

# P99000031267

Document Number Only

CT Corporation System  
660 East Jefferson Street  
Tallahassee, FL 32301  
850-222-1092

DATE: 5/26

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-05/30/00--01002--018  
\*\*\*\*\*70.00 \*\*\*\*\*70.00

Corporation(s) Name

MM Telecommunications Corp.  
Merging into  
equitel, Inc.

FILED  
00 MAY 26 PM 5:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

☐ Profit ☐ Amendment ☐ Merger  
☐ Nonprofit

☐ Foreign ☐ Dissolution ☐ Mark  
☐ LLC ☐ Withdrawal

☐ Limited Partnership ☐ UBR ☐ Other  
☐ Reinstatement ☐ Fictitious Name ☐ Ch. RA  
☐ UCC ☐ 1 or ☐ 3

RECEIVED  
00 MAY 26 PM 4:53  
DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

\*\*\*Special Instructions\*\*

☐ Certified Copy ☐ Photocopies ☐ CUS  
☐ arts/ameds/mergers ☐ Other-See Above

☒ Walk in ☒ Pick-up ☐ Will Wait

Please Return Filed Stamped  
Copies To:

Carol Clark

Thank You!

✓00789, 02775, 00524, 00561, 00710, 00672

ARTICLES OF MERGER  
Merger Sheet

-----  
MERGING:

MM TELECOMMUNICATIONS CORP., a Florida corporation P99000031267  
,

INTO

**EQUITEL, INC.**, a Delaware corporation not qualified in Florida.

File date: May 26, 2000

Corporate Specialist: Annette Ramsey



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

May 30, 2000

CT Corporation System  
660 East Jefferson St.  
Tallahassee, FL 32301

SUBJECT: MM TELECOMMUNICATIONS CORP.  
Ref. Number: P99000031267

2596  
cjc  
RECEIVED  
00 JUN - 7 PM 3:21  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

We have received your document for MM TELECOMMUNICATIONS CORP. and your check(s) totaling \$70.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The merger submitted was prepared in compliance with section 607.1109 Florida Statutes which provides for mergers between domestic corporations and other business entities as defined in section 607.1108, Florida Statutes. Pursuant to section 607.1108(7), Florida Statutes, any merger consisting solely of the merger of one or more domestic corporations with or into one or more foreign corporations shall be consummated solely in accordance with section 607.1107, Florida Statutes. Section 607.1107, Florida Statutes then refers you to section 607.1105, Florida Statutes. Enclosed is a merger form for your convenience.

For each corporation, the document must contain the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

The merger should include the manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

To: → Annette Ramsey  
Corporate Specialist

Letter Number: 500A00030352

Correction made.  
Pls backdate to 5/30  
PKS Carol

ARTICLES OF MERGER  
OF  
MM TELECOMMUNICATIONS CORP.  
(a Florida corporation)  
INTO  
equitel, inc.  
(a Delaware corporation)

FILED  
00 MAY 26 PM 5:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned, duly authorized officers of MM Telecommunications Corp., a Florida corporation, and equitel, inc., a Delaware corporation, pursuant to Section 607.1107 of the Florida Business Corporation Act, hereby execute the Articles of Merger:

ARTICLE I.

The names of the corporations which are parties to the merger are equitel, inc., a Delaware corporation, and MM Telecommunications Corp., a Florida corporation (collectively, the "*Constituent Companies*"). The laws of the jurisdiction of each of the Constituent Companies permit this merger and each of the Constituent Companies has complied with that law in effecting the merger.

ARTICLE II.

The Agreement and Plan of Merger (the "*Merger Agreement*") was approved, adopted, certified, executed and acknowledged by the board of directors of the surviving corporation on May 25, 2000 and shareholder approval was not required. The Merger Agreement was adopted by the board of directors and by the shareholders of the merging corporation on May 25, 2000.

ARTICLE III.

The name of the surviving corporation is equitel, inc., a Delaware corporation (the "*Surviving Corporation*").

ARTICLE IV.

The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State (such date and time referred to herein as the "*Effective Date of the Merger*").

ARTICLE V.

The Certificate of Incorporation of equitel, inc. shall be the Certificate of Incorporation of the Surviving Corporation.

## ARTICLE VI.

The executed Merger Agreement is attached and is also on file at the principal place of business of the Surviving Corporation located at 4021 Stirrup Creek Drive, Suite 400, Research Triangle Park, Durham, North Carolina 27703.

## ARTICLE VII.

A copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any Constituent Company.

## ARTICLE VIII.

Pursuant to Section 607.119(g)(2) of the Florida Business Corporation Act, the Surviving Corporation is deemed to have appointed the Secretary of State of the State of Florida as its agent for service of process in a proceeding to enforce any obligation or the rights of the dissenting shareholders of MM telecommunication Corp.


