

## PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME
CONVEYING PARTY DATA	
Name	Execution Date
MYDTV, INC.	12/15/2005
RECEIVING PARTY DATA	
Name:	MEEVEE, INC.
Street Address:	500 AIRPORT BLVD.
Internal Address:	SUITE 400
City:	BURLINGAME
State/Country:	CALIFORNIA
Postal Code:	94010
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	09992882
CORRESPONDENCE DATA	
Fax Number:	(310)557-8475
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	213.972.4500
Email:	LA-IPDOCKETING@FOLEY.COM
Correspondent Name:	FOLEY & LARDNER LLP
Address Line 1:	2029 CENTURY PARK EAST
Address Line 2:	SUITE 3500
Address Line 4:	LOS ANGELES, CALIFORNIA 90067
ATTORNEY DOCKET NUMBER:	051448-0204
NAME OF SUBMITTER:	Ted R. Rittmaster
Total Attachments: 19 source=ArticlesOfIncorporation#page1.tif source=ArticlesOfIncorporation#page2.tif	

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**State of California**  
**Secretary of State**



I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 18 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

DEC 20 2005

BRUCE McPHERSON  
Secretary of State

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AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
MYDTV, INC.

ENDORSED - FILED  
In the office of the Secretary of State  
of the State of California

DEC 15 2005

Michael Ranieri and Gavin Zee hereby certify that:

ONE: They are the duly elected and acting Chief Executive Officer and Assistant Secretary, respectively, of MyDTV, Inc., a California corporation (the "Company").

TWO: The Articles of Incorporation of this Company are hereby amended and restated to read as follows:

## I.

The name of the Company is MeeVee, Inc.

## II.

The purpose of the Company is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

## III.

A. This Company is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Company is authorized to issue is 65,000,000 shares. The number of shares of Common Stock authorized to be issued is 38,000,000 shares, \$0.001 par value. The number of shares of Preferred Stock authorized to be issued is 27,000,000 shares, \$0.001 par value.

B. 8,500,000 of the authorized shares of Preferred Stock are hereby designated "Series A Prime-1 Preferred Stock" (the "Series A Prime-1 Preferred"); 3,500,000 of the authorized shares of Preferred Stock are hereby designated "Series A Prime-2 Preferred Stock" (the "Series A Prime-2 Preferred"); and 15,000,000 of the authorized shares of Preferred Stock are hereby designated "Series A Prime-3 Preferred Stock" (the "Series A Prime-3 Preferred," together with the Series A Prime-1 Preferred and the Series A Prime-2 Preferred, the "Series A Prime").

C. The relative rights, preferences, privileges, restrictions and other matters relating to the Series A Prime are as follows:

## 1. DIVIDEND RIGHTS.

(a) The Series A Prime shall be entitled to receive, if, when and as declared by the Board of Directors, but only out of funds that are legally available therefor, cash dividends at the rate of 8% of the Original Issue Price per share (as defined below) per annum on each outstanding share of Series A Prime (as adjusted for any stock dividends, combinations, splits recapitalizations and the like with respect to such shares after the filing date hereof). Such

dividends shall be payable only when, as and if declared by the Board of Directors, and shall be cumulative (the "Series A Prime Cumulative Dividends"). In the event of a conversion of the Series A Prime pursuant to Article III, Section C.4., all accrued or declared, but unpaid Series A Prime Cumulative Dividends shall be paid in full either, at the option of the Company, in cash or, notwithstanding the limitation in the first sentence of this Article III, Section C.1., by the issuance of shares of Common Stock based upon the fair market value as of the conversion date of such shares as determined in good faith by the Board of Directors.

(h) The "Original Issue Price" of the Series A Prime-1 Preferred, the Series A Prime-2 Preferred, and the Series A Prime-3 Preferred shall be \$0.573 per share, \$1.146 per share, and \$0.573 per share, respectively.

