

H52296

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



200293494362

12/22/16--01016--028 \*\*70.00

FILED  
2016 DEC 22 PM 3:21  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

*made/ea*

*mmw  
1-1-17*

UPS Overnight  
12/21/16

**COVER LETTER**

**TO:** Amendment Section  
Division of Corporations

**SUBJECT:** WARREN PEARCE & CO., INC.

\_\_\_\_\_  
Name of Surviving Corporation

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Billy R. Ready, Esquire

\_\_\_\_\_  
Contact Person

Billy R. Ready, P.A.

\_\_\_\_\_  
Firm/Company

209 Palmetto Street/P.O. Box 1399

\_\_\_\_\_  
Address

Auburndale, FL 33823

\_\_\_\_\_  
City/State and Zip Code

billy@lexwan.com

\_\_\_\_\_  
E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Billy R. Ready

\_\_\_\_\_  
Name of Contact Person

At ( 863 ) 965-2516

\_\_\_\_\_  
Area Code & Daytime Telephone Number

☐ Certified copy (optional) \$8.75 (Please send an additional copy of your document if a certified copy is requested)

**STREET ADDRESS:**

Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, Florida 32301

**MAILING ADDRESS:**

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, Florida 32314

ff  
1-1-17

**ARTICLES OF MERGER**  
**(Profit Corporations)**

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

**First:** The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
WARREN PEARCE & CO., INC.	Polk County, Florida	<del>H44461</del> H50290

**Second:** The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
KEVIN PEARCE & CO., INC.	Polk County, Florida	H44461
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2016 DEC 22 PM 3:21  
FILED  
STATE  
SECRETARY  
OF  
FLORIDA

**Third:** The Plan of Merger is attached.

**Fourth:** The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.

**OR** 01 / 01 / 2017 (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days after merger file date.)

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

**Fifth:** Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on not required.

The Plan of Merger was adopted by the board of directors of the surviving corporation on January 1, 2017 and shareholder approval was not required.

**Sixth:** Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on not required.

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on January 1, 2017 and shareholder approval was not required.

(Attach additional sheets if necessary)

**Seventh: SIGNATURES FOR EACH CORPORATION**

Name of Corporation

Signature of an Officer or Director

Typed or Printed Name of Individual & Title

WARREN PEARCE &amp; CO., IN

Krilon

**Kevin Pearce, President & Treasurer**

KEVIN PEARCE & CO., INC.

K. In

**Kevin E. Pearce, President & Director**

## **AGREEMENT AND PLAN OF MERGER**

**THIS AGREEMENT AND PLAN OF MERGER** ("Agreement") is made as of January 1, 2017, by and between KEVIN PEARCE & CO., INC., a Florida corporation ("KPC") and WARREN PEARCE & CO., INC., a Florida corporation ("WPC"). (KPC and WPC shall sometimes be referred to herein collectively as the "Constituent Corporations").

### **BACKGROUND**

**A.** KPC is a corporation duly organized and existing under the laws of the State of Florida. WPC is a corporation duly organized and existing under the laws of the State of Florida.

**B.** The authorized capital stock of KPC consists of TEN THOUSAND (10,000) shares of common stock, par value \$1.00 per share ("KPC Common Stock"), of which 10,000 shares are issued and outstanding. The authorized capital stock of WPC consists of TEN THOUSAND (10,000) shares of common stock, par value \$1.00 per share ("WPC Common Stock"), of which 10,000 shares are issued and outstanding.

**C.** The respective boards of directors of the Constituent Corporations deem it advisable and in the best interests of their respective corporations and stockholders that KPC be merged with and into WPC pursuant to the terms and conditions set forth in this Agreement (the "Merger"), and have approved this Agreement by resolutions duly adopted by them in accordance with the laws of their respective jurisdictions of incorporation.

**D.** The Constituent Corporations wish to effect the Merger as a plan of reorganization in accordance with the provisions of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "Code").

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and in accordance with applicable law, the parties hereto do hereby adopt the plan of merger encompassed by this Agreement, and do hereby agree that KPC shall merge with and into WPC in accordance with the following terms and conditions:

#### **1. MERGER**

##### **1.1 Merger; Surviving Corporation.**

(a) The effective time of the Merger (the "Effective Time") will occur upon the time and date that (i) Articles of Merger with respect to the Merger and this Agreement are duly filed with the Secretary of State of the State of Florida with respect to the Merger, and (ii) Certificate of Merger with respect to the Merger and this Agreement is duly filed with the Secretary of State of the State of Florida with respect to the Merger; both such filings will occur on the same date, after satisfaction of the requirements of the applicable laws of both states prerequisite to such filings, including, without limitation, the approval of the stockholders of each of the Constituent Corporation

(b) At the Effective Time, KPC will be merged with and into WPC, with WPC being the surviving corporation of the Merger (the "Surviving Corporation"). At the Effective Time, the corporate existence of KPC will cease, and the Surviving Corporation will succeed to all of the business, properties, assets, and liabilities of the Constituent Corporations.

