

08-02-1999

RECORDATION FORM COVER SHEET

Docket No.:

TRADEMARKS ONLY

0204.032



Tab:

To: 101085779

and Trademarks: Please record the attached original documents or copy thereof.

*MLD
5-6-99*

1. Name of conveying party(ies):

Automated Swimpoos, Inc.
WaveTek International, Inc.

2. Name and address of receiving party(ies):

Name: WaveTek Products, Inc.

Internal Address:

Street Address: 1248 West Fourth Street

City: Mansfield State: OH ZIP: 44901

- Individual(s)
- General Partnership
- Corporation-State Ohio
- Other

- Association
- Limited Partnership

Additional names(s) of conveying party(ies) Yes No

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Ohio
- Other

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: February 28, 1985

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)



05-06-1999

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

Additional numbers

B. Trademark Registration No.(s)

1,108,186

1,108,254

Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Robert E. Heslin, Esq.

Internal Address: Heslin & Rothenberg, P.C.

Street Address: 5 Columbia Circle

City: Albany State: NY ZIP: 12203

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

2

7. Total fee (37 CFR 3.41):.....\$

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

08-1935

05/25/1999 DNGUYEN 00000088 081935 1108186

DO NOT USE THIS SPACE

01 FC:481 40.00 CH
02 FC:482 25.00 CH

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.

Robert E. Heslin

Name of Person Signing

Robert E. Heslin

Signature

5/3/99

Date

Total number of pages including cover sheet, attachments, and

TRADEMARK

CERTIFICATE OF MERGER

The undersigned, Donald E. Steele, President, and Brad S. Bryan, Secretary of WaveTek International Exports, Inc., and Donald E. Steele, President and Brad S. Bryan, Secretary of Automated Swimpools, Inc. International, and Donald E. Steele, President, and Brad S. Bryan, Secretary of WaveTek Products, Inc., do hereby certify that the attached is a signed Agreement of Merger adopted by each of said corporations.

The undersigned, President and Secretary of the corporations which executed the attached Agreement of Merger, hereby certify that, at meetings of the of the directors of each of said corporations, duly called for such purpose, notice of which was given to all directors of each of said corporations, whether or not entitled to vote, accompanied by a copy of summary of the agreement, and which meeting was held on the 25th day of September, 1985, at which meeting a quorum of such directors was present in person, said Agreement of Merger was unanimously adopted.

The undersigned further certify that at the meeting of the Board of Directors of each of said corporations held on September 25, 1985, the following resolution was unanimously adopted:

RESOLVED, that the Agreement of Merger attached to this resolution be and the same is hereby approved and adopted, and that the officers of the corporation do hereby be authorized and directed to execute, sign and record such Agreement of Merger where necessary or appropriate.

IN WITNESS WHEREOF, the undersigned have signed this

Certificate this 25th day of September, 1985.

AUTOMATED SWIMPOOLS, INC. INTERNATIONAL

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

WAVETEK INTERNATIONAL EXPORTS, INC.

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

WAVETEK PRODUCTS, INC.

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

AGREEMENT OF MERGER

This is an Agreement of Merger made this 25th day of September, 1985, by and between AUTOMATED SWIMPOOLS, INC. INTERNATIONAL, an Delaware corporation whose principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, (hereinafter called "ASI"), WAVETEK INTERNATIONAL EXPORTS, INC., an Ohio corporation, whose principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, (hereinafter called "WIE"), and WAVETEK PRODUCTS, INC., an Ohio corporation, whose principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, (hereinafter called "WaveTek"), said corporations being together hereinafter sometimes called the "constituent corporations."

1. The Articles of Incorporation of ASI were filed in the office of the Secretary of State of Delaware on October 5, 1979, and recorded on Record B131 at Page 951 of the Records of Incorporation in said office. ASI is authorized to issue 100 common shares without par value of which 100 shares are now outstanding, all of which are owned by WaveTek.

2. The Articles of Incorporation of WIE were filed in the office of the Secretary of State of Ohio on December 22, 1981, and recorded on Roll F0011 at Frame 1252 of the Records of Incorporation and Miscellaneous Filings in said office. WIE is authorized to issue 750 common shares without par value of which 100 shares are now outstanding, all of which are owned by WaveTek.

