

P93000000620

ARTICLES OF MERGER
Merger Sheet

MERGING:

A-2 WRECKER SERVICE, INC., a Florida corporation, #P93000000620

INTO

A-2 WRECKER SERVICE, INC., a Delaware corporation not qualified in
Florida.

File date: April 10, 1997

Corporate Specialist: Karen Gibson

Account number: 072100000032

Account charged: 70.00



P 9 3000000620

ACCOUNT NO. : 072100000032

REFERENCE : 325276 4320229

AUTHORIZATION : Patricia Pujos

COST LIMIT : \$ 70.00

ORDER DATE : April 9, 1997

ORDER TIME : 9:41 AM

ORDER NO. : 325276-005

0000002139280--8

CUSTOMER NO: 4320229

CUSTOMER: Ms. Tracey Fraser
Kilpatrick Stockton, LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309

FILED
97 APR 10 PM 2:55
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER

A-2 WRECKER SERVICE, INC.

INTO

A-2 WRECKER SERVICE, INC.

File
57 APR 10 AM 11:40
RECEIVED
OFFICE OF CORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

☐ CERTIFIED COPY
☒ PLAIN STAMPED COPY

CONTACT PERSON: Lori R. Dunlap

EXAMINER'S INITIALS:

Allegre
KRC
4/11/97

**ARTICLES OF MERGER
OF
A-2 WRECKER SERVICE, INC.
AND
A-2 WRECKER SERVICE, INC.**

To the Department of State
State of Florida

Pursuant to the provisions of the Florida Business Corporation Act, the domestic business corporation and the foreign business corporation herein named do hereby submit the following articles of merger.

1. Annexed hereto and made a part hereof is the Plan of Merger for merging A-2 Wrecker Service, Inc., a Florida corporation ("Florida A-2") with and into A-2 Wrecker Service, Inc., a Delaware corporation ("Delaware A-2").
2. The sole shareholder of Florida A-2 approved and adopted the Plan of Merger by written consent dated as of April 8, 1997 in accordance with the provisions of Section 607.0704 of the Florida Business Corporation Act.
3. The merger of Florida A-2 with and into Delaware A-2 is permitted by the General Corporation Law of the State of Delaware and has been authorized in compliance with said laws. The date of approval and adoption of the Plan of Merger by the sole shareholder of Delaware A-2 was April 8, 1997.

Executed on April 8, 1997.

**A-2 WRECKER SERVICE, INC.,
a Florida corporation**

By: Joyce S. Sanford
Joyce S. Sanford, President

**A-2 WRECKER SERVICE, INC.,
a Delaware corporation**

By: Joyce S. Sanford
Joyce S. Sanford, President

FILED
97 APR 10 PM 2:55
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "**Agreement**") is made and entered into as of the 24 day of April, 1997, by and among MILLER INDUSTRIES, INC., a Tennessee corporation ("**Parent**"), ATWO ACQUISITION CORP., a Delaware corporation ("**Merger Sub**"), and A-2 WRECKER SERVICE INC., a Florida corporation (the "**Company**"), and the Company's shareholders identified on the signature page below (collectively, the "**Shareholders**" and individually a "**Shareholder**").

WITNESSETH:

WHEREAS, Parent and its subsidiaries are engaged in, among other things, the manufacture, sale and distribution of towing and recovery equipment and related services; and the Company is engaged in the provision of towing and recovery and related services (collectively, the "**Company's Services**"); and

WHEREAS, the Shareholders own all of the issued and outstanding Shares, and

WHEREAS, Parent and the Shareholders deem it advisable and in their respective best interests to consummate the transactions described herein; and

WHEREAS, Parent and the Shareholders intend that this Agreement be approved and adopted by all relevant parties as a plan of reorganization within the provisions of Sections 368(a)(1)(A) and 368(a)(2)(E) of the Internal Revenue Code of 1986, as amended (the "**Code**"); and

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

1. THE MERGER

1.1. **The Initial Merger.** Immediately prior to the Effective Time, as hereinafter defined, the Company shall be merged with and into a newly formed Delaware corporation ("**Newco**"), the separate existence of the Company shall cease and Newco shall continue as the surviving corporation (the "**Initial Merger**"). The capital structure of Newco shall be the same as that of the Company on the date hereof, and the shareholders of Newco shall own the same classes, numbers and percentages of Newco's capital stock as they owned in the Company immediately prior to the effective time of the Initial Merger. The certificate of incorporation, bylaws and all documents and corporate actions effecting the Initial Merger shall be satisfactory to Parent in all respects. Use herein of the terms, "Company," "Shares" and "Shareholders" shall where appropriate also refer to Newco, its issued and outstanding capital stock, and its shareholders, respectively.

1.2. **The Merger.** At the Effective Time, upon the terms and subject to the conditions set forth herein, and in accordance with the Delaware General Corporation Law (the "**DGCL**"), Merger Sub shall be merged with and into Newco, the separate existence of Merger Sub shall cease, and Newco shall continue as the surviving corporation (the "**Merger**"). Newco after the Merger is sometimes hereafter referred to as the "**Surviving Corporation.**"

1.3. **Effect of the Merger.** At the Effective Time, the Surviving Corporation shall continue its corporate existence under the Laws of Delaware and shall succeed to all rights, privileges, immunities, franchises and powers, and be subject to all duties, liabilities, debts and obligations, of the Company and Newco in accordance with the provisions of the DGCL.

