

P95000077496

CAPITOL SERVICES d/b/a  
PARALEGAL & ATTORNEY SERVICE BUREAU, INC.

(Requestor's Name)

1406 Hays Street, Suite 2

(Address)

Tallahassee, FL 32301 (904) 656-3992

(City, State, Zip)

(Phone #)

900002690339--4

-11/19/98--01065--024

\*\*\*\*\*8.75 \*\*\*\*\*8.75

OFFICE USE ONLY

900002690339--4

-11/18/98--01039--005

\*\*\*\*\*78.75 \*\*\*\*\*78.75

CORPORATION NAME(S) & DOCUMENT NUMBER(S) (if known):

1. Broadcast Software Corporation (Corporation Name) P95-774 (Document #)

2. \_\_\_\_\_ (Corporation Name) \_\_\_\_\_ (Document #)

3. \_\_\_\_\_ (Corporation Name) \_\_\_\_\_ (Document #)

4. \_\_\_\_\_ (Corporation Name) \_\_\_\_\_ (Document #)

☒ Walk in

☒ Pick up time 10:15 11/18

☒ Certified Copy

☐ Mail out

☐ Will wait

☐ Photocopy

☒ Certificate of Status

Showing  
Merged Cert  
Existence

FILED  
98 NOV 18 PM 12:17  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
RECEIVED  
98 NOV 18 AM 11:04

NEW FILINGS	
<input type="checkbox"/>	Profit
<input type="checkbox"/>	NonProfit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

AMENDMENTS	
<input type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A., Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input checked="" type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

REGISTRATION/ QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark

me 11/19  
Examiner's Initials



*resubmit*

FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

November 18, 1998

*Please back later*

CAPITOL SERVICES

TALLAHASSEE, FL

SUBJECT: BROADCAST SOFTWARE CORPORATION  
Ref. Number: P95000077496

We have received your document for BROADCAST SOFTWARE CORPORATION and your check(s) totaling \$78.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

There is a balance due of \$8.75. *Attached*

One the cover page you requested a certified copy and certificate of status.

If shareholder approval was not required, a statement to that effect must be contained in the merger for each applicable corporation.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6908.

Teresa Brown  
Corporate Specialist

Letter Number: 698A00055501

RECEIVED  
NOV 19 AM 11:00  
DIVISION OF CORPORATIONS

ARTICLES OF MERGER  
Merger Sheet

-----  
MERGING:

BROADCAST SOFTWARE CORPORATION, a Florida corporation,  
P95000077496

INTO

**BROADCAST SOFTWARE CORPORATION.** a Delaware corporation not  
qualified in Florida

File date: November 18, 1998

Corporate Specialist: Teresa Brown

**ARTICLES OF MERGER**  
**of**  
**BROADCAST SOFTWARE CORPORATION**  
(a Florida corporation)

**into**  
**BROADCAST SOFTWARE CORP.**  
(a Delaware corporation)

(Pursuant to Section 607.1107 of the Florida Business Corporation Act)

The undersigned, being the President of BroadCast Software Corp., a Delaware corporation (the "Surviving Corporation"), and the President of Broadcast Software Corporation, a Florida corporation (the "Terminating Corporation"), hereby certify that:

1. The name and the state of incorporation of the non-surviving corporation is Broadcast Software Corporation, a Florida corporation.

2. The name and the state of incorporation of the surviving corporation is BroadCast Software Corp., a Delaware corporation.

3. An Agreement and Plan of Merger, a copy of which is attached hereto, was approved by all of the shareholders entitled to vote of the Terminating Corporation on July 6, 1998 in the manner prescribed by the Florida Business Corporation Act, and was approved by the Directors of the Surviving Corporation on August 17, 1998 in accordance with the laws of the State of Delaware. Shareholder approval of the Surviving Corporation was not required. The merger is permitted under the laws of the State of Delaware and the Surviving Corporation has complied with such laws in effecting the merger.

4. By virtue of the Merger, each of the shares of the Terminating Corporation, and all rights in respect thereof, shall be converted into 19,338.65882 fully-paid, validly issued, and nonassessable shares of common stock of the Surviving Corporation, and each certificate nominally representing such shares of common stock of the Terminating Corporation, for all purposes, shall be deemed to evidence the ownership of 19,338.65882 shares of common stock of the Surviving Corporation. The shares of common stock of the Surviving Corporation shall be delivered to the shareholders of the Terminating Corporation upon surrender to Surviving Corporation of all outstanding certificates evidencing the shares of Terminating Corporation, properly endorsed for transfer.