3. The Articles of Incorporation of WaveTek were filed in the office of the Secretary of State of Ohio on December 22, 1972, and recorded on Roll B846 at Frame 1514 of Records of Incorporation and Miscellaneous Filings in said office and a subsequent Certificate of Merger was filed on June 17, 1985, and recorded on Role F0674 at Frame 1062 of Records of Incorporation and Miscellaneous Filings in said office). WaveTek is authorized to issue 5,803,000 common shares without par value of which 100 shares are now outstanding. WaveTek owns 100% of the stock of ASI and WIE.

4. The respective Boards of Directors of the constituent corporations deem it advisable that ASI and WIE be merged into WAVETEK under the General Corporation Law of Ohio, and the respective Shareholders and Boards of Directors at meetings duly called and held have approved this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and promises set forth below, the constituent corporations do hereby agree that ASI and WIE shall be merged with and into WAVETEK (hereafter sometimes called the "Surviving Corporation"); and that the terms and conditions of the merger, the mode of carrying it into effect, and the manner and basis of converting the shares of ASI and WIE into shares of the Surviving Corporation are and shall be as follows:

FIRST: The name of the Surviving Corporation shall be WaveTek Products, Inc.

SECOND: The place in the State of Ohio where the principal office of the Surviving Corporation is to be located is Mansfield, Richland County, Ohio.

THIRD: The purpose for which the Surviving Corporation is formed is to engage in any lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.98, inclusive, of the Ohio Revised Code.

FOURTH: The authorized number of shares of the Surviving Corporation is 1,000, all of which shall be common shares without par value.

FIFTH: At the effective date of the merger the amount of stated capital of the Surviving Corporation shall be One Thousand Dollars (\$1,000.00).

SIXTH: The first Directors of the Surviving Corporation shall be Lorin B. Ellison, Theodore M. Garver and Donald E. Steele. The terms of office of the first Directors shall be until their respective successors have been elected and qualified in accordance with the regulations of the Surviving Corporation.

SEVENTH: A director or officer of the corporation shall not be disqualified by his office from dealing or contracting with the corporation as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the corporation be void or voidable or in any way affected or invalidated by reason of the fact that any director or officer, or any firm of which such director or

officer is a member, or any corporation of which such director or officer is a shareholder, director or officer, is in any way interested in such transaction, contract or act, provided the fact that such director, officer, firm or corporation is so interested shall be disclosed or shall be known to the Board of Directors or such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract, transaction or act shall be taken, or shall be known to the Board of Directors or such members thereof as take action by unanimous written consent upon any such contract, transaction or act; nor shall any such director or officer be accountable or responsible to the corporation for or in respect of any such transaction, contract or act of the corporation, or for any gains or profits realized by him by reason of the fact that he or any firm of which he is a member, or any corporation of which he is a shareholder, officer or director, is interested in such transaction, contract or act, and any such director or officer, if such officer is a director, may be counted in determining the existence of a quorum at any meeting of the Board of Directors of the corporation which shall authorize or take action in respect to any such contract, transaction or act, and may vote thereat to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if he, or any firm of which he is a member, or any corporation of which he is a shareholder, officer or director, were not

interested in such transaction, contract or act. The foregoing shall in no way relieve the Directors and officers from exercising the utmost good faith in all such transactions.

EIGHTH: The present Regulations of WaveTek Products, Inc. one of the constituent corporations, shall be the Regulations of the Surviving Corporation until changed or repealed according to the provisions thereof.

NINTH: Theodore M. Garver, whose address is 735 Citizens Federal Tower, in the City of Cleveland (44115), County of Cuyahoga, Ohio, a natural person and resident of Ohio, is hereby appointed as the statutory agent of the WaveTek Products, Inc. on whom any process, notice of demand against said WaveTek Products, Inc., or either of the constituent corporations may be served.

TENTH: The mode of carrying into effect the merger is that the shares of ASI and of WIE, all of which are owned 100% by WaveTek, shall be cancelled.

ELEVENTH: The amount of earned surplus of the Surviving Corporation shall be the combined total of the earned surplus of the constituent corporations as of the time the merger becomes effective.

TWELFTH: This Agreement may be signed in any number of duplicate copies, and all signed duplicate copies shall be deemed to constitute an original instrument.

IN WITNESS WHEREOF, the constituent corporations have caused this Agreement to be signed in their respective corporate names by their respective Presidents and Secretaries, thereunto duly authorized by their respective Boards of Directors.

