

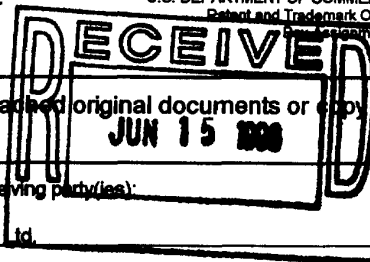
06-26-1998

Form PTO-1584  
(Rev. 1-93)  
OMB No. 0651-0011 (exp. 4/94)  
Tab settings → → →



SHEET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office



100748433

To the Honorable Commissioner of Patents and Trademarks, forward the attached original documents or copy thereof.

MSD 6-15-98

1. Name of conveying party(ies):  
  
Aratek International Inc.

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation - ONTARIO  
 Other \_\_\_\_\_

Additional name(s) of conveying party(ies) attached?     Yes     No

2. Name and address of receiving party(ies):  
Name: Data Kinetics Ltd.  
Internal Address: \_\_\_\_\_  
Street Address: 97 Norman Street  
City: Ottawa, Ontario, Canada    ZIP: K1S3K5

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation- ONTARIO  
 Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative designation is attached:     Yes     No

(Designations must be a separate document from Assignment)  
Additional name(s) & addresses attached?     Yes     No

3. Nature of conveyance

Assignment                               Merger  
 Security Agreement                       Change of Name  
 Other Articles of Amalgamation

Execution Date: January 11, 1993

4. Application number(s) or registration number(s):  
Trademark Application No.(s) \_\_\_\_\_

Additional numbers attached?     Yes     No

B. Trademark Registration No.(s)    1,698,793

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: Sabrina C. Stavish, Esq.  
Internal Address: Sheridan Ross P.C.  
Suite 3500  
Street Address: 1700 Lincoln Street  
City: Denver State: CO ZIP 80203

6. Total number of applications and registrations involved: ..... 1

7. Total fee (37 CFR 3.41): ..... \$ 40.00  
 Enclosed  
 Authorized to be charged to deposit account.

8. Deposit account number:    19-1970  
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.  
*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

Sabrina C. Stavish                      [Signature]                      6/11/98  
Name of person signing                      Signature                      Date

Total number of pages including cover sheet, attachments and document:    29

Mail documents to be recorded with required cover sheet information to:  
  
Commissioner of Patents and Trademarks  
Box Assignments  
Washington, DC 20231

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS AND TRADEMARKS, BOX ASSIGNMENTS, WASHINGTON, DC 20231 ON June 11, 1998

SHERIDAN ROSS P.C.  
BY: Bonnie B. Ludlow

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40.00  
06/25/98  
01 FC-431

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Data Kinetics Ltd. )  
Reg. No.: 1,698,793 )  
Filed: 07/07/92 )  
For: **TABLEBASE & DESIGN** )  
Atty. File No.: 2240DK-1 )  
Assistant Commissioner for )  
Trademarks )  
2900 Crystal Drive )  
Arlington, Virginia 22202-3513 )

APPOINTMENT OF DOMESTIC  
REPRESENTATIVE

CERTIFICATE OF MAILING
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513 ON THIS <u>18</u> DAY OF <u>March</u> , 19 <u>98</u>
SHERIDAN ROSS P.C.
BY: <u>Bonnie B. Ludlow</u>

Dear Sir:

The firm of Sheridan Ross P.C. whose postal address is 1700 Lincoln Street, Suite 3500, Denver, Colorado, 80203, telephone number (303) 863-9700, composed of attorneys David F. Zinger, Craig C. Groseth, Michael L. Tompkins, Todd P. Blakely, Susan P. Willson, Sabrina C. Stavish, Lewis D. Hansen, Joseph A. Kovarik, Robert R. Brunelli, Douglas W. Swartz, Gary J. Connell, Bruce A. Kugler, Wannell M. Crook, Richard L. Hughes, Dana L. Hartje, John F. Thompson, Chester E. Martine, Jr., Tejpal S. Hansra, Don D. Cha, Benjamin B. Lieb and Thomas D. Franklin as its attorneys, is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

DATA KINETICS LTD.

Date: 11/17/98

By: [Signature]

Name: [Signature]

Title: [Signature]

Use Only  
exclusif du ministère  
Ministry of  
Commerce and  
Consumer Affairs  
Ontario  
**CERTIFICATE**  
This is to certify that these  
articles are effective on

Ministère de  
la Consommation  
et du Commerce  
**CERTIFICAT**  
Ceci certifie que les présents  
statuts ontrent en vigueur le

Ontario Corporation Number  
Numero de la compagnie en Ontario

1014098

JANUARY 11 JANVIER, 1993

*W. D. [Signature]*  
Director / Directeur  
Business Corporations Act / Loi de la compagnie

Line Code 18	Line No. 20	Stat. 23	Comp. Type 29	Method Incorp. 30	Share 31
A	0	0	A	3	S
Notice Req'd 32	Jurisdiction 33			Share 57	
N	ONTARIO			A	

**ARTICLES OF AMALGAMATION  
STATUTS DE FUSION**

Form 4  
Business  
Corporations  
Act,  
1982  
Formule  
numero 4  
Loi de 1982  
sur les  
compagnies

1. The name of the amalgamated corporation is: *Dénomination sociale de la compagnie issue de la fusion:*

D.A.T.A. KINETICS LTD.