(c) So long as any shares of Series A Prime are outstanding, the Company shall not pay or declare any dividend, whether in cash or property, or make any other distribution on any other series of Preferred Stock and the Common Stock, or purchase, redeem or otherwise acquire for value any shares of any other series of Preferred Stock and Common Stock until all dividends (set forth in Section 1(a) above) on the Series A Prime-1 Preferred, the Series A Prime-2 Preferred, and the Series A Prime-3 Preferred shall have been paid or declared and set apart, except for:

(i) acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares upon termination of services to the Company; or

(ii) acquisitions of Common Stock in exercise of the Company's right of first refusal to repurchase such shares.

(d) In the event dividends are paid on any share of any other series of Preferred Stock or Common Stock, the Company shall pay an additional dividend on all outstanding shares of Series A Prime-1 Preferred, Series A Prime-2 Preferred, and Series A Prime-3 Preferred in an amount equal per share (on an as-if-converted to Common Stock basis) to the amount paid or set aside for each share of any other series of Preferred Stock and/or Common Stock.

(e) The provisions of Section 1(c) and 1(d) shall not apply to:

(i) a dividend payable in Common Stock; or

(ii) any repurchase of any outstanding securities of the Company that is unanimously approved by the Company's Board of Directors.

(f) The holders of Series A Prime expressly waive their rights, if any, as described in Sections 502 and 503 of the General Corporation Law of California as they relate to repurchases of shares upon termination of employment or service as a consultant or director.

## 2. VOTING RIGHTS.

(a) **General Rights.** Each holder of shares of the Series A Prime shall be entitled to the number of votes equal to the whole number of shares of Common Stock into which such shares of Series A Prime could be converted (pursuant to Section 4 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent and shall have voting rights and powers equal to the voting rights and powers of the Common Stock) and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of the Company. Except as otherwise provided herein or as required by law, the Series A Prime shall vote together with the Common Stock at any annual or special meeting of the shareholders and not as a separate class, and may act by written consent in the same manner as the Common Stock.

(b) **Separate Vote of Series A Prime.** For so long as at least 2,500,000 of the shares of Series A Prime (subject to adjustment for any stock split, reverse stock split or other similar event affecting the Series A Prime after the filing date hereof) remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of at least a majority of the outstanding shares of Series A Prime shall be necessary for effecting or validating the following actions:

(i) Any amendment, alteration, or repeal of any provision of the Articles of Incorporation or Bylaws of the Company (including any filing of a Certificate of Determination, and whether by merger, consolidation, recapitalization or otherwise) that alters or changes the voting or other powers, preferences, or other special rights or privileges, or restrictions of the Series A Prime so as to affect them adversely;

(ii) Any increase or decrease in the authorized number of shares of Common Stock or Preferred Stock;

(iii) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Prime in right of redemption, liquidation preference, voting or dividends or any increase in the authorized or designated number of any such new class or series;

(iv) Any redemption, repurchase, payment of dividends or other distributions with respect to Preferred Stock (other than pursuant to the provisions of these Restated Articles) and Common Stock (except for acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares upon termination of services to the Company or in exercise of the Company's right of first refusal upon a proposed transfer);

(v) Any agreement by the Company or its shareholders regarding an Asset Transfer or Acquisition (each as defined in Section 3);

(vi) Any action that results in the payment or declaration of a dividend on any shares of Common Stock or Preferred Stock;

(vii) Any voluntary dissolution or liquidation of the Company; or

(viii) Any increase or decrease in the authorized number of members of the Company's Board of Directors.

(c) **Election of Board of Directors.** Subject to Section 3(d) hereof, for so long as at least 2,500,000 of the shares of Series A Prime remain outstanding (subject to adjustment for any stock split, reverse stock split or similar event affecting the Series A Prime after the filing date hereof), the Board of Directors shall be elected as follows:

(i) the holders of Preferred Stock, voting as a separate class, shall be entitled to elect three (3) members of the Company's Board of Directors, at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors;

(ii) the holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors, one of which shall be the Company's Chief Executive Officer, at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; and

(iii) the holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted basis, shall be entitled to elect two (2) members of the Board of Directors, at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

(d) **Convertible Bonds.** The holder or holders of the convertible bonds issued by the Company shall, in connection with any shareholder vote, be entitled to the same voting rights as would accrue to a holder of the number of shares of Series A Prime-3 Preferred Stock into which the principal amount of such bond is convertible, at the per share price of \$0.430, at the record date for such vote.