AUTOMATED SWIMPOOLS INTERNATIONAL, INC.

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

WAVETEK INTERNATIONAL EXPORTS, INC.

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

WAVETEK PRODUCTS, INC.

By *D. E. Steele*
Donald E. Steele, President

And *B. S. Bryan*
Brad S. Bryan, Secretary

whole or in such portions as from time to time the Board of Directors may determine, at a price per share offer made pro rata to all holders of the \$2,000 10% Cumulative Convertible Preferred Stock.

(e) Notice of Redemption. Written notice of any redemption of \$2,000 10% Cumulative Convertible Preferred Stock shall be given by mail to each holder of record of shares thereof to be redeemed, at such holder's address as shown by the records of the corporation, not more than 60 nor less than 30 days prior to the date on which such redemption is to be made. Such notice shall specify (i) the Redemption Date, (ii) the Liquidation Value, (iii) the place of redemption, (iv) the aggregate number of shares to be redeemed, and (v) the number of shares of such holder to be redeemed.

(f) Redemption Date. The "Redemption Date" as to any share means the date specified in the notice of any redemption.

5. Rights Upon Liquidation. In the event of any liquidation, dissolution or winding up of the corporation, the holders of the \$2,000 10% Cumulative Convertible Preferred Stock shall be entitled to be paid Two Thousand Dollars (\$2,000.00) per share plus all dividends accrued and unpaid to the date of the liquidation, dissolution or winding up of the corporation out of the assets of the corporation, before any amount shall be paid out of such assets to the holders of the shares junior to the \$2,000 10% Cumulative Convertible Preferred Stock, and the holders of the \$2,000 10% Cumulative Convertible Preferred Stock shall not be entitled to any other or further distribution of assets. If, upon any dissolution, liquidation or winding up of the affairs of the corporation, the net assets available for distribution shall be insufficient to pay the holders of all outstanding shares of \$2,000 10% Cumulative Convertible Preferred Stock the amounts to which they respectively shall be entitled, the holders of the \$2,000 10% Cumulative Convertible Preferred Stock then outstanding shall share ratably in any such distribution of assets. For purposes of this subparagraph 4, the voluntary sale, lease, exchange or transfer of all or substantially all of the assets of the corporation to, or the consolidation or merger of the corporation with or into, any other corporation or corporations shall not be deemed a liquidation, dissolution or winding up of the corporation.

FIFTH: No holders of any class of shares of the Corporation shall have any preemptive right to purchase or have offered to them for purchase any shares or other securities of the Corporation.

SIXTH : The Corporation may from time to time, pursuant to authorization by the Board of Directors and without action by the shareholders, purchase or otherwise acquire shares of the Corporation of any class or classes in such manner, upon such terms and in such amounts as the Board of Directors shall determine; subject, however, to such limitation or restriction, if any, as is contained in the express terms of any class of shares of the Corporation outstanding at the time of the purchase or acquisition in question.

SEVENTH: Notwithstanding any provision of the Ohio Revised Code now or hereafter in force requiring for any purpose the vote, consent, waiver or release of the holders of shares entitling them to exercise two-thirds, or any other proportion, of the voting power of the Corporation or of any class or classes of shares thereof, such action, unless otherwise expressly required by statute or by these Articles, may be taken by the vote, consent, waiver or release of the holders of shares entitling them to exercise a majority of the voting power of the Corporation or of such class or classes.

EIGHTH: Any and every statute of the State of Ohio hereafter enacted, whereby the rights, powers or privileges of corporations or of the shareholders of corporations organized under

the laws of the State of Ohio are increased or diminished or in any way affected, or whereby effect is given to the action taken by any number, less than all, of the shareholders of any such corporation, shall apply to the Corporation and shall be binding not only upon the Corporation but upon every shareholder of the Corporation to the same extent as if such statute had been in force at the date of filing these Amended Articles of Incorporation of the Corporation in the Office of the Secretary of State of Ohio.

4. At the effective date of the merger the amount of stated capital of the Surviving Corporation shall be One Thousand Dollars (\$1,000.00).

5. The first Directors of the Surviving Corporation shall be Lorin B. Ellison, Theodore M. Garver, Donald E. Steele and John Naylor. The terms of office of the first Directors shall be until their respective successors have been elected and qualified in accordance with the regulations of the Surviving Corporation.