2. The address of the registered office is: *Adresse du siège social:*

97 Norman Street

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)  
Rue et numero, ou numero de la R.R. et, s'il s'agit d'un edifice à bureaux, numero du bureau

Ottawa, Ontario

(Name of Municipality, or Post Office)  
*Nom de la municipalité ou du bureau de poste*

K1S3K5

(Postal Code)  
*(Code Postal)*

City of Ottawa

(Name of Municipality,  
Geographical Township)  
*(Nom de la municipalité,  
du canton)*

in the  
*dans le/la*

Regional Municipality  
of Ottawa-Carleton

(County, District, Regional  
Municipality)  
*(Comté, district, municipalité,  
régionale)*

3. Number (or minimum and maximum number) of directors is: *Nombre (ou nombres minimal et maximal) d'administrateurs:*

Minimum 1, Maximum 10

4. The director(s) is/are: *Administrateur(s):*

First name, initials and surname <i>Prénom, initiales et nom de famille</i>	Residence address, giving Street & No. or R.R. No., Municipality and Postal Code <i>Adresse personnelle, y compris la rue et le numero, le numero de la R.R. ou le nom de la municipalité et le code postal</i>	Resident Canadian State Yes or No <i>Résident Canadien Oui/Non</i>
William P. Olders	31 Arthur Street, Ottawa, Ontario, K1R 7B8	Yes
Albert W. Jedel	5 Oakview Avenue, Nepean, Ontario, K2G 2Z9	Yes
Douglas MacDonald	R.R. #1, Dunrobin, Ontario, K0A 1T0	Yes

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4300,00

TRADEMARK

5. A) The amalgamation agreement has been duly accepted by the shareholders of each of the amalgamating corporations as required by subsection 175(4) of the Business Corporations Act on the date set out below.  A) Les actionnaires de chaque compagnie qui fusionne ont dûment adopté la convention de fusion conformément au paragraphe 175(4) de la Loi sur les compagnies à la date mentionnée ci-dessous.

Check A or B	Cocher A ou B
-----------------	------------------

- B) The amalgamation has been approved by the directors of each amalgamating corporation by resolution as required by section 176 of the Business Corporations Act on the date set out below. The articles of amalgamation in substance contain the provisions of the articles of incorporation of  B) Les administrateurs de chaque compagnie qui fusionne ont approuvé la fusion par voie de résolution conformément à l'article 176 de la Loi sur les compagnies à la date mentionnée ci-dessous. Les statuts de fusion reprennent essentiellement les dispositions des statuts constitutifs de

and are more particularly set out in these articles. et sont énoncés textuellement aux présents statuts.

Names of amalgamating corporations <i>Dénomination sociale des compagnies qui fusionnent</i>	Ontario Corporation Number <i>Numéro de la compagnie en Ontario</i>	Date of Adoption/Approval <i>Date d'adoption ou d'approbation</i>
Data Kinetics Ltd.	372024	December 30, 1992
Aratek International Inc.	700690	January 11, 1993

6. Restrictions, if any, on business the corporation may carry on or on powers the corporation exercise.

*Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la compagnie.*

None

7. The classes and any maximum number of shares that the corporation is authorized to issue.

*Catégories et nombre maximal, s'il y a lieu, d'actions que la compagnie est autorisée à émettre:*

The Corporation is authorized to issue 1,011,000 Class A special shares, an unlimited number of Class A common shares and an unlimited number of Class B common shares.

(d) The Class A common shares and the Class B common shares shall rank equally as to dividends and all dividends declared in any fiscal year shall be declared and paid in equal amounts per share on all the Class A common shares and all the Class B common shares outstanding without preference or distinction.

2. Liquidation, Dissolution or Winding-Up

In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among shareholders for the purpose of winding-up its affairs:

(a) the holders of the Class A special shares shall be entitled to receive from the assets of the Corporation a sum equivalent to the aggregate Redemption Amount (as hereinafter defined) of all of the Class A special shares held by them respectively before any amount shall be paid or any assets of the Corporation distributed to the holders of any Class A common shares or Class B common shares or shares of any other class ranking junior to the Class A special shares. After payment to the holders of the Class A special shares of the amount so payable to them as above provided they shall not be entitled to share in any further distribution of the assets of the Corporation; and

(b) the holders of the Class A common shares and the Class B common shares shall be entitled to share equally, share for share, in the remaining assets of the Corporation.