Pursuant to Section 607.119(g)(3) of the Florida Business Corporation Act, the Surviving Corporation agrees to promptly pay to the dissenting shareholders of MM Telecommunications Corp. the amount, if any, to which they are entitled under Section 607.1302 of the Florida Business Corporation Act.

\*\*\*\*\*


[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, MM Telecommunications Corp., a Florida corporation, and equitel, inc., a Delaware corporation and the Surviving Corporation, have caused this Certificate of Merger to be executed as of this 26<sup>th</sup> day of May 2000.

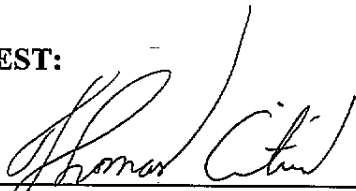
**MM TELECOMMUNICATIONS CORP.**

By:   
Name: Anthony Cullen  
Title: President

**equitel, inc**

By:   
Name: Anthony W. Cullen  
Title: President

**ATTEST:**

By:   
Name: Thomas Citrin  
Title: Secretary

**AGREEMENT AND PLAN OF MERGER**  
**By and Between**  
**equitel, inc.**  
**(a Delaware Corporation)**  
**and**  
**MM TELECOMMUNICATIONS CORP.**  
**(a Florida Corporation)**

**THIS AGREEMENT AND PLAN OF MERGER**, dated as of May 24, 2000 (this "*Agreement*"), is by and between equitel, inc., a Delaware corporation ("*equitel*") and MM TELECOMMUNICATIONS, INC., a Florida corporation ("*MM*"). equitel and MM are sometimes referred to herein as the "*Constituent Corporations*."

A. equitel is a corporation duly organized and existing under the laws of the State of Delaware and has authorized capital comprised of TWENTY MILLION (20,000,000) shares of Common Stock, par value \$.001 per share (the "*equitel Common Stock*"), and FIVE MILLION (5,000,000) shares of "Preferred Stock," par value \$.001 per share (the Preferred Stock and the equitel Common Stock are collectively referred to herein as the "*equitel Capital Stock*"). As of the date hereof, no shares of equitel Capital Stock have been issued or are outstanding.

B. MM is a corporation duly organized and existing under the laws of the State of Florida and has authorized capital comprised of TWENTY MILLION (20,000,000) shares of Common Stock, par value \$.001 per share, and FIVE MILLION (5,000,000) shares of Preferred Stock, par value \$.001 per share (collectively the "*MM Capital Stock*"). As of the date hereof, FOUR MILLION, FIVE HUNDRED AND FIFTEEN THOUSAND, THREE HUNDRED AND TEN (4,515,310) shares of Common Stock and no shares of Preferred Stock are issued and outstanding.

C. The Board of Directors of MM has determined that, for the purpose of reincorporating MM in the State of Delaware by means of a tax-free reorganization pursuant to Section 368(a)(1)(A) of the Internal Revenue Code, it is advisable and in the best interests of MM that MM merge with and into equitel upon the terms and conditions herein provided, with equitel remaining as the surviving entity (the "*Surviving Corporation*").

D. The Boards of Directors of equitel and MM have approved this Agreement and have directed that this Agreement be submitted to a vote of the security holders of MM, and to be executed by the undersigned individuals.

E. **NOW, THEREFORE**, in consideration of the mutual agreements and covenants set forth herein, equitel and MM hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

## I. MERGER

1.1 MERGER. In accordance with the provisions of this Agreement, the Delaware General Corporation Law and the Florida Business Corporation Act, MM shall be merged with and into equitel (the "*Merger*"), the separate existence of MM shall cease, and equitel shall be the Surviving Corporation.

1.2 FILING AND EFFECTIVENESS. The Merger shall become effective on May 26, 2000, at 12:01 A.M. Eastern Standard Time, provided, however, that by such time the following actions shall have been completed:

(a) this Agreement and the Merger shall have been adopted and approved by the security holders of each Constituent Corporation in accordance with the requirements of the Delaware General Corporation Law and the Florida Business Corporation Act;

(b) all of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof; and

(c) an executed Agreement and Plan of Merger meeting the requirements of the Delaware General Corporation Law and the Florida Business Corporation Act shall have been placed on file with the Secretary of the Surviving Corporation.

The date and time when the Merger shall become effective, as aforesaid, is herein called the "*Effective Date of the Merger*."