6. A director or officer of the corporation shall not be disqualified by his office from dealing or contracting with the corporation as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the corporation be void or voidable or in any way affected or invalidated by reason of the fact that any director or officer, or any firm of which such director or officer is a member, or any corporation of which such director or officer is a shareholder, director or officer, is in any way interested in such transaction, contract or act, provided the fact that such director, officer, firm or corporation is so interested

shall be disclosed or shall be known to the Board of Directors or such members thereof as take action upon any such contract, transaction or act shall be taken, or shall be known to the Board of Directors or such members thereof as take action by unanimous written consent upon any such contract, transaction or act; nor shall any such director or officer be accountable or responsible to the corporation for or in respect of any such transaction, contract or act of the corporation, or for any gains or profits realized by him by reason of the fact that he or any firm of which he is a member, or any corporation of which he is shareholder, officer or director, is interested in such transaction, contract or act, and any such director or officer, if such officer is a director, may be counted in determining the existence of a quorum at any meeting of the Board of Directors of the corporation which shall authorize or take action in respect to any such contract, transaction or act, and may vote thereat to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if he, or any firm of which he is a member, or any corporation of which he is a shareholder, officer or director, were not interested in such transaction, contract or act. The foregoing shall in no way relieve the Directors and officers from exercising the utmost good faith in all such transactions.

7. The present Regulations of WaveTek, Inc., one of the constituent corporations, shall be the Regulations of the Surviving Corporation until changed or repealed according to the provisions thereof.

8. Theodore M. Garver, whose address is 735 Citizens Federal Tower, in the City of Cleveland, County of Cuyahoga, Ohio, a natural person and resident of Ohio, is hereby appointed as the statutory agent of WaveTek, Inc. on whom any process, notice of demand against said WaveTek, Inc., or either of the constituent corporations may be served.

9. The mode of carrying into effect the merger is that the \$2,000 10% Cumulative Convertible Preferred Stock of WaveTek shall remain outstanding without change; the Common Stock of WaveTek shall remain outstanding without change; the Common Stock of Products owned By WaveTek shall be cancelled and each share of the remaining Common Stock of Products shall be automatically converted into seventy-five eightieths (75/80's) of a share of Wavetek, without further actions, so that the existing certificate for twenty (20) shares of Common Stock of Products shall represent 18.75 shares of Common Stock of WaveTek.

10. The amount of earned surplus of the Surviving Corporation shall be the combined total of the earned surplus of the constituent corporations as of the time the merger becomes effective.

11. This Agreement may be signed in any number of duplicate copies, and all signed duplicate copies shall be deemed to constitute an original instrument.

IN WITNESS WHEREOF, the constituent corporations have caused this Agreement to be signed in their respective corporate names by _____

their respective Presidents and Secretaries, thereunto duly authorized by their respective Boards of Directors.

WAVETEK PRODUCTS, INC.

By 
Donald E. Steele, President

And 
Brad S. Bryan, Secretary

WAVETEK, INC.

By 
Donald E. Steele, President

And 
Brad S. Bryan, Secretary

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CERTIFICATE OF MERGER

The undersigned, Donald E. Steele, President, and Brad S. Bryan, Secretary of WaveTek International, Inc., and Donald E. Steele, President and Brad S. Bryan, Secretary of Automated Swimpools, Inc., do hereby certify that the attached is a signed Agreement of Merger adopted by each of said corporations.

The undersigned, President and Secretary of the corporations which executed the attached Agreement of Merger, hereby certify that, at meetings of the shareholders and of the directors of said corporation, duly called for such purpose, notice of which was given to all shareholders and directors of said corporation, whether or not entitled to vote, accompanied by a copy of summary of the agreement, and which meeting was held on the 22nd day of March, 1985, at which meeting a quorum of such shareholders was present in person or by proxy, said Agreement of Merger was adopted by the affirmative vote of the holders of shares of said corporation entitling them to exercise two-thirds of the voting power of said corporation.

IN WITNESS WHEREOF, the undersigned have signed this Certificate this 24th day of March, 1985.

AUTOMATED SWIMPOOLS, INC.

By *Donald E. Steele*
Donald E. Steele, President

And *Brad S. Bryan*
Brad S. Bryan, Secretary

WAVETEK INTERNATIONAL, INC.