3. Redemption

(a) The Corporation may, subject to the requirements of the Act, upon giving notice as hereinafter provided, redeem at any time the whole, or from time to time any part, of the then outstanding Class A special shares on payment of an amount for each share to be redeemed equal to the fair market value as of January , 1993 of one (1) issued and outstanding common share of Aratek International Inc. plus all declared and unpaid non-cumulative cash dividends on the Class A special share, the whole constituting and being herein referred to as the "Redemption Amount"; the fair market value of a common share of Aratek International Inc. as at January //<sup>th</sup>, 1993 shall be deemed to be \$0 10 provided that if:

(i) there shall be issued a notice of assessment or re-assessment pursuant to any taxing statute which assessment or re-assessment is based upon an assumption of fact or a finding by any taxing authority that the fair market value of the said common share is not \$0.10; or

(ii) any taxing authority indicates that it intends to issue such notice of assessment or re-assessment,

then, subject to any right to object to or appeal such assessment or re-assessment to any authority, board or court of competent jurisdiction, the fair market value of the said common share as at January // , 1993 shall be deemed to be and to have always been the value of the said common share as finally agreed to between such taxing authority and the Corporation, or where any such assessment or re-assessment has been objected to or appealed, as finally determined by such authority, board or court. Such value, however determined, shall be substituted for the fair market value of \$0.10 set forth above. The Redemption Amount shall be reduced to the extent of any amount per share that is distributed to holders of Class A special shares by way of a reduction of the stated capital of the Class A special shares.

(b) In the case of redemption of shares under the provisions hereof, the Corporation shall, unless waived in writing by the holders of shares being redeemed, at least 10 days before the date specified for redemption deliver or mail to each person who at the date of mailing is a registered holder of the shares to be redeemed a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be delivered or mailed by letter, postage prepaid, addressed to each such shareholder at his address as it appears on the records of the Corporation or in the event of the address of any such shareholder not so appearing then to the last known address of such shareholder or if delivered, delivered to each such shareholder at such address; provided, however, that accidental failure to give any such notice to one or more of such shareholders shall not affect the validity of such redemption. Such notice shall set out the Redemption Amount and the date on which redemption is to take place and if part only of the shares held by the person to whom it is addressed is to be redeemed the number thereof to be so redeemed; provided, however, that if a part only of the outstanding shares of that class is to be redeemed, the shares so to be redeemed shall be redeemed pro rata (disregarding fractions) unless otherwise agreed in writing by the holders of all of the shares of the class being redeemed. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the shares to be redeemed the Redemption Amount thereof on presentation and surrender at the registered office of the Corporation or any other place designated in such notice of the certificates representing the shares called for redemption. Such payment shall be made by cheque payable at par at any branch of the Corporation's bankers in Canada. If less than all of the shares

represented by any certificate are redeemed the holder shall be entitled to receive a new certificate for that number of shares represented by the original certificate which are not redeemed. From and after the date specified for redemption in any such notice the holders of the shares called for redemption shall cease to be entitled to dividends and shall not be entitled to exercise any of the rights of shareholders in respect thereof unless payment of the Redemption Amount shall not be made upon presentation of certificates in accordance with the foregoing provisions, in which case the rights of shareholders shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem any shares to deposit the Redemption Amount of the shares so called for redemption or of such of the said shares represented by certificates as have not at the date of such deposit been surrendered by the holders thereof in connection with such redemption to a special account in any chartered bank or in any trust company in Canada, named in such notice, to be paid without interest to or to the order of the respective holders of such shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing the same. Upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holders thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest their proportionate part of the total Redemption Amount so deposited against presentation and surrender of the said certificates held by them respectively and any interest on the amount so deposited shall be for the account of the Corporation. If any part of the total Redemption Amount so deposited has not been paid to or to the order of the respective holders of the shares which were called for redemption within two years after the date upon which such deposit was made or the date specified for redemption in the said notice, whichever is the later, such balance remaining in the said special account shall be returned to the Corporation without prejudice to the rights of the holders of the shares being redeemed to claim the Redemption Amount without interest from the Corporation.

4. Retraction

Any holder of Class A special shares shall be entitled to require the Corporation to redeem, subject to the requirements of the Act, at any time or times all or any of the Class A special shares registered in the name of such holder on the books of the Corporation by tendering to the Corporation at the registered office of the Corporation a notice in writing ("Retraction Notice")



specifying (i) that the registered holder desires to have the Class A special shares represented by such certificate or certificates redeemed by the Corporation and (ii) the business day ("Retraction Date") on which the holder desires to have the Corporation redeem such Class A special shares. The Retraction Date shall not be less than 30 days after the day on which the Retraction Notice is given to the Corporation without the consent of the Corporation. A Retraction Notice delivered by any holder of Class A special shares shall be deemed to be a Retraction Notice on behalf of all holders of Class A special shares. If a part only of the outstanding Class A special shares is to be redeemed, the shares so to be redeemed shall be redeemed pro rata (disregarding fractions) unless otherwise agreed in writing by the holders of all the Class A special shares. On or after the date so specified for redemption, the Corporation shall, on the Retraction Date, pay or cause to be paid to or to the order of the registered holders of the shares to be redeemed the Redemption Amount thereof on presentation and surrender at the registered office of the Corporation of the certificates representing the shares called for redemption. Such payment shall be made by a cheque payable at par at any branch of the Corporation's bankers for the time being in Canada. If less than all of the Class A special shares represented by any certificate are redeemed, the holder shall be entitled to receive a new certificate for that number of Class A special shares represented by the original certificate or certificates which are not redeemed. The said Class A special shares shall be redeemed on the Retraction Date and from and after the Retraction Date the holder of such shares shall cease to be entitled to dividends and shall not be entitled to exercise any of the rights of holders of Class A special shares in respect thereof unless payment of the Redemption Amount is not made on the Retraction Date, in which event the rights of the holder of the said Class A special shares shall remain unaffected.