5. The Surviving Corporation hereby agrees that

(a) it may be served with process in the State of Florida in any proceeding for the

**FILED**  
98 NOV 18 PM 12:17  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

enforcement of any obligations of any the Terminating Corporation and in any proceeding for the enforcement of the rights of a dissenting shareholder of the Terminating Corporation against the Surviving Corporation;

- b. the Secretary of State of the State of Florida hereby is irrevocably appointed as the agent of the Surviving Corporation to accept service of process in any such proceeding, and the address to which the service of process in any such proceeding shall be mailed is: BroadCast Software Corp., 20310 Empire Avenue, #A102, Bend, Oregon 97701; and
- c. the Surviving Corporation promptly shall pay to the dissenting stockholders of the Terminating Corporation the amount, if any, to which they shall be entitled under the provisions of the laws of the State of Florida with respect to the rights of dissenting stockholders.

IN WITNESS WHEREOF, the undersigned corporations have caused ~~these~~ Articles of Merger to be executed the 9<sup>th</sup> day of October, 1998.

Broadcast Software Corporation  
(a Florida Corporation)

By:



Clifton Joyce, President

BroadCast Software Corp.  
(a Delaware Corporation)

By:



Clifton Joyce, President

## **AGREEMENT AND PLAN OF MERGER**

AGREEMENT AND PLAN OF MERGER (this "Agreement") made this 9th day of October, 1998, by and between Broadcast Software Corporation, a Florida corporation ("Oldco"), and BroadCast Software Corp., a Delaware corporation ("Newco").

### **W I T N E S S E T H:**

WHEREAS, Oldco desires to reincorporate in Delaware by merging into Newco (the "Merger");

WHEREAS, the Board of Directors of Oldco and Newco, respectively, deem it advisable and in their respective best interests that Oldco merge with and into Newco under and pursuant to the provisions of the Florida Business Corporation Act and the General Corporation Law of the State of Delaware; and

WHEREAS, it is intended that the Merger shall qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986 (the "Code") and that this Agreement shall constitute a "plan of reorganization";

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the parties hereto agree as follows:

### **ARTICLE I** **THE MERGER**

#### **1.1 The Merger.**

(a) Certificates of merger (the "Certificates of Merger") shall be delivered to the Secretary of State of the State of Florida and the Secretary of State of the State of Delaware for filing as soon as practicable on or after the date hereof. The Merger of Oldco with and into Newco shall become effective on the date (the "Effective Date") and at the time (the "Effective Time") the applicable Certificate of Merger is filed with the Florida Secretary of State and the Delaware Secretary of State, whichever is later.

#### **1.2 Effects of the Merger.**

(a) At the Effective Time, the separate existence of Oldco shall cease and Newco shall continue as the surviving corporation governed by the laws of the State of Delaware. Newco and Oldco are hereinafter sometimes referred to as the "Constituent

Corporations", and Newco is hereinafter sometimes referred to as the "Surviving Corporation".

(b) On and after the Effective Time, all of the properties, rights, privileges, and powers of each of the Constituent Corporations shall be taken by and deemed to be transferred to and vested in the Surviving Corporation, and all debts, liabilities, obligations, and duties of each of the Constituent Corporations shall become the debts, liabilities, obligations, and duties of the Surviving Corporation, without further act or deed; and all property and every other interest shall be thereafter as effectively the property of the Surviving Corporation as it was of the Constituent Corporations, and the title to any real estate or interest therein, whether vested by deed or otherwise, in either of the Constituent Corporations, shall not revert or be in any way impaired by reason of the Merger; provided, however, all rights of creditors and all liens upon the property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, obligations, and duties of the Constituent Corporations thenceforth shall be attached to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities, obligations, and duties had been incurred or contracted by it. Any action or proceeding pending against either of the Constituent Corporations may be prosecuted to judgment as if the Merger had not taken place, or the Surviving Corporation may be substituted in place of either of the Constituent Corporations.

(c) On the Effective Date, the authorized capital stock of Newco shall consist of 9,000,000 shares of common stock, \$0.001 par value per share, and 1,000,000 shares of preferred stock, \$0.001 par value per share, unless and until the same shall be changed in accordance with the laws of the State of Delaware.

1.3 Subsequent Actions. If, at any time after the Effective Time, the Surviving Corporation deems it necessary or advisable to obtain any deeds, bills of sale, assignments, and other instruments, or that other action be taken (a) to vest, perfect, or confirm of record or otherwise in the Surviving Corporation its right, title, or interest in, to, or under any of the rights, properties, or assets of the Constituent Corporations acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger, or (b) to otherwise carry out this Agreement, then the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of each of the Constituent Corporations, all such deeds, bills of sale, assignments, and other instruments and to take and do, in the name and on behalf of each of the Constituent Corporations or otherwise, all such actions and things as may be necessary or desirable to vest, perfect, or confirm any and all right, title, and interest in, to, or under such rights, properties, or assets in the Surviving Corporation or to otherwise carry out this Agreement.

1.4 Certificate of Incorporation; By-Laws; Directors and Officers.

(a) At the Effective Time, the Certificate of Incorporation of Newco, as in effect immediately before the Effective Time, shall be the Certificate of Incorporation of the Surviving Corporation until thereafter amended as provided by Delaware Law.