1.3 EFFECT OF THE MERGER. Upon the Effective Date of the Merger, the separate existence of MM shall cease and equitel, as the Surviving Corporation: (a) shall continue to possess all of its assets, rights, powers and property as constituted immediately prior to the Effective Date of the Merger; (b) shall be subject to all actions previously taken by its and MM's Board of Directors; (c) shall succeed, without other transfer, to all of the assets, rights, powers and property of MM in the manner more fully set forth in Section 259 of the Delaware General Corporation Law; (d) shall continue to be subject to all of the debts, liabilities and obligations of equitel as constituted immediately prior to the Effective Date of the Merger; and (e) shall succeed, without other transfer, to all of the debts, liabilities and obligations of MM in the same manner as if equitel had itself incurred them, all as more fully provided under the applicable provisions of the Delaware General Corporation Law and the Florida Business Corporation Act.



## II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 **CERTIFICATE OF INCORPORATION.** The Certificate of Incorporation of equitel shall be the Certificate of Incorporation of the Surviving Corporation.

2.2 **BY-LAWS.** The By-laws of equitel as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the By-laws of the Surviving Corporation until duly amended, altered or repealed in accordance with the provisions thereof and applicable law.

2.3 **DIRECTORS AND OFFICERS.** The directors and officers of equitel immediately prior to the Effective Date of the Merger shall be the directors and officers of the Surviving Corporation until their successors shall have been duly elected and qualified or until as otherwise provided by law, the Certificate of Incorporation of the Surviving Corporation or the By-laws of the Surviving Corporation.

## III. MANNER OF CONVERSION OF SECURITIES

3.1 **MM COMMON SHARES.** Upon the Effective Date of the Merger, by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, each share of MM Capital Stock issued and outstanding immediately prior thereto, as set forth in Exhibit A hereto shall be converted into the right to receive shares of equitel Capital Stock in such amounts as set forth in Exhibit B hereto which shares equitel shall issue and deliver to the holders of MM Capital Stock and which shares shall constitute all of the issued and outstanding shares of capital stock of the Surviving Corporation. From and after the Effective Date of the Merger, all issued and outstanding shares of MM Capital Stock shall be canceled and terminated, shall represent solely the right to receive shares of equitel Capital Stock in respect of the shares of MM Capital Stock, and shall have no other rights.

3.2 **SURRENDER OF CERTIFICATES.** After the Effective Date of the Merger, each holder of an outstanding certificate representing shares of MM Capital Stock shall surrender the same for cancellation to the Surviving Corporation.

## IV. GENERAL

4.1 **COVENANTS OF SURVIVING CORPORATION.** equitel covenants and agrees that it shall, on or before the Effective Date of the Merger:

(a) qualify to do business as a foreign corporation in the State of North Carolina, and in connection therewith irrevocably appoint an agent for service of process as required under the law of the State of North Carolina; and

(b) take such other actions as may be required by the laws of the State of North Carolina.

4.2 FURTHER ASSURANCES. From time to time, as and when required by the Surviving Corporation or by its successors or assigns, there shall be executed and delivered on behalf of MM such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other actions as shall be appropriate or necessary in order to vest or perfect in or conform of record or otherwise by MM the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of MM and otherwise to carry out the purposes of this Agreement, and the officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of MM or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

4.3 ABANDONMENT. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of either MM or equitel, or both, notwithstanding the approval of this Agreement by the shareholders of MM or the shareholders of equitel, or both.

4.4 AMENDMENT. The Boards of Directors of the Constituent Corporations may amend this Agreement at any time prior to the filing of this Agreement (or certificate in lieu thereof) with the Delaware Secretary of State and the Florida Secretary of State, provided that an amendment made subsequent to the adoption of this Agreement by the security holders of either Constituent Corporation shall not: (a) alter or change the amount or kind of shares, evidences of indebtedness, securities, cash, property, or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation; (b) alter or change any term of the Certificate of Incorporation of equitel to be effected by the merger, except for alterations or changes that otherwise could be adopted by the Board of Directors of the Surviving Corporation; or (c) alter or change any of the terms and conditions of this Agreement if such alteration or change, alone or in the aggregate, would materially adversely affect the holders of any class or series of capital stock of any Constituent Corporation.

4.5 DELAWARE REGISTERED OFFICE. The registered office of equitel in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801, and CT Corporation System is the registered agent of the equitel at such address.

4.6 PRINCIPAL PLACE OF BUSINESS; AGREEMENT. Executed copies of this Agreement will be on file at the principal place of business of the Surviving Corporation located at 4021 Stirrup Creek Drive, Suite 400, Research Triangle Park, Durham, North Carolina 27703, and copies thereof will be furnished to any security holder of either Constituent Corporation, upon request and without cost.

4.7 CONSENT TO SUIT AND SERVICE OF PROCESS. equitel, as the Surviving Corporation, hereby consents to be sued and served with process in the State of Florida and

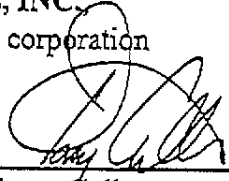
irrevocably appoints the Florida Secretary of State as its agent to accept service of process in any proceeding in the State of Florida to enforce against the Surviving Corporation any obligation of MM or to enforce the rights of a dissenting shareholder of MM.

