

# ARTICLES OF MERGER

OF

**RIDGERUN, INC.**  
(an Idaho corporation)

WITH AND INTO

**RIDGERUN, INC.**  
(a Delaware corporation)

FILED/EFFECTIVE

SEP 27 4 35 PM '01

SECRETARY OF STATE  
STATE OF IDAHO

Pursuant to the provisions of Sections 30-1-1105 and 30-1-1107 of the Idaho Business Corporation Act, the undersigned corporations hereby adopt the following Articles of Merger for the purpose of merging them into one of such corporations.

1. The name of the surviving corporation in the merger is RidgeRun, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Surviving Corporation**"), and the name of the merging corporation is RidgeRun, Inc., a corporation organized and existing under the laws of the State of Idaho (the "**Disappearing Corporation**").

2. The Plan of Merger is as set forth on Annex A hereto and is hereby incorporated by reference into these Articles of Merger.

3. The Plan of Merger was adopted by the constituent corporations in the following manner:

(a) The Plan of Merger was approved by resolution adopted by the board of directors of each constituent corporation.

(b) As to the approval of the Plan of Merger by the stockholders of the Surviving Corporation, the designation, number of outstanding shares and number of votes entitled to be cast by each voting group entitled to vote separately on the Plan of Merger, and the total number of votes cast for and against the Plan of Merger by each voting group entitled to vote separately thereon is as follows:

Designation	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Cast "For"	Number of Votes Cast "Against"
Common Stock	1,000	1,000	1,000	-0-

The number of votes cast "For" the Plan of Merger by the holders of Common stock was sufficient for approval of the Plan of Merger by the holders of Common Stock.

(c) As to the approval of the Plan of Merger by the shareholders of the Disappearing Corporation, the designation, number of outstanding shares and number of votes entitled to be cast by each voting group entitled to vote separately on the Plan of Merger, and the

total number of votes cast for and against the Plan of Merger by each voting group entitled to vote separately thereon is as follows:

Designation	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Cast "For"	Number of Votes Cast "Against"
Common Stock	8,041,990	8,041,990	6,929,720	-0-
Series A Preferred Stock	1,822,223	1,822,223	1,822,223	-0-

The number of votes cast "For" the Plan of Merger by the holders of Common Stock and Series A Preferred Stock was sufficient for approval of the Plan of Merger by each of the holders of Common Stock and Series A Preferred Stock, respectively.

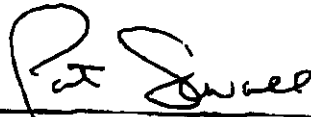
4. The Surviving Corporation has complied with the applicable provisions of the laws of the State of Delaware under which it is incorporated, and this merger is permitted by such laws.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the constituent corporations have caused these Articles of Merger to be signed by their duly authorized presidents, this 27<sup>th</sup> day of September, 2001.

**RIDGERUN, INC.**, a Delaware corporation

By: \_\_\_\_\_

  
Patrick M. Sewall  
President

**RIDGERUN, INC.**, an Idaho corporation

By: \_\_\_\_\_

  
Patrick M. Sewall  
President

[SIGNATURE PAGE TO ARTICLES OF MERGER]

**ANNEX A**  
**PLAN OF MERGER**  
**(Attached)**

## PLAN OF MERGER

THIS PLAN OF MERGER (this "*Plan of Merger*") is made and entered into as of September 27, 2001, by and between RidgeRun, Inc., a Delaware corporation ("*NewCo*"), and RidgeRun, Inc., an Idaho corporation ("*OldCo*").

### RECITALS:

A. OldCo has caused NewCo to be incorporated under the laws of the State of Delaware in connection with the proposed reincorporation of OldCo as a Delaware corporation.

B. In order to effect such proposed reincorporation of OldCo, NewCo and OldCo now desire to merge OldCo with and into NewCo pursuant to the terms and conditions set forth herein, with NewCo being the surviving corporation (the "*Merger*").

C. The board of directors of each of NewCo and OldCo have unanimously approved the Merger and this Plan of Merger.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### AGREEMENT:

1. The Merger. At the Effective Time (as defined below) and subject to and upon the terms and conditions of this Plan of Merger and the applicable provisions of the Idaho Business Corporation Act (the "*Idaho Act*") and the Delaware General Corporation Law (the "*DGCL*"), OldCo shall be merged with and into NewCo, the separate corporate existence of OldCo shall cease and NewCo shall continue as the surviving corporation. NewCo, as it shall exist following the Merger, is sometimes referred to herein as the "*Surviving Corporation*."

2. Effective Time. The parties hereto shall cause the Merger to be consummated by filing this Plan of Merger and appropriate Articles of Merger (the "*Articles of Merger*") with the Secretary of State of the State of Idaho and an appropriate Certificate of Ownership and Merger (the "*Certificate of Merger*") with the Secretary of State of the State of Delaware, each in accordance with the relevant provisions of applicable law. As used herein, the term "*Effective Time*" shall mean the later of (i) the time of acceptance of the Certificate of Merger by the Secretary of State of the State of Delaware and (ii) the time of acceptance of the Articles of Merger and this Plan of Merger by the Secretary of State of the State of Idaho.