By *Donald E. Steele*
Donald E. Steele, President

And *Brad S. Bryan*
Brad S. Bryan, Secretary

1985
AGREEMENT OF MERGER

This is an Agreement of Merger made this 28th day of February, 1985, by and between AUTOMATED SWIMPOOLS, INC., an Ohio corporation whose principal office is at Ashland, Ashland County, Ohio, (hereinafter called "ASI"), and WAVETEK INTERNATIONAL, INC., an Ohio corporation, whose principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, hereinafter called "WaveTek"), said corporations being together hereinafter sometimes called the "constituent corporations."

1. The Articles of Incorporation of ASI were filed in the office of the Secretary of State of Ohio on December 22, 1972, and recorded on Roll B846, at Frame 1514 of the Records of Incorporation and Miscellaneous Filings in said office. ASI is authorized to issue 500 common shares without par value of which 100 shares are now outstanding.

2. The Articles of Incorporation of WaveTek were filed in the office of the Secretary of State of Ohio on December 3, 1980, and recorded on Roll E839 at Frame 1728 of Records of Incorporation and Miscellaneous Filings in said office. WaveTek is authorized to issue 500 common shares without par value of which 100 shares are now outstanding.

3. The respective Boards of Directors of the constituent corporations deem it advisable that WaveTek be merged into ASI under the General Corporation Law of Ohio, and the respective Boards of

Witness my hand and seal this 28th day of February 1985

Directors at meetings duly called and held have approved this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and promises set forth below, the undersigned corporations do hereby agree that WaveTek shall be merged with and into ASI (hereafter sometimes called the "Surviving Corporation"); and that the terms and conditions of the merger, the mode of carrying it into effect, and the manner and basis of converting the shares of WaveTek into shares of the Surviving Corporation are and shall be as follows:

FIRST: The name of the Surviving Corporation shall be WaveTek Products, Inc.

SECOND: The place in the State of Ohio where the principal office of the Surviving Corporation is to be located is Mansfield, Richland County, Ohio.

THIRD: The purpose for which the Surviving Corporation is formed is to engage in any lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.98, inclusive, of the Ohio Revised Code.

FOURTH: The authorized number of shares of the Surviving Corporation is 1,000, all of which shall be common shares without par value.

FIFTH: At the effective date of the merger the amount of stated capital of the Surviving Corporation shall be One Thousand Dollars (\$1,000.00).

SIXTH: The first Directors of the Surviving Corporation shall be Lorin B. Ellison, Theodore M. Garver and Donald E. Steele.

The terms of office of the first Directors shall be until their respective successors have been elected and qualified in accordance with the regulations of the said company.

SEVENTH: A director or officer of the corporation shall not be disqualified by his office from dealing or contracting with the corporation as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the corporation be void or voidable or in any way affected or invalidated by reason of the fact that any director or officer, or any firm of which such director or officer is a member, or any corporation of which such director or officer is a shareholder, director or officer, is in any way interested in such transaction, contract or act, provided the fact that such director, officer, firm or corporation is so interested shall be disclosed or shall be known to the Board of Directors or such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract, transaction or act shall be taken, or shall be known to the Board of Directors or such members thereof as take action by unanimous written consent upon any such contract, transaction or act; nor shall any such director or officer be accountable or responsible to the corporation for or in respect of any such transaction, contract or act of the corporation, or for any gains or profits realized by him by reason of the fact that he or any firm of which he is a member, or any corporation of which he is a shareholder, officer or director, is interested in such transaction, contract or act, and any such director or officer, if such officer is a director, may be counted in determining the

existence of a quorum at any meeting of the Board of Directors of the corporation which shall authorize or take action in respect to any such contract, transaction or act, and may vote thereat to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if he, or any firm of which he is a member, or any corporation of which he is a shareholder, officer or director, were not interested in such transaction, contract or act. The foregoing shall in no way relieve the Directors and officers from exercising the utmost good faith in all such transactions.

EIGHTH: The present Regulations of Automated Swimpools, Inc., one of the constituent corporations, shall be the Regulations of the Surviving Corporation until changed or repealed according to the provisions thereof.