5. Voting Rights

(a) Except as otherwise provided by law, the holders of the Class A special shares as such shall not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation, unless the meeting is called to consider any matter in respect of which the holders of the Class A special shares would be entitled to vote separately as a class or for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all the property of the Corporation other than in the ordinary course of business of the Corporation under subsection 184(3) of the Act, in which case the holders of the Class A special shares shall be entitled to receive notice of and to attend such meeting. The holders of the Class A special shares as such shall not

be entitled either to vote at any meeting of the shareholders of the Corporation or to sign a resolution in writing, except, subject as hereinafter provided, at a meeting called to consider, or a resolution in writing in respect of, any matter in respect of which the holders of the Class A special shares would be entitled to vote separately as a class pursuant to the Act;

(b) Except as otherwise provided by law, the holders of the Class B common shares as such shall not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation, unless the meeting is called to consider any matter in respect of which the holders of the Class B common shares would be entitled to vote separately as a class or for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all the property of the Corporation other than in the ordinary course of business of the Corporation under subsection 184(3) of the Act, in which case the holders of the Class B common shares shall be entitled to receive notice of and to attend such meeting. The holders of the Class B common shares as such shall not be entitled either to vote at any meeting of the shareholders of the Corporation or to sign a resolution in writing, except, subject as hereinafter provided, at a meeting called to consider, or a resolution in writing in respect of, any matter in respect of which the holders of the Class B common shares would be entitled to vote separately as a class pursuant to the Act; and

(c) The holders of the Class A common shares shall be entitled to receive notice of and to attend any meeting of the shareholders of the Corporation and shall be entitled to one vote in respect of each Class A common share held at such meetings, except a meeting of holders of a particular class of shares other than the Class A common shares who are entitled to vote separately as a class at such meeting.

9. The issue, transfer or ownership of shares is/is not restricted and the restrictions (if any) are as follows: *L'émission, le transfert ou la propriété d'actions est/n'est pas restreinte. Les restrictions, s'il y a lieu, sont les suivantes:*

The right to transfer shares of the Amalgamated Corporation shall be restricted in that no shareholder shall be entitled to transfer any share or shares without either:

- (a) the approval of the directors of the Amalgamated Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors; or
- (b) the approval of the holders of at least a majority of the shares of the Amalgamated Corporation entitling the holders thereof to vote in all circumstances for the time being outstanding expressed by a resolution passed at a meeting of the holders of such shares or by an instrument or instruments in writing signed by the holders of a majority of such shares.

10. Other provisions, (if any): *Autres dispositions, s'il y a lieu.*

- 1. (a) The number of shareholders of the Amalgamated Corporation exclusive of persons who are in the employment of the Amalgamated Corporation and exclusive of persons who, having been formerly in the employment of the Amalgamated Corporation, were, while in that employment and have continued after the termination of that employment to be, shareholders of the Amalgamated Corporation, is limited to not more than fifty, two or more persons who are joint registered owners of one or more shares being counted as one shareholder; and
- (b) any invitation to the public to subscribe for securities of the Amalgamated Corporation is prohibited.

2. In addition to, and without limiting such other powers which the Amalgamated Corporation may by law possess, the directors of the Amalgamated Corporation may, without authorization of the shareholders, by authentic deed, in particular but without limitation, for the purpose of securing any bonds, debentures or debenture stock which it is by law entitled to issue, hypothecate, mortgage, pledge, cede or transfer any property, moveable or immovable, present or future which it may own.

continued on Page 5A

11. The statements required by subsection 177(2) of the Business Corporations Act are attached as Schedule "A" *Les déclarations exigées aux termes du paragraphe 177 (2) de la Loi sur les compagnies constituent l'annexe "A".*

12. A copy of the amalgamation agreement or directors resolutions (as the case may be) is/are attached as Schedule "B". *Une copie de la convention de fusion ou les résolutions des administrateurs (selon le cas) constitue(nt) l'annexe "B".*

10. Other provisions (continued):

3. The number of directors of the Amalgamated Corporation within the minimum and maximum numbers of directors provided for in the Articles of the Amalgamated Corporation shall be three and the directors of the Amalgamated Corporation shall be empowered to determine from time to time the number of directors of the Amalgamated Corporation within the minimum and maximum numbers provided for in the Articles of the Amalgamated Corporation, as the same may be amended from time to time.

These articles are signed in duplicate.

Les présents statuts sont signés en double exemplaire.

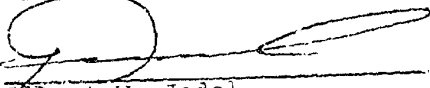
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Names of the amalgamating corporations and signatures and descriptions of office of their proper officers.

Denomination sociale des compagnies qui fusionnent, signature et fonction de leurs dirigeants régulièrement désignés.

Data Kinetics Ltd.

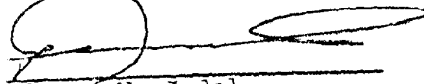
By:



Albert W. Jedel,  
Secretary

Aratek International Inc.