### 3. LIQUIDATION RIGHTS.

(a) Upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, before any distribution or payment shall be made to the holders of any other series of Preferred Stock and Common Stock, the holders of Series A Prime shall be entitled to be paid, out of the assets of the Company legally available for distribution, an amount per share of Series A Prime equal to the applicable Original Issue Price plus all accrued and unpaid dividends on the Series A Prime (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) for each share of Series A Prime held by them. If, upon any such liquidation, dissolution, or winding up, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A Prime of the liquidation preference set forth in this Section 3(a), then such assets (or consideration) shall be distributed

among the holders of Series A Prime at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled.

(b) After the payment of the full liquidation preference of the Series A Prime as set forth in Section 3(a) above, the assets of the Company legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock and Series A Prime on an as-if-converted to Common Stock basis.

(c) The following events shall be considered a liquidation under this Section 3:

(i) (A) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the shareholders of the Company immediately prior to such consolidation, merger or reorganization, own less than 50% of the voting power of the surviving entity immediately after such consolidation, merger or reorganization; or (B) any transaction or series of related transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company's voting power is transferred, excluding any consolidation or merger effected exclusively to change the domicile of the Company (each, an "Acquisition"); or

(ii) a sale, lease or other disposition of all or substantially all of the assets of the Company (an "Asset Transfer").

(iii) In any of such events, if the consideration received by Company is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors and the holders of at least a majority of the voting power of all then outstanding shares of Series A Prime. Any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability covered by (B) below:

(1) If traded on a securities exchange or through the Nasdaq National Market, the value shall be deemed to be the average of the closing prices of the securities on such quotation system over the thirty (30) day period ending three (3) days prior to the closing;

(2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty (30) day period ending three (3) days prior to the closing; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined by the Board of Directors and the holders of at least a majority of the voting power of all then outstanding shares of Series A Prime.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a shareholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (A) (1), (2), or (3) to reflect



the approximate fair market value thereof, as determined by the Board of Directors and the holders of at least a majority of the voting power of all then outstanding shares of Series A Prime.

#### 4. CONVERSION RIGHTS:

The holders of the Series A Prime shall have the following rights with respect to the conversion of the Series A Prime into shares of Common Stock (the "Conversion Rights"):

(a) **Optional Conversion.** Subject to and in compliance with the provisions of this Section 4, any shares of Series A Prime, may, at the option of the holder, be converted at any time into fully-paid and nonassessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series A Prime shall be entitled upon conversion shall be (i) the product obtained by multiplying the "Series A Prime Conversion Rate" then in effect (determined as provided in Section 4(b)) by the number of shares of Series A Prime being converted.

(b) **Series A Prime Conversion Rate.** The conversion rate in effect at any time for conversion of the Series A Prime (the "Series A Prime Conversion Rate") shall be the quotient obtained by dividing the applicable Original Issue Price of the Series A Prime by the "applicable Series A Prime Conversion Price," calculated as provided in Section 4(c).

(c) **Series A Prime Conversion Price.** The conversion price for each series of the Series A Prime shall initially be the applicable Original Issue Price of such series (the "Series A Prime Conversion Price"). Such initial Series A Prime Conversion Price shall be adjusted from time to time in accordance with this Section 4. All references to the Series A Prime Conversion Price herein shall mean the Series A Prime Conversion Price as so adjusted.