(b) The By-Laws of Newco, as in effect immediately before the Effective Time, shall be the By-Laws of the Surviving Corporation until thereafter amended as provided by Delaware Law, the Certificate of Incorporation of the Surviving Corporation, and such By-Laws.

(c) The directors and officers, respectively, of Newco immediately before the Effective Time shall be the directors and officers, respectively, of the Surviving Corporation at and after the Effective Time until their successors shall have been duly elected or appointed and qualified or until their earlier death, resignation, or removal in accordance with the Surviving Corporation's Certificate of Incorporation and By-laws.

**ARTICLE II**

**CONVERSION OF SECURITIES ON MERGER; DELIVERY OF MERGER  
CONSIDERATION**

2.1 Conversion of Securities on Merger. At the Effective Time and by virtue of the Merger, each of the shares of Oldco, and all rights in respect thereof, shall be converted into 19,338.65882 fully-paid, validly issued, and nonassessable shares of common stock of Newco (the "Newco Stock"), and each certificate nominally representing such shares of common stock of Oldco, for all purposes, shall be deemed to evidence the ownership of 19,338.65882 shares of Newco Stock. Notwithstanding the foregoing, in lieu of issuing fractional shares of Newco Stock (or scrip representing fractional shares of Newco Stock) in connection with the Merger, each fractional share will be rounded up to the next highest whole share of Newco Stock.

2.2 Delivery of Merger Consideration.

(a) The shares of Newco Stock shall be delivered to the shareholders of Oldco upon surrender to Newco of all outstanding certificates evidencing shares of Oldco, properly endorsed for transfer.

(b) Until so surrendered, each outstanding certificate for shares of Oldco shall be deemed for all purposes to represent only the right to receive shares of Newco Stock.



### **ARTICLE III** **MISCELLANEOUS**

3.1 Service of Process on Surviving Corporation. Newco agrees that it may be served with process in the State of Florida in any proceeding for enforcement of any obligation of Oldco as well as for the enforcement of any obligation of Newco arising from the Merger, including any suit or other proceeding to enforce the right of any stockholder as determined in appraisal proceedings pursuant to the provisions of the Florida Business Corporation Act.

3.2 Termination. This Agreement may be terminated and abandoned by action of the Board of Directors of Oldco at any time prior to the Effective Date, whether before or after approval by the stockholders of the two corporate parties hereto.

3.3 Plan of Reorganization. This Agreement constitutes a Plan of Reorganization to be carried out in the manner, on the terms, and subject to the conditions herein set forth.

3.4 Expenses and Rights of Dissenting Stockholders. Newco shall pay all expenses of carrying this Agreement into effect and of accomplishing the Merger, including amounts, if any, to which dissenting stockholders of Oldco may be entitled by reason of this Merger.

3.5 Agreement Binding. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

3.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

3.7 Headings. The headings or captions of the Sections of this Agreement are for convenience or reference only and do not form a part hereof and do not in any way modify, interpret, or construe the intention of the parties or affect any of the provisions of this Agreement.

3.8 Amendment and Waiver. This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all prior agreements, representations, and understandings of the parties. This Agreement cannot be altered, amended, changed, waived, terminated, or modified in any respect or particular unless the same shall be in writing and signed by or on behalf of the party to be charged therewith. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach. No waiver shall be binding unless executed in writing by the party making the waiver.

3.9 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by virtue of any rule of law or public policy, all other conditions and provisions of this Agreement nevertheless shall remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the maximum extent possible.

3.10 Entire Agreement; No Third-Party Beneficiaries. This Agreement constitutes the entire agreement and supersedes any and all other prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. Except as otherwise expressly provided herein, this Agreement is not intended to confer upon any other person any rights or remedies hereunder.

3.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

Broadcast Software Corporation  
(a Florida Corporation)

By:

  
Clifton Joyce, President

BroadCast Software Corp.  
(a Delaware Corporation)

By:

  
Clifton Joyce, President

**CERTIFICATE OF THE ASSISTANT SECRETARY**

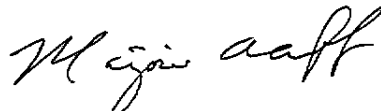
**OF**

**BROADCAST SOFTWARE CORP.  
(a Delaware Corporation)**

I, Marjorie Acuff, the Assistant Secretary of BroadCast Software Corp., a Delaware corporation (the "Corporation"), hereby certify that the Agreement and Plan of Merger to which this certificate is attached was duly approved by the Board of Directors of the Corporation pursuant to Section 251(f) of the Delaware General Corporation Law and that no shares of stock of the Corporation were issued prior to the adoption by the Board of Directors of the resolutions approving the Agreement and Plan of Merger.

WITNESS my hand and seal of the Corporation this 9<sup>th</sup> day of October, 1998.

(SEAL)



Marjorie Acuff, Assistant Secretary