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COR AMND/RESTATE/CORRECT OR O/D RESIGN  
ORLANDO TELEPHONE COMPANY, INC.

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Corporate Filing Menu

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EXAMINER

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AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
ORLANDO TELEPHONE COMPANY, INC.

FILED STATE  
SECRETARY OF CORPORATIONS  
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Richard W. Pardy, being the CEO and President of ORLANDO TELEPHONE COMPANY, INC., a Florida corporation (the "Company"), hereby certifies that:

1. The name of this Company is ORLANDO TELEPHONE COMPANY, INC. This Company was incorporated on March 17, 1997.
2. The Articles of Incorporation of this Company were duly amended on September 13, 2002.
3. These Amended and Restated Articles of Incorporation restate and integrate and further amend the provisions of this Company's Articles of Incorporation, as amended.
4. The terms and provisions of these Amended and Restated Articles of Incorporation were adopted by: (a) all of the directors of the Company by written action in lieu of a meeting and (b) all the shareholders of the Company's issued and outstanding voting stock by written action in lieu of a meeting. The number of votes cast for the Amended and Restated Articles of Incorporation by the shareholders was sufficient for approval.
5. Pursuant to Sections 607.0704, 607.1003 and 607.1007 of the Florida Business Corporation Act, the text of the Articles of Incorporation of this Company, as amended, is hereby amended and restated to read in its entirety as follows:

ARTICLE I  
NAME

The name of this corporation is Orlando Telephone Company, Inc.

ARTICLE II  
INITIAL PRINCIPAL OFFICE AND MAILING ADDRESS

The address of the initial principal place of business of the Company is: 4558 S.W. 35TH Street, Suite 100, Orlando, Florida 32811. The initial mailing address of the Company is: 4558 S.W. 35TH Street, Suite 100, Orlando, Florida 32811.

ARTICLE III  
AUTHORIZED SHARES

Section 3.1 Authorized Issuance. The total number of shares of all classes of stock that this Company shall have the authority to issue is 9,400 shares, consisting of:

- (a) 1,000 shares of common stock, par value \$1.00 per share (the "Common Stock"); and
- (b) 8,400 shares of preferred stock, par value \$.01 per share (the "Preferred Stock").

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Section 3.2 Common Stock. The designations, powers, preferences and relative participating, optional or other special rights, and the qualifications, limitations and restrictions thereof in respect of the Common Stock are as follows:

(a) Dividends, Liquidation, Voting, etc. The Common Stock shall be subject to the express terms of the Preferred Stock, if any, and any class or series thereof. Subject to the preferential dividend rights applicable to shares of any class or series of Preferred Stock, the holders of shares of Common Stock shall be entitled to receive when, as and if declared by the Board of Directors, out of funds legally available therefor, dividends and other distributions payable in cash, property, stock (including shares of any class or series of this Company, whether or not shares of such class or series are already outstanding) or otherwise. In the event of any voluntary or involuntary liquidation, dissolution or winding up of this Company and after the holders of the Preferred Stock shall have been paid in full the amounts to which they shall be entitled, if any, or a sum sufficient for such payment in full shall have been set aside, the holders of shares of the Common Stock shall be entitled to receive all of the remaining assets of this Company available for distribution to its shareholders, ratably in proportion to the number of shares of the Common Stock held by them. Each share of Common Stock shall have one (1) vote on all matters that are submitted to shareholders for vote.

(b) Sales and Repurchases. Shares of Common Stock may be issued by this Company for such consideration, having a value of not less than the par value thereof, as is determined by the Board of Directors. The Board of Directors shall have the power to cause this Company to purchase, out of funds legally available therefor, shares of Common Stock from such persons and for such consideration as the Board of Directors shall from time to time in its discretion determine, and as otherwise permitted by law.