(d) **Mechanics of Conversion.** Each holder of Series A Prime who desires to convert the same into shares of Common Stock pursuant to this Section 4 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Series A Prime, and shall give written notice to the Company at such office that such holder elects to convert the same. Such notice shall state the number of shares of Series A Prime being converted. Thereupon, the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay (i) in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board of Directors as of the date of such conversion), any declared and unpaid dividends on the shares of Series A Prime being converted and (ii) in cash (at the Common Stock's fair market value determined by the Board of Directors as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Series A Prime. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Series A Prime to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

(e) **Adjustment for Stock Splits and Combinations.** If at any time or from time to time after the date that the first share of Series A Prime-3 is issued (the "Original Issue Date") the Company effects a subdivision of the outstanding Common Stock without a corresponding subdivision of the Preferred Stock, the Series A Prime Conversion Price in effect immediately before that subdivision shall be proportionately decreased. Conversely, if at any time or from time to time after the Original Issue Date the Company combines the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of the Preferred Stock, the Series A Prime Conversion Price in effect immediately before the combination shall be proportionately increased. Any adjustment under this Section 4(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

(f) **Adjustment for Common Stock Dividends and Distributions.** If at any time or from time to time after the Original Issue Date the Company pays a dividend or other distribution in additional shares of Common Stock, the Series A Prime Conversion Price that is then in effect shall be decreased as of the time of such issuance, as provided below:

(i) The Series A Prime Conversion Price shall be adjusted by multiplying the applicable Series A Prime Conversion Price then in effect by a fraction equal to:

(A) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance, and

(B) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

(ii) If the Company fixes a record date to determine which holders of Common Stock are entitled to receive such dividend or other distribution, the Series A Prime Conversion Price shall be fixed as of the close of business on such record date and the number of shares of Common Stock shall be calculated immediately prior to the close of business on such record date; and

(iii) If such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series A Prime Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Series A Prime Conversion Price shall be adjusted pursuant to this Section 4(f) to reflect the actual payment of such dividend or distribution.

(g) **Adjustment for Reclassification, Exchange and Substitution.** If at any time or from time to time after the Original Issue Date, the Common Stock issuable upon the conversion of the Series A Prime is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than an Acquisition or Asset Transfer as defined in Section 3 or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 4), in any such event each holder of Series A Prime shall then have the right to convert such stock into the kind and amount of stock and other securities and property

receivable upon such recapitalization, reclassification or other change by holders of the maximum number of shares of Common Stock into which such shares of Series A Prime could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

(h) **Reorganizations, Mergers or Consolidations.** If at any time or from time to time after the Original Issue Date, there is a capital reorganization of the Common Stock or the merger or consolidation of the Company with or into another corporation or another entity or person (other than an Acquisition or Asset Transfer as defined in Section 3 or a recapitalization, subdivision, combination, reclassification, exchange or substitution of shares provided for elsewhere in this Section 4), as a part of such capital reorganization, provision shall be made so that the holders of the Series A Prime shall thereafter be entitled to receive upon conversion of the Series A Prime the number of shares of stock or other securities or property of the Company to which a holder of the number of shares of Common Stock deliverable upon conversion would have been entitled on such capital reorganization, subject to adjustment in respect of such stock or securities by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of Series A Prime after the capital reorganization to the end that the provisions of this Section 4 (including adjustment of the applicable Series A Prime Conversion Price then in effect and the number of shares issuable upon conversion of the Series A Prime) shall be applicable after that event and be as nearly equivalent as practicable.

(i) **Sale of Shares Below Applicable Series A Prime Conversion Price.**

(i) If at any time or from time to time after the Original Issue Date, the Company issues or sells, or is deemed by the express provisions of this Section 4(i) to have issued or sold, Additional Shares of Common Stock (as defined below), other than as a dividend or other distribution on any class of stock as provided in Section 4(f) above, and other than a subdivision or combination of shares of Common Stock as provided in Section 4(e) above, for an Effective Price (as defined below) less than the then effective Series A Prime Conversion Price for a series of Series A Prime, then and in each such case, the then existing Series A Prime Conversion Price for each such series shall be reduced, as of the opening of business on the date of such issue or sale, to a price determined by multiplying the Series A Prime Conversion Price for each such series in effect immediately prior to such issuance or sale by a fraction equal to:

(A) the numerator of which shall be (A) the number of shares of Common Stock deemed outstanding (as defined below) immediately prior to such issue or sale, plus (B) the number of shares of Common Stock which the Aggregate Consideration received (as defined below) by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such Series A Prime Conversion Price, and

(B) the denominator of which shall be the number of shares of Common Stock deemed outstanding (as defined below) immediately prior to such issue or sale plus the total number of Additional Shares of Common Stock so issued.