3. Effect of the Merger on OldCo and NewCo. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the Idaho Act, the DGCL, this Plan of Merger, the Articles of Merger and the Certificate of Merger. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of OldCo and NewCo shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, disabilities and duties of

OldCo and NewCo shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

1. 4. Certificate of Incorporation and Bylaws of NewCo. At the Effective Time, (i) the certificate of incorporation of NewCo, as in effect immediately prior to the Effective Time, shall be the certificate of incorporation of the Surviving Corporation (the "**Certificate of Incorporation**") until thereafter amended in accordance with applicable law and such Certificate of Incorporation and (ii) the bylaws of NewCo, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Corporation until thereafter amended as provided by such bylaws, the Certificate of Incorporation and applicable law.

5. Directors and Officers of NewCo. At the Effective Time, the directors and officers of NewCo immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation, each to hold office in accordance with the Certificate of Incorporation and bylaws of the Surviving Corporation, until their respective successors are duly elected or appointed and qualified.

6. Effect on Outstanding Securities of OldCo. On the terms and subject to the conditions of this Plan of Merger, as of the Effective Time, by virtue of the Merger and without any action on the part of NewCo or OldCo or any holder of any securities of OldCo, the following shall occur:

2. (a) Conversion of OldCo Common Stock. Each issued and outstanding share of Common Stock of OldCo ("**OldCo Common Stock**") shall be converted into the right of the holder of such share to receive one (1) share of Common Stock of NewCo ("**NewCo Common Stock**"). Upon surrender to NewCo of a valid certificate representing OldCo Common Stock, NewCo will cancel such certificate and the holder of such certificate shall be entitled to receive from NewCo a certificate representing the number of shares of NewCo Common Stock into which such OldCo Common Stock is converted.

3. (b) Conversion of OldCo Preferred Stock. Each issued and outstanding share of Series A Preferred Stock of OldCo ("**OldCo Preferred Stock**") shall be converted into the right of the holder of such share to receive one (1) share of Series A Preferred Stock of NewCo ("**NewCo Preferred Stock**"). Upon surrender to NewCo of a valid certificate representing OldCo Preferred Stock, NewCo will cancel such certificate and the holder of such certificate shall be entitled to receive from NewCo a certificate representing the number of shares of NewCo Preferred Stock into which such OldCo Preferred Stock is converted.

4. (c) Assumption of Outstanding Options. Each unexpired and unexercised option to purchase shares of OldCo Common Stock ("**OldCo Options**") shall be assumed by NewCo, and each such option shall continue to have, and be subject to, the same terms and conditions as those that existed immediately prior to the Effective Time, except that each such option shall be exercisable for shares of NewCo Common Stock in lieu of shares of OldCo Common Stock on a one-for-one basis. The assumption and substitution of the OldCo Options as provided herein shall not give the holders of such options additional benefits which they did not have immediately prior to the Effective Time or relieve such holders of any obligations or restrictions applicable to their options or the shares obtainable upon exercise of the

options. NewCo shall reserve out of its authorized but unissued shares of NewCo Common Stock sufficient shares to provide for the exercise of the OldCo Options.

5. (d) Cancellation of NewCo Common Stock Owned By OldCo. Each share of NewCo Common Stock owned by OldCo immediately prior to the Effective Time shall be automatically cancelled and extinguished without any conversion thereof and without any further action on the part of NewCo or OldCo, and the separate corporate existence of OldCo shall cease.

7. No Further Ownership Rights in OldCo Securities. All shares of NewCo Common Stock and NewCo Preferred Stock issued in exchange for shares of OldCo Common Stock and OldCo Preferred Stock, respectively, in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of OldCo Common Stock and OldCo Preferred Stock, and there shall be no further registration of transfers on the records of the Surviving Corporation of OldCo Common Stock or OldCo Preferred Stock which were outstanding immediately prior to the Effective Time. All outstanding OldCo Options assumed by NewCo in accordance with the terms hereof shall be deemed to have been assumed in full satisfaction of all rights pertaining to any shares of OldCo Common Stock, and there shall be no further exercises or registration of transfers on the records of the Surviving Corporation of OldCo Options which were outstanding immediately prior to the Effective Time.

8. Taking of Necessary Action; Further Action. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Plan of Merger or to vest the Surviving Corporation with full right, title and possession to all assets, property, rights, privileges, powers and franchises of OldCo, the officers and directors of the Surviving Corporation shall be fully authorized to take, and shall take, all such lawful and necessary action.

9. Amendment; Termination. This Plan of Merger may be amended by the board of directors of OldCo at any time prior to the Effective Time; provided, however, that an amendment made subsequent to the adoption of this Plan of Merger by the shareholders of OldCo shall not (i) alter or change the amount or kind of shares and/or rights to be received in exchange for or on conversion of all or any of the shares of OldCo Common Stock or OldCo Preferred Stock or (ii) alter or change any of the terms and conditions of this Plan of Merger if such alteration or change would materially adversely affect the holders of OldCo Common Stock or OldCo Preferred Stock. Anything herein or elsewhere to the contrary notwithstanding, this Plan of Merger may be terminated and abandoned by the board of directors of OldCo at any time prior to the Effective Time.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, NewCo and OldCo have caused this Plan of Merger to be signed by their duly authorized representatives, all as of the date first written above.

NEWCO:

RIDGERUN, INC., a Delaware corporation

By: 

Patrick M. Sewall  
President

OLDCO:

RIDGERUN, INC., an Idaho corporation

By: 

Patrick M. Sewall  
President

[SIGNATURE PAGE TO PLAN OF MERGER]