Section 3.3 Blank Check Preferred Stock. The designations, powers, preferences and relative participating, optional or other special rights, and the qualifications, limitations and restrictions thereof in respect of the Preferred Stock are as follows:

(a) The blank check Preferred Stock may be issued from time to time in one or more class or series. Subject to the limitations set forth herein and any limitations prescribed by law, the Board of Directors is expressly authorized, prior to issuance of any class or series of blank check Preferred Stock, to fix by resolution or resolutions providing for the issue of any class or series the number of shares included in such class or series and the designations, relative powers, preferences and rights, and the qualifications, limitations or restrictions of such class or series. Pursuant to the foregoing general authority vested in the Board of Directors, but not in limitation of the powers conferred on the Board of Directors thereby and by the Florida Business Corporation Act, the Board of Directors is expressly authorized to determine with respect to each class or series of blank check preferred stock:

(i) the designation or designations of such class or series and the number of shares constituting such class or series;

(ii) the rate or amount and times at which, and the preferences and conditions under which, dividends, if any, shall be payable on shares of such class or series, the status of such dividends as cumulative or non-cumulative, the date or dates from which dividends, if cumulative, shall accumulate, and the status of such shares as participating or nonparticipating after the payment of dividends as to which such shares are entitled to any preference;

(iii) the rights and preferences, if any, of the holders of shares of such class or series upon the liquidation, dissolution or winding up of the affairs of, or upon any

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distribution of the assets of, this Company, which amount may vary depending upon whether such liquidation, dissolution or winding up is voluntary or involuntary and, if voluntary, may vary at different dates, and the status of the shares of such class or series as participating or nonparticipating after the satisfaction of any such rights and preferences;

(iv) whether the class or series is to have voting rights, full or limited, or is to be without voting rights;

(v) the times, terms and conditions, if any, upon which shares of such class or series shall be subject to redemption, including the amount the holders of shares of such class or series shall be entitled to receive upon redemption (which amount may vary under different conditions or at different redemption dates) and the amount, terms, conditions and manner of operation of any purchase, retirement or sinking fund to be provided for the shares of such class or series;

(vi) the rights, if any, of holders of shares of such class or series to convert such shares into, or to exchange such shares for, shares of any other class or classes or of any other series of the same or any other class or classes, the prices or rates of conversion or exchange, and adjustments thereto, and any other terms and conditions applicable to such conversion or exchange;

(vii) the limitations, if any, applicable while such class or series is outstanding on the payment of dividends or making of distributions on, or the acquisition or redemption of, Common Stock or any other class or series of shares ranking junior, either as to dividends or upon liquidation, to the shares of such class or series;

(viii) the conditions or restrictions, if any, upon the issue of any additional shares (including additional shares of such class or series or any other class or series) ranking on a parity with or prior to the shares of such class or series either as to dividends or upon liquidation; and

(ix) any other relative powers, preferences and participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of shares of such class or series; in each case, so far as not inconsistent with the provisions of this Articles of Incorporation or the Florida Business Corporation Act as then in effect.

(b) The shares of each class or series of the Preferred Stock may vary from the shares of any other class or series thereof in any or all of the foregoing respects. Shares of any class or series of Preferred Stock that shall be issued and thereafter acquired by this Company through purchase, redemption (whether through the operation of a sinking fund or otherwise), conversion, exchange or otherwise shall, upon appropriate filing and recording to the extent required by law, have the status of authorized and unissued shares of Preferred Stock and may be reissued as part of such class or series or as part of any other class or series of Preferred Stock. Unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, the number of authorized shares of stock of any class or series of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by resolution or resolutions of the Board of Directors and appropriate filing and recording to the extent required by law. In case the number of shares of any such class or series of Preferred Stock shall be decreased, the shares representing such decrease shall, unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance

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thereof, resume the status of authorized but unissued shares of Preferred Stock, undesignated as to class or series.