By:



Albert W. Jedel,  
Secretary

TRADEMARK

REEL: 1744 FRAME: 0604

SCHEDULE "A"

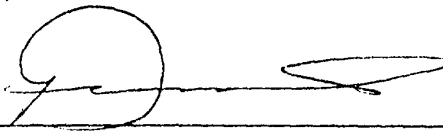
IN THE MATTER OF THE BUSINESS CORPORATIONS ACT

AND IN THE MATTER OF THE PROPOSED AMALGAMATION OF  
DATA KINETICS LTD. AND ARATEK INTERNATIONAL INC.

I, Albert W. Jedel, hereby make the following statement in support of the above-mentioned amalgamation pursuant to subsection 178(2) of the Business Corporations Act (the "Act"):

1. I am a director and the Secretary of Data Kinetics Ltd. ("DKL") and as such have personal knowledge of the following matters;
2. There are reasonable grounds for believing that DKL is and the amalgamated corporation resulting from the amalgamation of DKL and Aratek International Inc. will be able to pay their respective liabilities as they become due and that the realizable value of the said amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
3. There are reasonable grounds for believing that no creditor will be prejudiced by the amalgamation;
4. No creditors have notified DKL that they object to the amalgamation and accordingly clause (c) of subsection 178(2) of the Act has no application; and
5. Since DKL has not received any notices pursuant to clauses (c) of subsection 178(2) of the Act, clause (d) of subsection 178(2) of the Act has no application in the present circumstances.

DATED the 11<sup>th</sup> day of January, 1993.

  
\_\_\_\_\_  
Albert W. Jedel

TRADEMARK

REEL: 1744 FRAME: 0605

SCHEDULE "A"


IN THE MATTER OF THE BUSINESS CORPORATIONS ACT

AND IN THE MATTER OF THE PROPOSED AMALGAMATION OF  
DATA KINETICS LTD. AND ARATEK INTERNATIONAL INC.

I, Albert W. Jedel, hereby make the following statement in support of the above-mentioned amalgamation pursuant to subsection 178(2) of the Business Corporations Act (the "Act"):

1. I am a director and the Secretary of Aratek International Inc. ("Aratek") and as such have personal knowledge of the following matters;
2. There are reasonable grounds for believing that Aratek is and the amalgamated corporation resulting from the amalgamation of Aratek and Data Kinetics Ltd. will be able to pay their respective liabilities as they become due and that the realizable value of the said amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
3. There are reasonable grounds for believing that no creditor will be prejudiced by the amalgamation;
4. No creditors have notified Aratek that they object to the amalgamation and accordingly clause (c) of subsection 178(2) of the Act has no application; and
5. Since Aratek has not received any notices pursuant to clauses (c) of subsection 178(2) of the Act, clause (d) of subsection 178(2) of the Act has no application in the present circumstances.

DATED the *11<sup>th</sup>* day of January, 1993.

  
\_\_\_\_\_  
Albert W. Jedel

Schedule B

THIS AGREEMENT made as of the ~~11~~<sup>12</sup> day of January, 1993.

BETWEEN:

DATA KINETICS LTD., a corporation incorporated under  
the laws of the Province of Ontario

(hereinafter called "DKL")

OF THE FIRST PART

- and -

ARATEK INTERNATIONAL INC., a corporation  
amalgamated under the laws of the Province of Ontario

(hereinafter called "Aratek")

OF THE SECOND PART

WHEREAS the authorized capital of DKL is 10,000 Class A  
shares, 10,000 Class B shares and 250,000 common shares of which 85,591 of  
the common shares are issued and outstanding as fully paid and non-  
assessable;

AND WHEREAS the authorized capital of Aratek is an  
unlimited number of Class A shares, an unlimited number of Class B shares,  
an unlimited number of Class C shares and an unlimited number of  
common shares of which 1,011,000 of the common shares are issued and  
outstanding as fully paid and non-assessable.

AND WHEREAS DKL and Aratek acting under the authority  
contained in the Business Corporations Act (the "Act") propose to  
amalgamate upon the terms and conditions hereafter set out;

NOW THEREFORE THIS AGREEMENT WITNESSETH as  
follows:

1. In this Agreement the term "Amalgamated Corporation" shall  
mean the corporation continuing from the amalgamation of DKL and Aratek.
2. DKL and Aratek hereby agree to amalgamate under the  
provisions of the Act and to continue as one corporation under the terms and  
conditions hereinafter set out.
3. The name of the Amalgamated Corporation shall be:

DATA KINETICS LTD.



4. The place in Ontario where the registered office of the Amalgamated Corporation is to be situated is in the City of Ottawa at 97 Norman Street until changed in accordance with the Act.

5. The Amalgamated Corporation shall be authorized to issue 1,011,000 Class A special shares, an unlimited number of Class A common shares and an unlimited number of Class B common shares.