NINTH: Theodore M. Garver, whose address is 735 Citizens Federal Tower, in the City of Cleveland, County of Cuyahoga, Ohio, a natural person and resident of Ohio, is hereby appointed as the statutory agent of the WaveTek Products, Inc. on whom any process, notice of demand against said WaveTek Products, Inc., or either of the constituent corporations may be served.

TENTH: The mode of carrying into effect the merger and the manner and basis of converting the shares of WaveTek into shares of ASI shall be as follows:

All present shareholders of WaveTek shall retain the share certificates now held by them, which certificates shall represent a like number of shares of the Surviving Corporation.

ELEVENTH: The amount of earned surplus of the Surviving Corporation shall be the combined total of the earned surplus of the constituent corporations as of the time the merger becomes effective.

TWELFTH: This Agreement may be signed in any number of duplicate copies, and all signed duplicate copies shall be deemed to constitute an original instrument.

IN WITNESS WHEREOF, the constituent corporations have caused this Agreement to be signed in their respective corporate names by their respective Presidents and Secretaries, thereunto duly authorized by their respective Boards of Directors and Shareholders.

AUTOMATED SWIMPOOLS, INC.

By *Donald E. Steele*
Donald E. Steele, President

And *Brad S. Bryan*
Brad S. Bryan, Secretary

WAVETEK INTERNATIONAL, INC.

By *Donald E. Steele*
Donald E. Steele, President

And *Brad S. Bryan*
Brad S. Bryan, Secretary

APPROVED
[Signature]
[Signature]
[Signature]

CERTIFICATE OF MERGER

The undersigned, Donald E. Steele, President, and Brad S. Bryan, Secretary of WaveTek Products, Inc., and Donald E. Steele, President and Brad S. Bryan, Secretary of WaveTek, Inc., do hereby certify that the attached is a signed Agreement of Merger adopted by each of said corporations.

The undersigned, President and Secretary of the corporations which executed the attached Agreement of Merger, further certify that a meeting of the Directors of each of the corporations was duly called and held on the 4th day of October, 1985, at which meeting the Directors unanimously approved and adopted the Merger Agreement attached hereto.

The undersigned, President and Secretary of the corporations which executed the attached Agreement of Merger, hereby certify that, at meetings of the Shareholders of each of said corporations, duly called for such purpose, notice of which was given to all Shareholders of each of said corporations, whether or not entitled to vote, and which meeting was held on the 4th day of October, 1985, at which meeting a quorum of such Shareholders was present in person, said Agreement of Merger was unanimously adopted.

The undersigned further certify that at a meeting of the Shareholders of each of said corporations held on October 17, 1985, the following resolution was unanimously adopted:

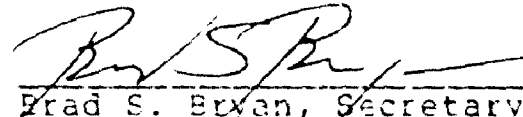
RESOLVED, that the Agreement of Merger attached to this resolution be and the same is hereby approved and adopted, and that the officers of [redacted] directed to execute, file and record said Agreement of Merger where necessary or appropriate.

IN WITNESS WHEREOF, the undersigned have signed this

Certificate of Merger as of the 4th day of October, 1985.

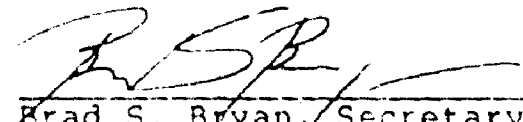
WAVETEK PRODUCTS, INC.

By 
Donald E. Steele, President

And 
Brad S. Bryan, Secretary

WAVETEK, INC.

By 
Donald E. Steele, President

And 
Brad S. Bryan, Secretary

AGREEMENT OF MERGER

This is an Agreement of Merger made this 4th day of October, 1985, by and between WAVETEK PRODUCTS, INC., an Ohio corporation whose principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, (hereinafter called "Products"), and WAVETEK, INC., an Ohio corporation whose ^{new} principal office is at 1248 West Fourth Street, Mansfield, Ohio 44901, (hereinafter called "WaveTek"), said corporations being together hereinafter sometimes called the "constituent corporations."