For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of the number of shares of Common Stock actually outstanding, and shall not include any shares of Common Stock issuable upon conversion of convertible securities or upon exercise of options or warrants.

(ii) No adjustment shall be made to the Series A Prime Conversion Price in an amount less than one cent per share. Any adjustment otherwise required by this Section 4(i) that is not required to be made due to the preceding sentence shall be included in any subsequent adjustment to the Series A Prime Conversion Price.

(iii) For the purpose of making any adjustment required under this Section 4(i), the aggregate consideration received by the Company for any issue or sale of securities (the "Aggregate Consideration") shall be defined as: (A) to the extent it consists of cash, be computed at the net amount of cash received by the Company after deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale but without deduction of any expenses payable by the Company, (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board of Directors, and (C) if Additional Shares of Common Stock, Convertible Securities (as defined below) or rights or options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Company for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors to be allocable to such Additional Shares of Common Stock, Convertible Securities or rights or options.

(iv) For the purpose of the adjustment required under this Section 4(i), if the Company issues or sells any (x) stock or other securities convertible into, Additional Shares of Common Stock (such convertible stock or securities being herein referred to as "Convertible Securities") or (y) rights or options for the purchase of Additional Shares of Common Stock or Convertible Securities and if the Effective Price of such Additional Shares of Common Stock is less than the Series A Prime Conversion Price, in each case the Company shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the maximum number of Additional Shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Company for the issuance of such rights or options or Convertible Securities, plus:

(A) in the case of such rights or options, the minimum amounts of consideration, if any, payable to the Company upon the exercise of such rights or options; and

(B) in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Company upon the conversion thereof (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities); provided that if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, the Company shall be deemed to have received the minimum amounts of consideration without reference to such clauses.

(C) If the minimum amount of consideration payable to the Company upon the exercise or conversion of rights, options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of antidilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; *provided further*, that if the minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities.

(D) No further adjustment of the Series A Prime Conversion Price, as adjusted upon the issuance of such rights, options or Convertible Securities, shall be made as a result of the actual issuance of Additional Shares of Common Stock or the exercise of any such rights or options or the conversion of any such Convertible Securities. If any such rights or options or the conversion privilege represented by any such Convertible Securities shall expire without having been exercised, the Series A Prime Conversion Price as adjusted upon the issuance of such rights, options or Convertible Securities shall be readjusted to the Series A Prime Conversion Price which would have been in effect had an adjustment been made on the basis that the only Additional Shares of Common Stock so issued were the Additional Shares of Common Stock, if any, actually issued or sold on the exercise of such rights or options or rights of conversion of such Convertible Securities, and such Additional Shares of Common Stock, if any, were issued or sold for the consideration actually received by the Company upon such exercise, plus the consideration, if any, actually received by the Company for the granting of all such rights or options, whether or not exercised, plus the consideration received for issuing or selling the Convertible Securities actually converted, plus the consideration, if any, actually received by the Company (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion of such Convertible Securities; *provided* that such readjustment shall not apply to prior conversions of Series A Prime.