6. The rights, privileges, restrictions and conditions attaching to the Class A special shares, the Class A common shares and the Class B common shares are as follows (in paragraph 6 of this Agreement the Amalgamated Corporation is referred to as the "Corporation"):

1. Dividends

(a) The holders of the Class A special shares, in priority to the Class A common shares and the Class B common shares and all other shares ranking junior to the Class A special shares, shall be entitled to receive and the Corporation shall pay thereon, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends, non-cumulative cash dividends at the rate of \$0.005 per share, per annum. Cheques of the Corporation payable at par at any branch of the Corporation's bankers in Canada shall be issued in respect of such dividends and payment thereof shall satisfy such dividends. The board of directors shall be entitled from time to time to declare part of the said dividends for any financial year notwithstanding that such dividends for such financial year shall not be declared in full. If within four months after the expiration of any financial year of the Corporation the board of directors in its discretion shall not have declared the said dividends or any part thereof on the Class A special shares for such financial year, then the rights of the holders of the Class A special shares to such dividends or to any undeclared part thereof for such financial year shall be forever extinguished. The holders of the Class A special shares shall not be entitled to any dividends other than or in excess of the dividends hereinbefore provided for;

(b) Except with the consent in writing of the holders of all of the Class A special shares outstanding, no dividend shall at any time be declared and paid on or declared and set apart for payment on the Class A common shares or the Class B common shares or on any other shares of the Corporation ranking junior to the Class A special shares for any financial year unless the non-cumulative cash dividends on the Class A special shares then issued and outstanding in respect of such financial year shall have been declared and paid or set apart for payment at the date of such declaration and payment or setting apart of dividends on the Class A common shares or the Class B common

shares or on any other shares ranking junior to the Class A special shares;

(c) Subject to the prior rights of the holders of the Class A special shares as set forth in sub-clauses (a) and (b) above and not otherwise, the board of directors may declare and cause to be paid dividends to the holders of the Class A common shares and the Class B common from any assets at the time properly applicable to the payment of dividends; and

(d) The Class A common shares and the Class B common shares shall rank equally as to dividends and all dividends declared in any fiscal year shall be declared and paid in equal amounts per share on all the Class A common shares and all the Class B common shares outstanding without preference or distinction.

## 2. Liquidation, Dissolution or Winding-Up

In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among shareholders for the purpose of winding-up its affairs:

(a) the holders of the Class A special shares shall be entitled to receive from the assets of the Corporation a sum equivalent to the aggregate Redemption Amount (as hereinafter defined) of all of the Class A special shares held by them respectively before any amount shall be paid or any assets of the Corporation distributed to the holders of any Class A common shares or Class B common shares or shares of any other class ranking junior to the Class A special shares. After payment to the holders of the Class A special shares of the amount so payable to them as above provided they shall not be entitled to share in any further distribution of the assets of the Corporation; and

(b) the holders of the Class A common shares and the Class B common shares shall be entitled to share equally, share for share, in the remaining assets of the Corporation.

## 3. Redemption

(a) The Corporation may, subject to the requirements of the Act, upon giving notice as hereinafter provided, redeem at any time the whole, or from time to time any part, of the then outstanding Class A special shares on payment of an amount for each share to be redeemed equal to the fair market value as of January //, 1993 of one (1) issued and outstanding common share of Aratek International Inc. plus all declared and unpaid non-cumulative cash dividends on the Class A special share, the whole constituting and being herein referred

to as the "Redemption Amount"; the fair market value of a common share of Aratek International Inc. as at January //, 1993 shall be deemed to be \$0.10 provided that if:

- (i) there shall be issued a notice of assessment or re-assessment pursuant to any taxing statute which assessment or re-assessment is based upon an assumption of fact or a finding by any taxing authority that the fair market value of the said common share is not \$0.10; or
- (ii) any taxing authority indicates that it intends to issue such notice of assessment or re-assessment,

then, subject to any right to object to or appeal such assessment or re-assessment to any authority, board or court of competent jurisdiction, the fair market value of the said common share as at January //, 1993 shall be deemed to be and to have always been the value of the said common share as finally agreed to between such taxing authority and the Corporation, or where any such assessment or re-assessment has been objected to or appealed, as finally determined by such authority, board or court. Such value, however determined, shall be substituted for the fair market value of \$0.10 set forth above. The Redemption Amount shall be reduced to the extent of any amount per share that is distributed to holders of Class A special shares by way of a reduction of the stated capital of the Class A special shares.

(b) In the case of redemption of shares under the provisions hereof, the Corporation shall, unless waived in writing by the holders of shares being redeemed, at least 10 days before the date specified for redemption deliver or mail to each person who at the date of mailing is a registered holder of the shares to be redeemed a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be delivered or mailed by letter, postage prepaid, addressed to each such shareholder at his address as it appears on the records of the Corporation or in the event of the address of any such shareholder not so appearing then to the last known address of such shareholder or if delivered, delivered to each such shareholder at such address; provided, however, that accidental failure to give any such notice to one or more of such shareholders shall not affect the validity of such redemption. Such notice shall set out the Redemption Amount and the date on which redemption is to take place and if part only of the shares held by the person to whom it is addressed is to be redeemed the number thereof to be so redeemed; provided, however, that if a part only of the outstanding shares of that class is to be redeemed, the shares so to be redeemed shall be redeemed pro rata (disregarding fractions) unless otherwise agreed in writing by the holders of all of the shares of the class being redeemed. On or after the date so specified for