1. The Articles of Incorporation of WaveTek were filed in the office of the Secretary of State of Ohio on August 15, 1984, and recorded on Roll 0513 at Frame 0801 of the Records of Incorporation and Miscellaneous Filings in said office; said Articles of Incorporation were amended on February 6, 1985, and recorded on Roll FC608 at Frame 0056 of the Records of Incorporation and Miscellaneous Filings and further amended on June 17, 1985, and recorded on Roll FC674 at Frame 1052 of the Records of Incorporation and Miscellaneous Filings in said office. WaveTek is authorized to issue 500 Common Shares without par value, of which 75 shares are now outstanding, and 150 shares of \$2,000 10% Cumulative Preferred Stock, 100 shares of which are now outstanding.

2. The Articles of Incorporation of Products were filed in the office of the Secretary of State of Ohio on December 22, 1972, and recorded on Roll B846 at Frame 1514 of Records of Incorporation and

Miscellaneous Filings in said office. Products is authorized to issue 1,000 Common Shares without par value, of which 100 shares are now outstanding, 80% of which are owned by WaveTek.

3. The respective Boards of Directors of the constituent corporations deem it advisable that Products be merged into WaveTek under the General Corporation Law of Ohio, and the respective Shareholders and Boards of Directors at meetings duly called and held have approved this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and promises set forth below, the constituent corporations do hereby agree that Products shall be merged with and into WaveTek (hereafter sometimes called the "Surviving Corporation"); and that the terms and conditions of the merger, the mode of carrying it into effect, and the manner and basis of converting the shares of Products into shares of the Surviving Corporation are, and the Articles of Incorporation be amended in their entirety to read as follows, and shall supercede the existing Articles of Incorporation:

FIRST: The name of the Surviving Corporation shall be WaveTek, Inc.

SECOND: The place in the State of Ohio where the principal office of the Surviving Corporation is to be located is Mansfield, Richland County, Ohio.

THIRD: The purpose for which the Surviving Corporation is formed is to engage in any lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.99, inclusive, of the Ohio Revised Code.

FOURTH:

which the corporation is authorized to issue is One Thousand Six Hundred Fifty (1,650) shares consisting of (i) One Thousand Five Hundred (1,500) shares of Common Stock, without par value, and (ii) One Hundred Fifty (150) shares of Preferred Stock, without par value.

(B) The Preferred Stock shall have the designation and the powers, preferences, and rights, and the qualifications, limitations, or restrictions described below:

1. Number of Shares; Designation. The One Hundred Fifty (150) shares of Preferred Stock shall be hereby constituted as a series of Preferred Stock designated as "\$2,000 10% Cumulative Convertible Preferred Stock," having a face value of Two Thousand Dollars (\$2,000.00) per share.

2. Dividends. The holders of the \$2,000 10% Cumulative Convertible Preferred Stock shall be entitled to receive, and the corporation shall be obligated to pay, dividends equal to Two Hundred Dollars (\$200.00) per share annually on the first business day of each year commencing during calendar 1986; provided, however, that the initial dividend, payable in calendar 1986, shall be payable April 15, 1986. Such dividends shall accrue when due to be paid, shall be cumulative and shall be given in preference to and in priority over dividends paid on the Common Stock of the corporation and on all other shares junior to the \$2,000 10% Cumulative Convertible Preferred Stock.

3. Conversion.

(a) Subject to and upon compliance with the provisions of this subparagraph (3), (i) automatically upon the consummation of a registered public offering of the Common Stock of the corporation pursuant to the Securities Act of 1933, as amended, all of the shares of \$2,000 10% Cumulative Convertible Preferred Stock shall be converted into Common Stock, at the conversion rate of One Hundred Seven Thousandths (.107) share of Common Stock for each share of \$2,000 10% Cumulative Convertible Preferred Stock, and (ii) at the option of each holder of shares of the \$2,000 10% Cumulative Convertible Preferred Stock, any share or shares may, at any time, be converted into Common Stock at such conversion rate.

(b) In order to exercise the conversion privilege, the holder of shares of \$2,000 10% Cumulative Convertible Preferred Stock to be converted shall surrender the certificates

the corporation's principal office, together with written notice of such holder's desire to convert such of his or her shares of \$2,000 10% Cumulative Convertible Preferred Stock designated in such notice, which notice shall be irrevocable, and, if so required by the corporation, the certificates representing such shares, duly endorsed in blank for transfer and any requisite federal and state transfer tax stamps. As promptly as practicable after the surrender of such shares for conversion as aforesaid, the corporation shall issue and deliver at said office to such holder, in accordance with his or her written notice, a certificate or certificates for the number of shares of Common Stock issuable upon the conversion of such shares as provided in this subdivision (b). Such conversion shall be deemed to have been effected on the date on which the holder's written notice shall have been received by the corporation and such shares shall have been surrendered, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become, on said date, the holder or holders of record of the shares of Common Stock represented thereby; provided, however, that any such surrender on any date when the stock transfer books for the corporation shall be closed shall be effective to constitute the person or persons in which name or names the certificates are to be issued as the holder or holders hereof for all purposes on the next day on which such stock transfer books are open.