Section 3.4 **Series A Cumulative Non-Convertible Preferred Stock.** There shall be 8,400 shares of Preferred Stock designated as Series A Cumulative Non-Convertible Preferred Stock (the "**Series A Stock**"). The designations, powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof in respect of the Series A Stock are as follows:

(a) **Dividends.**

(i) During the period commencing with the date of original issuance of each share of Series A Stock, the holder of such shares of Series A Stock shall be entitled to receive, before any dividends shall be declared and paid upon or set aside for the Junior Stock (as defined in subsection (d) below), out of funds legally available for that purpose, dividends in cash at an annual rate of one half of one percent (0.5%) of the original purchase price per share of the Series A Stock, payable when and as declared by the Board of Directors of the Company (any such dividend payment date being hereinafter referred to as a "**Dividend Payment Date**"). Dividends on shares of Series A Stock shall be cumulative (whether or not there shall be net profits or net assets of the Company legally available for the payment of such dividends), so that, if at any time Accrued Dividends (as defined in subsection (d) below) upon the Series A Stock shall not have been paid or declared and a sum sufficient for payment thereof set apart, no dividend shall be declared or paid or any other distribution ordered or made upon any Junior Stock (other than a dividend payable in such Junior Stock) or any sum or sums set aside for or applied to the purchase or redemption of any shares of any Junior Stock. Other than the dividends expressly set forth in this **Section 3.4(a)(i)**, the Series A Stock shall not be entitled to receive any other distributions or dividends of capital or securities from the Company in any respect.

(ii) All dividends declared upon the Series A Stock shall be paid pro rata based on the Accrued Dividends declared with respect thereto. The aggregate of all payments due under this Section 3.4(a) to any holder of shares of Series A Stock shall be made to such holder to the nearest dollar. In the event of a split-up, subdivision, a combination of shares of Series A Stock or similar event, then the dividend rate on the Series A Stock shall be subject to equitable adjustment to account for such event.

(iii) Dividends on the Series A Stock shall be paid only if the amount of such dividends, together with all other dividends paid by the Company in such period, do not exceed the sum of (i) the Company's current year's earnings and profits as defined in Sections 312 and 317 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) the Company's accumulated earnings and profits as defined in Sections 312 and 317 of the Code.

(b) **Voting Rights.** Except as otherwise provided herein or as otherwise expressly required by law, the Series A Stock shall have no voting rights. The affirmative vote or approval of the holders of a majority of the outstanding shares of Series A Stock is required in order to approve any of the following: (i) any amendment to these Amended and Restated Articles of Incorporation that would authorize the issuance of any class of capital stock ranking senior in right of redemption, liquidation or distribution to the rights of the Series A Stock, (ii) any amendment to these Amended and Restated Articles of Incorporation that materially adversely affects the rights of the Series A Stock; or (iii) any merger, exchange or similar transaction which would materially adversely affect the rights of the Series A Stock.

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(c) **Conversion.** The Series A Stock shall not be convertible into Common Stock or any other type or class of securities of the Company.

(d) **Redemption.**

(i) The Series A Stock shall not be redeemable until the earlier to occur of: (A) an Applicable Change of Control, (B) prepayment of the indebtedness described in Section 3.4(e)(iii) hereof, pursuant to Section 2.6 of the Credit Agreement executed in connection such indebtedness, and (C) January 1, 2017. At any time after an Applicable Change of Control or January 1, 2017, the Series A Stock may be redeemed for One Thousand Dollars (\$1,000) per share, plus Accrued Dividends, payable to the holder thereof in immediately available United States Dollars.

(ii) If there is an Applicable Change of Control and the Series A Stock is not redeemed at the consummation of such event, then the Series A Stock not so redeemed shall, automatically and without any action on the part of the holder thereof, become the Series A Stock of the person (the "Control Person") who, of record, owns a controlling (meaning, the power to vote, and exclusive of the Series A Stock) interest in the Company immediately after giving effect to the consummation of the Applicable Change in Control. Any certificate or certificates representing the outstanding shares of the Series A Stock prior to such Applicable Change of Control shall, effective at the time of the consummation of such Applicable Change of Control, and without any action on the part of the holder thereof, be null and void, of no further force or effect, and cancelled on the books and records of the Company, and the Company's Secretary shall have the power of attorney to reflect on the books and records of the Company the transfer of shares of such Series A Stock to the Control Person effective at the time of the Consummation of the Applicable Change of Control

(e) **Definitions.** As used herein, the following terms shall have the following meanings:

(i) The term "Accrued Dividends" with respect to any share of Series A Stock shall mean (whether or not there shall have been net profits or net assets of the Company legally available for the payment of such dividends) that amount which shall be equal to dividends at the full rate fixed for the Series A Stock as provided herein for the period of time elapsed from the date of issuance of such share to the date as of which Accrued Dividends are to be computed, less any payments made in respect of such dividends.