redemption, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the shares to be redeemed the Redemption Amount thereof on presentation and surrender at the registered office of the Corporation or any other place designated in such notice of the certificates representing the shares called for redemption. Such payment shall be made by cheque payable at par at any branch of the Corporation's bankers in Canada. If less than all of the shares represented by any certificate are redeemed the holder shall be entitled to receive a new certificate for that number of shares represented by the original certificate which are not redeemed. From and after the date specified for redemption in any such notice the holders of the shares called for redemption shall cease to be entitled to dividends and shall not be entitled to exercise any of the rights of shareholders in respect thereof unless payment of the Redemption Amount shall not be made upon presentation of certificates in accordance with the foregoing provisions, in which case the rights of shareholders shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem any shares to deposit the Redemption Amount of the shares so called for redemption or of such of the said shares represented by certificates as have not at the date of such deposit been surrendered by the holders thereof in connection with such redemption to a special account in any chartered bank or in any trust company in Canada, named in such notice, to be paid without interest to or to the order of the respective holders of such shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing the same. Upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holders thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest their proportionate part of the total Redemption Amount so deposited against presentation and surrender of the said certificates held by them respectively and any interest on the amount so deposited shall be for the account of the Corporation. If any part of the total Redemption Amount so deposited has not been paid to or to the order of the respective holders of the shares which were called for redemption within two years after the date upon which such deposit was made or the date specified for redemption in the said notice, whichever is the later, such balance remaining in the said special account shall be returned to the Corporation without prejudice to the rights of the holders of the shares being redeemed to claim the Redemption Amount without interest from the Corporation.

4. Retraction

Any holder of Class A special shares shall be entitled to require the Corporation to redeem, subject to the requirements of the Act, at any time or times all or any of the Class A special shares registered in the name of such holder on the books of the Corporation by tendering to the Corporation at the registered office of the Corporation a notice in writing ("Retraction Notice") specifying (i) that the registered holder desires to have the Class A special shares represented by such certificate or certificates redeemed by the Corporation and (ii) the business day ("Retraction Date") on which the holder desires to have the Corporation redeem such Class A special shares. The Retraction Date shall not be less than 30 days after the day on which the Retraction Notice is given to the Corporation without the consent of the Corporation. A Retraction Notice delivered by any holder of Class A special shares shall be deemed to be a Retraction Notice on behalf of all holders of Class A special shares. If a part only of the outstanding Class A special shares is to be redeemed, the shares so to be redeemed shall be redeemed pro rata (disregarding fractions) unless otherwise agreed in writing by the holders of all the Class A special shares. On or after the date so specified for redemption, the Corporation shall, on the Retraction Date, pay or cause to be paid to or to the order of the registered holders of the shares to be redeemed the Redemption Amount thereof on presentation and surrender at the registered office of the Corporation of the certificates representing the shares called for redemption. Such payment shall be made by a cheque payable at par at any branch of the Corporation's bankers for the time being in Canada. If less than all of the Class A special shares represented by any certificate are redeemed, the holder shall be entitled to receive a new certificate for that number of Class A special shares represented by the original certificate or certificates which are not redeemed. The said Class A special shares shall be redeemed on the Retraction Date and from and after the Retraction Date the holder of such shares shall cease to be entitled to dividends and shall not be entitled to exercise any of the rights of holders of Class A special shares in respect thereof unless payment of the Redemption Amount is not made on the Retraction Date, in which event the rights of the holder of the said Class A special shares shall remain unaffected.

5. Voting Rights

(a) Except as otherwise provided by law, the holders of the Class A special shares as such shall not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation, unless the meeting is called to consider any matter in respect of which the holders of the Class A special shares would be entitled to vote

separately as a class or for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all the property of the Corporation other than in the ordinary course of business of the Corporation under subsection 184(3) of the Act, in which case the holders of the Class A special shares shall be entitled to receive notice of and to attend such meeting. The holders of the Class A special shares as such shall not be entitled either to vote at any meeting of the shareholders of the Corporation or to sign a resolution in writing, except, subject as hereinafter provided, at a meeting called to consider, or a resolution in writing in respect of, any matter in respect of which the holders of the Class A special shares would be entitled to vote separately as a class pursuant to the Act;

(b) Except as otherwise provided by law, the holders of the Class B common shares as such shall not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation, unless the meeting is called to consider any matter in respect of which the holders of the Class B common shares would be entitled to vote separately as a class or for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all the property of the Corporation other than in the ordinary course of business of the Corporation under subsection 184(3) of the Act, in which case the holders of the Class B common shares shall be entitled to receive notice of and to attend such meeting. The holders of the Class B common shares as such shall not be entitled either to vote at any meeting of the shareholders of the Corporation or to sign a resolution in writing, except, subject as hereinafter provided, at a meeting called to consider, or a resolution in writing in respect of, any matter in respect of which the holders of the Class B common shares would be entitled to vote separately as a class pursuant to the Act; and

(c) The holders of the Class A common shares shall be entitled to receive notice of and to attend any meeting of the shareholders of the Corporation and shall be entitled to one vote in respect of each Class A common share held at such meetings, except a meeting of holders of a particular class of shares other than the Class A common shares who are entitled to vote separately as a class at such meeting.

7. The right to transfer shares of the Amalgamated Corporation shall be restricted in that no shareholder shall be entitled to transfer any share or shares without either:

(a) the approval of the directors of the Amalgamated Corporation expressed by a resolution passed at a meeting of the board of

directors or by an instrument or instruments in writing signed by a majority of the directors; or

- (b) the approval of the holders of at least a majority of the shares of the Amalgamated Corporation entitling the holders thereof to vote in all circumstances for the time being outstanding expressed by a resolution passed at a meeting of the holders of such shares or by an instrument or instruments in writing signed by the holders of a majority of such shares.