(v) For the purpose of making any adjustment to the Conversion Price of the Series A Prime required under this Section 4(i), "Additional Shares of Common Stock" shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to this Section 4(i) (including shares of Common Stock subsequently reacquired or retired by the Company) other than:

(A) shares of Common Stock of the Company issued pursuant to stock dividends, stock splits or similar transactions;

(B) shares of Common Stock of the Company issued or issuable after the Original Issue Date to employees, consultants or directors of the Company directly or pursuant to a stock option plan or restricted stock plan approved by the Board of Directors of the Company;

(C) shares of Common Stock or Preferred Stock, or options or warrants to purchase Common Stock or Preferred Stock of the Company, issued to financial institutions or lessors in connection with commercial credit arrangements, equipment financings,

commercial property lease transactions or similar transactions approved by the Board of Directors without any dissenting vote;

(D) shares of Common Stock or Preferred Stock of the Company issuable upon exercise or conversions of warrants, notes or other rights to acquire securities of the Company outstanding as of the Original Issue Date;

(E) shares of Common Stock or Preferred Stock, or warrants or options to purchase Common Stock or Preferred Stock, issued in connection with bona fide acquisitions, mergers or similar transactions, the terms of which are approved by the Board of Directors of the Company;

(F) shares of Common Stock issued or issuable upon conversion of the Series A Prime;

(G) shares of Common Stock of the Company issued or issuable in a public offering prior to or in connection with which all outstanding Series A Prime will be converted to Common Stock;

(H) shares of Common Stock or Preferred Stock issued or issuable to an entity as a component of any business relationship with such entity for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Company's products or services or (C) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship with such entity are approved by the Board of Directors without any dissenting vote;

(I) shares of Series A Prime-3 Preferred Stock; and

(J) shares of Common Stock issued or issuable with the affirmative vote of at least a majority of the then outstanding Series A Prime, voting together as a single class; provided further, however, that issuances of any shares of Common Stock and Preferred Stock pursuant to (C), (E), and (H) above do not exceed 5% of all capital stock outstanding as of the Original Issue Date.

References to Common Stock in the subsections of this clause (v) above shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to Section 4(i). The "Effective Price" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold by the Company under this Section 4(i), into the Aggregate Consideration received, or deemed to have been received by the Company for such issue under this Section 4(i), for such Additional Shares of Common Stock.

(j) **Certificate of Adjustment.** In each case of an adjustment or readjustment of the Series A Prime Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of the Series A Prime, if the Series A Prime is then convertible pursuant to this Section 4, the Company, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate

showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of Series A Prime at the holder's address as shown in the Company's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the consideration received or deemed to be received by the Company for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (ii) the Series A Prime Conversion Price at the time in effect, (iii) the number of Additional Shares of Common Stock and (iv) the type and amount, if any, of other property which at the time would be received upon conversion of the Series A Prime.

(k) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 3 or other capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, any merger or consolidation of the Company with or into any other corporation, or any Asset Transfer (as defined in Section 3c), or any voluntary or involuntary dissolution, liquidation or winding up of the Company, the Company shall mail to each holder of Series A Prime at least ten (10) days prior to the record date specified therein, (or such shorter period approved by a the holders of a majority of the outstanding Series A Prime) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution; (B) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up.

(l) **Automatic Conversion.**

(i) Each share of Series A Prime shall automatically be converted into shares of Common Stock, based on the applicable then-effective Series A Prime Conversion Price, (A) at any time upon the affirmative election of the holders of at least a majority of the outstanding shares of the Series A Prime, or (B) immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which (i) the per share price is at least \$4.01 (as adjusted for stock splits, dividends, recapitalizations and the like after the filing date hereof), and (ii) the gross cash proceeds to the Company (before underwriting discounts, commissions and fees) are at least \$75,000,000 (a "Qualified IPO").

(ii) Upon the occurrence of either of the events specified in Section 4(f)(i) above, the outstanding shares of Series A Prime and any accrued and unpaid dividends thereon shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; *provided, however*, that the Company shall not be obligated to

issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Series A Prime are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series A Prime, the holders of Series A Prime shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Series A Prime. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Series A Prime surrendered were convertible on the date on which such automatic conversion occurred.