(ii) The term "Junior Stock" shall mean the Common Stock and any class or series of shares of capital stock of the Company junior in right of payment of dividends to the Series A Stock.

(iii) The term "Applicable Change of Control" shall mean (A) (1) Summit Broadband, Inc., a Florida corporation ("Summit Broadband"), shall fail to own a majority of the capital stock of the Company (exclusive of the Series A Stock), or (2) all or substantially all of the assets or capital stock of Summit Broadband, whether by asset sale, stock sale, merger or consolidation pursuant to a transaction in which the purchasing or surviving entity is not controlled (directly or indirectly, individually or collectively) by Rock Partners, LLC or any of its Affiliates, and (B) the Company's indebtedness to **FLORIDA COMMUNITY DEVELOPMENT FUND II, L.L.C.**, a Delaware limited liability company (the "Lender"), or its assignee pursuant to that certain Subordinated Promissory Note dated December 2010 and payable to the order of the Lender in the original principal sum of One Million Six Hundred Thousand Dollars (\$1,600,000) is satisfied in full (whether by way of payment in accordance with the terms of the Subordinated Promissory Note, or by way of release or cancellation, in

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accordance with the terms of the Intercreditor Agreement among the Company, the Lender and RBC Bank (USA)).

**ARTICLE IV**  
**REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the registered office of the corporation is: 4558 S.W. 35th Street, Suite 100, Orlando, Florida 32811, and the initial registered agent of the corporation at that address is: Richard W. Pardy.

**ARTICLE V**  
**INCORPORATOR**

The name and address of the incorporator is as follows:

<u>Name</u>	<u>Address</u>
Herbert H. Bornack	4558 S.W. 35 <sup>th</sup> Street, Suite 100 Orlando, FL 32811

**ARTICLE VI**  
**INDEMNIFICATION**

This Company shall, to the fullest extent permitted by the laws of Florida, including, but not limited to, Section 607.0850 of the Florida Business Corporation Act, as the same may be amended and supplemented from time to time, indemnify any and all directors and officers of this Company and may, in the discretion of the Board, indemnify any and all other persons whom it shall have power to indemnify under said Section or otherwise under Florida law, from and against any and all of the liabilities, expenses or other matters referred to or covered by said Section. The indemnification provisions contained in the Florida Business Corporation Act shall not be deemed exclusive of any other rights of which those indemnified may be entitled under any bylaw, agreement, resolution of shareholders or disinterested directors, or otherwise. No provision of these Articles of Incorporation is intended by this Company to be construed as limiting, prohibiting, denying or abrogating any of the general or specific powers or rights conferred under the Florida Business Corporation Act upon this Company, upon its shareholders, bondholders and security holders, or upon its directors, officers and other corporate personnel, including, in particular, the power of this Company to furnish indemnification to directors, officers, employees and agents (and their heirs, executors and administrators) in the capacities defined and prescribed by the Florida Business Corporation Act and the defined and prescribed rights of said persons to indemnification as the same are conferred under the Florida Business Corporation Act.

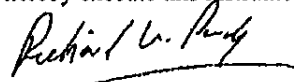
**ARTICLE VII**  
**AMENDMENT**

The Company reserves the right to amend or repeal any provisions contained in these Amended and Restated Articles of Incorporation, or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation. Notwithstanding any other provisions of these Amended and Restated Articles of Incorporation or the Bylaws of the Company or the fact that a lesser percentage may be specified by law, the affirmative vote of the holders of at least seventy-five percent (75%) of the combined voting power of the then outstanding voting stock, voting as a single class, shall be required to amend, alter, or adopt any provision inconsistent with or repeal this Article VII.

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IN WITNESS WHEREOF, the undersigned does hereby execute this instrument this 21<sup>st</sup> day of December, 2010.



Richard W. Pardy, President and CEO

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