOURTH of this Certificate of Incorporation, (b) adopt any provision of, or to be included in, this Certificate of Incorporation inconsistent with any provision contained in paragraph "B. COMMON STOCK" of Article FOURTH of this Certificate of Incorporation, or (c) take any action that changes the number of shares of Class B Common Stock authorized in this Certificate of Incorporation or adversely affects the voting rights of the holders of Class B Common Stock.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been executed by the undersigned as of this 25th day of August 1998.

YOURTEL, INC.

By


Albert Halprin, Chairman and
Acting Chief Executive Officer