(m) **Fractional Shares.** No fractional shares of Common Stock shall be issued upon conversion of Series A Prime. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series A Prime by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Company shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the Common Stock's fair market value (as determined by the Board of Directors) on the date of conversion.

(n) **Reservation of Stock Issuable Upon Conversion.** The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Prime, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Prime. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Prime, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(o) **Notices.** Any notice required by the provisions of this Section 4 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(p) **Payment of Taxes.** The Company will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issue or delivery of shares of Common Stock upon conversion of shares of Series A Prime, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series A Prime so converted were registered.



(g) **No Dilution or Impairment.** Without the consent of the holders of the then outstanding Series A Prime, as required under Section 2(b), the Company shall not amend its Restated Articles or participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or take any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the holders of the Series A Prime against dilution or other impairment.

#### 5. REDEMPTION.

(a) The Company shall be obligated to redeem the Series A Prime as follows:

(i) The holders of at least a majority of the then outstanding shares of Series A Prime, voting together as a separate class, may require the Company, to the extent it may lawfully do so, to redeem the Series A Prime beginning on the fifth anniversary of the Original Issue Date, and ending on the date two (2) years from such first redemption date (each a "Redemption Date"); provided that no Qualified IPO, Acquisition or Asset Transfer with respect to the Company has occurred prior to such fifth anniversary of the Original Issue Date. In the event of a call for redemption of the Series A Prime, the Company shall effect such redemptions on the applicable Redemption Date by paying in cash in exchange for the shares of Series A Prime to be redeemed a sum equal to the applicable Original Issue Price per share of Series A Prime (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like after the filing date hereof) plus interest on the shares to be redeemed at a rate of 8% per annum compounding annually from the Original Issue Date, and declared and unpaid dividends with respect to such shares. The total amount to be paid for the Series A Prime is hereinafter referred to as the "Redemption Price." The number of shares of Series A Prime that the Company shall be required to redeem on any one Redemption Date shall be equal to the amount determined by dividing (A) the aggregate number of shares of Series A Prime outstanding immediately prior to the Redemption Date by (B) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies). Shares subject to redemption pursuant to this Section 5(a) shall be redeemed from each holder of Series A Prime on a *pro rata* basis. Undeclared and accrued dividends will not be paid in the event of a redemption pursuant to this Section 5.

(ii) In the event of a call for redemption of the Series A Prime on or after the fifth anniversary of the Original Issue Date of the Series A Prime-1 Preferred Stock, at least thirty (30) days but no more than sixty (60) days prior to the first Redemption Date, the Company shall send a notice (a "Redemption Notice") to all holders of Series A Prime to be redeemed setting forth (A) the Redemption Price for the shares to be redeemed; and (B) the place at which such holders may obtain payment of the Redemption Price upon surrender of their share certificates. If the Company does not have sufficient funds legally available to redeem all shares to be redeemed at the Redemption Date (including, if applicable, those to be redeemed at the option of the Company), then it shall redeem such shares *pro rata* (based on the portion of the aggregate Redemption Price payable to them) to the extent possible and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available.

(b) On or prior to such Redemption Date, the Company shall deposit the Redemption Price of all shares to be redeemed with a bank or trust company having aggregate capital and surplus in excess of \$100,000,000, as a trust fund, with irrevocable instructions and authority to the bank or trust company to pay, on and after such Redemption Date, the Redemption Price of the shares to their respective holders upon the surrender of their share certificates. Any moneys deposited by the Company pursuant to this Section 5(b) for the redemption of shares thereafter converted into shares of Common Stock pursuant to Section 4 hereof no later than the fifth (5th) day preceding the Redemption Date shall be returned to the Company forthwith upon such conversion. The balance of any funds deposited by the Company pursuant to this Section 5(b) remaining unclaimed at the expiration of one (1) year following such Redemption Date shall be returned to the Company promptly upon its written request.