8. The minimum number of directors of the Amalgamated Corporation shall be one and the maximum number of directors of the Amalgamated Corporation shall be ten. The name, address and resident Canadian status of the first directors of the Amalgamated Corporation are as follows:

<u>Name</u>	<u>Residence Address</u>	<u>Resident Canadian</u>
William P. Olders	31 Arthur Street, Ottawa, On K1R 7B8	Yes
Albert W. Jedel	5 Oakview Ave., Nepean, On K2G 2Z9	Yes
Douglas MacDonald	R.R. 1, Dunrobin, On K0A 1T0	Yes

The said first directors shall hold office until the first meeting of the shareholders of the Amalgamated Corporation or until their successors are elected or appointed in accordance with the Act. No such first director shall be permitted to resign unless at the time the resignation is to become effective a successor is elected or appointed.

9. The number of directors of the Amalgamated Corporation within the minimum and maximum numbers of directors provided for in the Articles of the Amalgamated Corporation shall be three and the directors of the Amalgamated Corporation shall be empowered to determine from time to time the number of directors of the Amalgamated Corporation within the minimum and maximum numbers provided for in the Articles of the Amalgamated Corporation, as the same may be amended from time to time.

10. There shall be no restrictions on the business that the Amalgamated Corporation may carry on or on the powers that the Amalgamated Corporation may exercise.

11. The following other provisions shall apply to the Amalgamated Corporation:

1. (a) The number of shareholders of the Amalgamated Corporation exclusive of persons who are in the employment of the Amalgamated Corporation and exclusive of persons who, having been formerly in the employment of the Amalgamated Corporation, were, while in that employment and have continued after the termination of that employment to be, shareholders of the Amalgamated Corporation, is limited to not more than fifty, two or more persons who are joint registered owners of one or more shares being counted as one shareholder; and
- (b) any invitation to the public to subscribe for securities of the Amalgamated Corporation is prohibited.
2. In addition to, and without limiting such other powers which the Amalgamated Corporation may by law possess, the directors of the Amalgamated Corporation may, without authorization of the shareholders, by authentic deed, in particular but without limitation, for the purpose of securing any bonds, debentures or debenture stock which it is by law entitled to issue, hypothecate, mortgage, pledge, cede or transfer any property, moveable or immovable, present or future which it may own.

12. The issued shares of DKL and Aratek shall be converted into issued shares of the Amalgamated Corporation as follows:

- (a) the 85,591 issued common shares of DKL shall be converted into 85,591 Class A common shares and 85,591,000 Class B common shares of the Amalgamated Corporation on the basis of 1 Class A common share and 1,000 Class B common shares of the Amalgamated Corporation for each common share of DKL; and
- (b) the 1,011,000 issued common shares of Aratek shall be converted, share for share, into 1,011,000 Class A special shares of the Amalgamated Corporation.

13. The stated capital accounts of the Amalgamated Corporation immediately after the amalgamation becomes effective shall be equal to the following amounts determined immediately before the amalgamation becomes effective:

- (a) in the case of the account maintained for Class A special shares of the Amalgamated Corporation, the sum of \$101,100;



- (b) in case of the account maintained for Class A common shares of the Amalgamated Corporation, the sum of \$85,591; and
- (c) in case of the capital account maintained for Class B common shares of the Amalgamated Corporation, the aggregate of the respective stated capital accounts for the issued and outstanding common shares of DKL and Aratek less the sum of \$186,691.

14. After the amalgamation of DKL and Aratek, the shareholders of DKL and Aratek, when requested by the Amalgamated Corporation to do so, shall surrender certificates representing the shares of DKL and Aratek held by them for cancellation and shall be entitled to receive, without charge, certificates for shares of the Amalgamated Corporation on the basis aforesaid.

15. The by-laws of the Amalgamated Corporation are, to the extent not inconsistent with this Agreement, to be those of DKL until repealed, amended, altered or added to in accordance with the Act, and copies of such by-laws may be examined at 97 Norman Street, Ottawa, Ontario.

16. The officers of the Amalgamated Corporation shall, until changed by the directors, be as follows:

<u>Name</u>	<u>Office</u>
William Olders	President
Albert W. Jedel	Secretary
Douglas MacDonald	Chairman

17. Each of the parties shall contribute to the Amalgamated Corporation all of its assets, subject to its liabilities.

18. Upon and subject to the shareholders of DKL and Aratek respectively approving the amalgamation of DKL and Aratek and adopting this Agreement and subject to paragraph 19 hereof, articles of amalgamation in prescribed form shall be sent to the Director under the Act together with the documents required by Section 178 of the Act.

19. At any time before the endorsement of a certificate of amalgamation effecting the amalgamation of DKL and Aratek, this

Agreement may be terminated by the directors of either DKL or Aratek, notwithstanding the approval of this Agreement by the shareholders of DKL and Aratek.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto.

DATA KINETICS LTD.

By: "Albert W. Jedel"  
Albert W. Jedel, Secretary

ARATEK INTERNATIONAL INC.

By: "Albert W. Jedel"  
Albert W. Jedel, Secretary