2. **THE SURVIVING CORPORATION**

2.1. **Certificate.** The certificate of incorporation of Newco as in effect immediately prior to the Effective Time shall be the certificate of incorporation of the Surviving Corporation until thereafter amended in accordance with applicable Law and such certificate of incorporation.

2.2. **Bylaws.** The bylaws of Newco as in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation until thereafter amended in accordance with applicable Law, the certificate of incorporation of such Surviving Corporation and such bylaws.

2.3. **Board of Directors.** The directors of Merger Sub immediately prior to the Effective Time shall be the initial board of directors of the Surviving Corporation, each of such persons to serve until his or her successor, if there is to be one, is duly elected and qualified.

2.4. **Officers.** The officers of Merger Sub immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, each of such officers to serve until his or her successor, if there is to be one, is duly qualified.

3. **MERGER CONSIDERATION; CONVERSION**

3.1. **Company Shares.** At the Effective Time, by virtue of the Merger, and without any action on the part of the Shareholders, all of the Shares issued and outstanding immediately prior to the Effective Time shall be canceled, retired and converted into and become the right to receive the Merger Consideration described in this Article 3.

3.2. **Merger Consideration.** The "**Merger Consideration**" shall consist of that number of shares of Parent's Common Stock, \$.01 par value per share, (the "**Parent Stock**") that is equal to \$1,000,000 divided by the average daily closing price on the New York Stock Exchange, as reported in the Wall Street Journal, over the 30 consecutive full trading days ending on the trading day immediately preceding the date of the Closing.

3.3. Allocation. The Merger Consideration shall be allocated among the Shareholders of the Company in accordance with the percentages set forth opposite each such Shareholder's name next to his or her signature set forth below. If the allocation results in fractional shares, then no fractional shares shall be issued, and in lieu thereof a Shareholder shall be paid an amount in cash equal to such fractional part of a share multiplied by the closing price of Parent's Common Stock on the New York Stock Exchange on the trading day immediately preceding the Closing.

3.4. Other Shares. Each share of common stock of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into one share of common stock of the Surviving Corporation.

3.5. Closing. (a) The consummation of the transactions contemplated in this Agreement (the "**Closing**") shall take place at the offices of Kilpatrick Stockton LLP, 1100 Peachtree Street, Suite 2800, Atlanta, Georgia, at 10:00 a.m., Atlanta time, on the later of (i) March 31, 1997 or (ii) the first business day after all of the conditions set forth herein have been satisfied or waived, or such other place and time as the parties may mutually agree.

(b) On the date of the Closing, Newco and Merger Sub shall file the documents required by the DGCL to effect the Merger and such documents shall become effective on the date of the Closing (the "**Effective Time**").

(c) All of the deliveries and other transactions required to take place at the Closing and all documents relating thereto shall be interdependent and none shall be effective unless and until all are effective (except to the extent that the party entitled to the benefit thereof has waived satisfaction or performance thereof as a condition precedent hereto).

3.6. Post-Closing Transactions. Promptly following the Closing, the Shareholders shall deliver to Parent or its designee any and all certificates representing the Shares, duly endorsed for transfer, and such other documents, instruments and agreements related thereto, as Parent may reasonably request in order to effect the issuance of the Merger Consideration. The Shareholders shall also deliver a certificate satisfactory to Parent that all duties, taxes and other impost payable in respect of the delivery of the Shares have been paid by the Shareholders. Promptly upon receipt of the Shares, Parent shall cause its transfer agent to issue the Merger Consideration to the Shareholders, as defined herein. Prior to delivery of the Shares pursuant to this Paragraph, Parent shall not be required to issue or cause the issuance of the Merger Consideration to the Shareholders.

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed by their duly authorized agents as of the day and year first above written.

MILLER INDUSTRIES, INC.

By: Jeffrey Badgley
Name: Jeffrey I. Badgley
Title: President
Address: 8503 Hilltop Drive
Ooltewah, Tennessee 37363
Facsimile No.: (423) 238-4171

ATWO ACQUISITION CORP.

By: Jeffrey Badgley
Name: Jeffrey I. Badgley
Title: President
Address: 8503 Hilltop Drive
Ooltewah, Tennessee 37363
Facsimile No.: (423) 238-4171

A-2 WRECKER SERVICE INC.

By: _____
Name: Joyce S. Sanford
Title: President
Address: 807 St. John's Bluff Road, N.
Jacksonville, Florida 32225
Facsimile No.: (904) 641-4788

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

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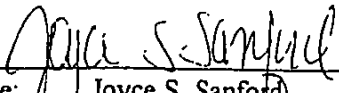
[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[SIGNATURES CONTINUED FROM PRECEDING PAGE]

**Shareholder's
Percentage:**

100%

SHAREHOLDERS:


Name: Joyce S. Sanford
Address: 807 St. John's Bluff Road, N.
Jacksonville, Florida 32225
Facsimile No.: (904) 641-4788