4.8 GOVERNING LAW. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Delaware and, so far as applicable, the merger provisions of the Florida Business Corporation Act.

4.9 COUNTERPARTS. In order to facilitate the filing and recording of this Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement, having first been approved by the resolutions of the Boards of Directors and security holders of MM and equitel, is hereby executed on behalf of each of such two corporations and attested by their respective officers thereunto duly authorized.

EQUITEL, INC.  
a Delaware corporation

By:   
Name: Anthony Cullen  
Title: President

MM TELECOMMUNICATIONS CORP.,  
a Florida corporation

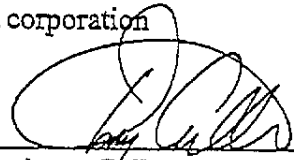
By:   
Name: Anthony Cullen  
Title: President

EXHIBIT AMM TELECOMMUNICATIONS CORP.

Stockholder	Voting Common (\$ .001 par value/share)	Preferred (\$ .001 par value/share)
Alpha Omega Group, Inc.	1,999,100	0
Atlas Partners	2,500	0
Atlas Pearlman Trop & Borkson	2,500	0
Braithwaite, Kathryn	15,100	0
Capital Research, Ltd.	161,290	0
Conway, Cindy	1,000	0
Cowen, Bruce	10,100	0
Delgado, Shirley	1,000	0
Diaco, Samera	1,000	0
Douglas, Leah	1,000	0
Garvey, Pamela	100	0
Garvey, Martin	10,100	0
Greene, Brian	1,000	0
Hauser, Eric	100	0
Huard, Joseph	1,000	0
July Associates Partnership	70,500	0
Kelly, John	100	0
Kelly, James	10,100	0
Kenjo Asset Management, Ltd.	3,500	0
Knapp, David	1,000	0
Lancer Offshore, Inc.	2,198,020	0

Stockholder	Voting Common (\$ .001 par value/share)	Preferred (\$ .001 par value/share)
Lauer, Leon	100	0
Lauer, Michael	10,000	0
Lopez, Jorge	1,000	0
Lugo, Warren	1,000	0
Moody, Jr., Alva	1,000	0
Pangburn, Jean W. and Glen, Joint Tenants	1,000	0
Pezzuto, Toniann	1,000	0
Platt, Melissa	1,000	0
Pretty, David	1,000	0
Ramirez, Barbara	1,000	0
Rowland, Betty	1,000	0
Rucker, Cathy	1,000	0
Sarna, Steve	1,000	0
Sinitch, Martin	1,000	0
Sinitch, Steven	1,000	0
Valentina, Lauren	100	0
Zalecki, Rick	1,000	0
Zuktzer, Beth	1,000	0
<b>TOTAL</b>	<b>4,515,310</b>	<b>0</b>

EXHIBIT B

## EQUITEL, INC.

Stockholder	Voting Common (\$ .001 par value/share)	Preferred (\$ .001 par value/share)
Alpha Omega Group, Inc.	1,999,100	0
Atlas Partners	2,500	0
Atlas Pearlman Trop & Borkson	2,500	0
Braithwaite, Kathryn	15,100	0
Capital Research, Ltd.	161,290	0
Conway, Cindy	1,000	0
Cowen, Bruce	10,100	0
Deigado, Shirley	1,000	0
Diaco, Samera	1,000	0
Douglas, Leah	1,000	0
Garvey, Pamela	100	0
Garvey, Martin	10,100	0
Greene, Brian	1,000	0
Hauser, Eric	100	0
Huard, Joseph	1,000	0
July Associates Partnership	70,500	0
Kelly, John	100	0
Kelly, James	10,100	0
Kenjo Asset Management, Ltd.	3,500	0
Knapp, David	1,000	0
Lancer Offshore, Inc.	2,198,020	0

Stockholder	Voting Common (\$ .001 par value/share)	Preferred (\$ .001 par value/share)
Lauer, Leon	100	0
Lauer, Michael	10,000	0
Lopez, Jorge	1,000	0
Lugo, Warren	1,000	0
Moody, Jr., Alva	1,000	0
Pangburn, Jean W. and Glen, Joint Tenants	1,000	0
Pezzuto, Toniann	1,000	0
Platt, Melissa	1,000	0
Pretty, David	1,000	0
Ramirez, Barbara	1,000	0
Rowland, Betty	1,000	0
Rucker, Cathy	1,000	0
Sarna, Steve	1,000	0
Sinitich, Martin	1,000	0
Sinitich, Steven	1,000	0
Valentina, Lauren	100	0
Zalecki, Rick	1,000	0
Zuktzer, Beth	1,000	0
TOTAL	4,515,310	0