(c) In case the corporation shall, at any time or from time to time while any of the shares of \$2,000 10% Cumulative Convertible Preferred Stock are outstanding, (i) pay a dividend in shares of its Common Stock, (ii) subdivide its outstanding shares of Common Stock, or (iii) combine its outstanding shares of Common Stock into a smaller number of shares, the conversion rate in effect immediately prior thereto shall be adjusted so that the holder of any shares of \$2,000 10% Cumulative Convertible Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the corporation which he

would have owned or have been entitled to receive after the happening of any of the events described above had such \$2,000 10% Cumulative Convertible Preferred Stock been converted immediately prior to

to this subdivision (c) shall be effective, in the case of a dividend, on the payment date, but shall be retroactive to immediately after the opening of business on the day following the record date for the determination of shareholders entitled to receive such dividend and shall be made in the case of subdivision or combination immediately after the opening of business on the day following the day when such subdivision or combination, as the case may be, becomes effective.

(d) If the corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive any dividend or any distribution and shall, thereafter and before the distribution to shareholders of any such dividend or distribution, legally abandon its plan to pay or deliver such dividend or distribution, then no adjustment of the conversion rate shall be required by reason of the taking of such record.

(e) No adjustment in the conversion rate shall be required unless such adjustment would receive an increase or decrease of at least one percent (1%) in such rate; provided, however, that any adjustments that by reason of this subdivision (e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this subparagraph (3) shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(f) Whenever the conversion rate is adjusted as herein provided, the corporation shall cause a notice stating that such adjustment has been effected to be mailed to the holders of the \$2,000 10% Convertible Cumulative Preferred Stock at their last addresses as they shall appear on the stock transfer books of the corporation.

(g) The corporation shall at all times keep available out of its authorized but unissued shares, for the purpose of effecting the conversion of the \$2,000 10% Cumulative Convertible Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to ~~effect the conversion of all outstanding \$2,000 10% Cumulative Convertible Preferred Stock.~~

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4. Redemption

(a) Redemption Price. For each share of which is to be redeemed, the corporation will be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the corporation's principal office or a bank or trust company appointed by the corporation of the certificate representing such share duly endorsed in blank or accompanied by an appropriate form of assignment) an amount equal to the sum of \$2,000 plus all dividends accrued and unpaid on the Redemption Date (the "Liquidation Value"). If the funds of the corporation legally available for redemption of the \$2,000 10% Cumulative Convertible Preferred Stock are insufficient to redeem the total number of shares to be redeemed on such date, those funds which are legally available will be used to redeem the maximum possible number of shares ratably among the holders of the shares to be redeemed. At any time thereafter when additional funds of the corporation are legally available for the redemption of the \$2,000 10% Cumulative Convertible Preferred Stock, such funds will be used to redeem the balance of the shares which the corporation has become obligated to redeem but which it has not redeemed.

(b) Determination of Number of Each Holder's Shares to be Redeemed. The number of shares of \$2,000 10% Cumulative Convertible Preferred Stock to be redeemed from each holder thereof in redemptions hereunder will be the number of shares determined by multiplying by the total number of shares of \$2,000 10% Cumulative Convertible Preferred Stock to be redeemed times a fraction, the numerator of which will be the total number of shares of \$2,000 10% Cumulative Convertible Preferred Stock then held by such holder and the denominator of which will be the total number of shares of such Preferred Stock then outstanding.

(c) Dividends After Redemption Date. No share is entitled to any dividends accruing after its Redemption Date and on such Redemption Date all rights of the holder of such share will cease with respect thereto and such share will not be redeemed to be outstanding.

(d) Optional Redemptions. The corporation may redeem the \$2,000 10% Cumulative Convertible Preferred Stock at any time on or after June 10, 1990, either in



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