(c) On or after such Redemption Date, each holder of shares of Series A Prime to be redeemed shall surrender such holder's certificates representing such shares to the Company in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be canceled. In the event less than all the shares represented by such certificates are redeemed, a new certificate shall be issued representing the unredeemed shares. From and after such Redemption Date, unless there shall have been a default in payment of the Redemption Price or the Company is unable to pay the Redemption Price due to not having sufficient legally available funds, all rights of the holder of such shares as a holder of Series A Prime (except the right to receive the Redemption Price without interest upon surrender of their certificates), shall cease and terminate with respect to such shares; *provided* that in the event that shares of Series A Prime are not redeemed due to a default in payment by the Company or because the Company does not have sufficient legally available funds, such shares of Series A Prime shall remain outstanding and shall be entitled to all of the rights and preferences provided herein.

(d) In the event that shares of Series A Prime are not redeemed due to a default in payment by the Company or because the Company does not have legally available funds, the holders of Series A Prime shall have the right to increase the authorized number of directors of the Company by a vote of a majority of the outstanding shares of Series A Prime and elect such number of directors to the Board of Directors of the Company so as to give the holders of Series A Prime voting control of the Board of Directors.

(e) In the event of a call for redemption of any shares of Series A Prime, the Conversion Rights (as defined in Section 4) for such Series A Prime shall terminate as to the shares designated for redemption at the close of business on the fifth (5th) day preceding the Redemption Date, unless default is made in payment of the Redemption Price.

#### 6. NO REISSUANCE OF SERIES A PRIME.

No share or shares of Series A Prime acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued; and in addition, the Restated Articles shall be appropriately amended to effect the corresponding reduction in the Company's authorized stock.

## IV.

A. The liability of the directors of the Company for monetary damages shall be eliminated to the fullest extent permissible under California law.

B. The Company is authorized to provide indemnification of agents (as defined in Section 317 of the General Corporation Law of California) for breach of duty to the Company and its shareholders through bylaw provisions, agreements with agents, shareholder resolutions or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the General Corporation Law of California, subject to the limits on such excess indemnification set forth in Section 204 of the General Corporation Law of California. If, after the effective date of this Article, California law is amended in a manner which permits a company to limit the monetary or other liability of its directors or to authorize indemnification of, or advancement of such defense expenses to, its directors or other persons, in any such case to a greater extent than is permitted on such effective date, the references in this Article to "California law" shall to that extent be deemed to refer to California law as so amended.

C. Any repeal or modification of this Article shall only be prospective and shall not affect the rights under this Article in effect at the time of the alleged occurrence of any action or omission to act giving rise to liability.

**THREE:** The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the Board of Directors of this Company.

**FOUR:** The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the General Corporation Law of California. The Company has two classes of stock outstanding and such classes of stock are entitled to vote with respect to the amendment herein set forth. The total number of outstanding shares of Common Stock of the Company is 3,319,054 and the total number of outstanding shares of Preferred Stock of the Company is 8,079,867. The percentage vote required was a majority of the outstanding shares of Common Stock voting as a separate class; a majority of shares of Preferred Stock voting together and a majority of shares of Common Stock and Preferred Stock voting together. The number of shares voting in favor of the amendment equaled or exceeded the vote required.

The undersigned, Michael Ranczi and Gavin Zee, the acting Chief Executive Officer and Assistant Secretary, respectively, of MyDTV, Inc., declare under penalty of perjury under the laws of the State of California that the matters set out in the foregoing Articles are true of their own knowledge.

Executed at Palo Alto, California on December 13, 2005.

  
\_\_\_\_\_  
Michael Ranczi, acting Chief Executive Officer  
\_\_\_\_\_  
Gavin Zee, Assistant Secretary

The undersigned, Michael Raneri and Gavin Zee, the acting Chief Executive Officer and Assistant Secretary, respectively, of MyDTV, Inc., declare under penalty of perjury under the laws of the State of California that the matters set out in the foregoing Articles are true of their own knowledge.

Executed at Palo Alto, California on December 19, 2005.

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Michael Raneri, acting Chief Executive Officer

*Gavin L. Zee*  
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Gavin Zee, Assistant Secretary