#### 1.2 Certificate of Incorporation and Bylaws.

(a) From and after the Effective Time, the Amended and Restated Certificate of Incorporation of WPC, as in effect immediately prior to the Effective Time, will be the Certificate of Incorporation of the Surviving Corporation, until altered, amended, or repealed in accordance with the laws of the State of Florida.

(b) From and after the Effective Time, the Bylaws of WPC, as in effect immediately prior to the Effective Time, will be the Bylaws of the Surviving Corporation, until altered, amended, or repealed in accordance with the laws of the State of Florida.

#### 1.3 Directors and Officers.

(a) The number of directors of WPC serving in such capacity immediately prior to the Effective Time will be the number of directors of the Surviving Corporation from and after the Effective Time, until such number is altered in accordance with the laws of the State of Florida and Bylaws of the Surviving Corporation. The directors of WPC immediately prior to the Effective Time will be the directors of the Surviving Corporation from and after the Effective Time and will hold office from and after the Effective Time in accordance with the Bylaws of the Surviving Corporation until their respective successors are duly appointed or elected and qualified.

(b) The officers of WPC immediately prior to the Effective Time will be the officers of the Surviving Corporation from and after the Effective Time and will hold the same offices from and after the Effective Time in accordance with the Bylaws of the Surviving Corporation until their respective successors are duly appointed or elected and qualified.

#### 1.4 Shares; Certificates.

(a) At the Effective Time, the shares of capital stock of KPC will be converted into shares of capital stock of WPC as follows:

(i) each share of KPC Common Stock issued and outstanding immediately before the Effective Time will, automatically and without further act of KPC, WPC, or any holder thereof, be extinguished and converted into 4.3334 issued and outstanding and fully paid and non-assessable shares of WPC Common Stock subject to the same terms, conditions, and restrictions, if any, as existed immediately before the Effective Time;

(ii) any share of KPC Common Stock held in the treasury immediately before the Effective Time will, automatically and without further act of KPC or WPC, be extinguished and converted into one fully paid and nonassessable share of WPC Common Stock to be held in the treasury of the Surviving Corporation subject to the same terms, conditions, and restrictions, if any, as existed immediately before the Effective Time.

(b) Each person who, as a result of the Merger, holds one or more certificates representing one or more shares of KPC Common Stock may surrender any such certificate to the Surviving Corporation and, upon such surrender, the Surviving Corporation will, within a reasonable time, deliver to such person, in substitution and exchange therefor, one or more certificates evidencing the number of shares of WPC Common Stock, that such person is entitled to receive in accordance with the terms of this Agreement, in substitution for the number of shares of KPC Common Stock represented by each certificate so surrendered; provided, however, that no such holder will be required to surrender any such certificate until such certificate otherwise would be surrendered for transfer on the books of the issuing corporation in the ordinary course of business.

(c) At the Effective Time, all of the shares of capital stock of WPC issued or outstanding immediately before the Effective Time will, automatically and without further act of

KPC, the Surviving Corporation, or any holder thereof, be cancelled and cease to exist, without any consideration being payable therefor.

## **2. MISCELLANEOUS**

2.1 Consent to Service Of Process. WPC hereby consents and agrees, effective as of the Effective Time, to be sued and served with process in the State of Florida in any proceeding for the enforcement of any obligations of KPC and in any proceeding for the enforcement of the rights, if any, of a dissenting stockholder of KPC against WPC. WPC hereby irrevocably appoints the Secretary of State of the State of Florida as its agent to accept service of process in any such proceeding from and after the Effective Time.

2.2 Accounting Matters. Except as herein provided with respect to the cancellation of the outstanding shares of KPC, the assets, liabilities, reserves, and accounts of KPC and WPC will be taken up or continued on the books of the Surviving Corporation in the respective amounts at which such assets, liabilities, reserves, and accounts have been carried on the books of KPC and WPC immediately before the Effective Time, subject to such adjustments, and such elimination of intercompany items, as may be appropriate to give effect to the Merger.

2.3 Expenses of Merger. From and after the Effective Time, WPC, as the Surviving Corporation, will pay all unpaid expenses of carrying this Agreement into effect and accomplishing the Merger.

2.4 Further Assurances. If, at any time from and after the Effective Time, the Surviving Corporation believes or is advised that any further assignment or assurance in law is necessary or desirable to vest in the Surviving Corporation the title to any property or rights of KPC, the proper officers of the Surviving Corporation are hereby authorized, in the name of KPC or otherwise, to execute and make all such proper assignments and assurances in law, and to do all other things necessary or proper to vest such property or rights in the Surviving Corporation and otherwise to carry out the purposes of this Agreement.

2.5 Approval. This Agreement will be submitted for approval by the holders of KPC Common Stock at an annual or special meeting of stockholders, or KPC will acquire the necessary shareholder consents pursuant to applicable law. The execution of this Agreement constitutes the approval hereof, and of the transactions contemplated hereby, by written consent of KPC in its capacity as sole stockholder of WPC.



2.6 Termination, Abandonment or Deferral. At any time before the Effective Date, this Merger Agreement may be terminated and the Merger may be abandoned by the Board of Directors of either KPC or WPC or both, notwithstanding the approval of this Merger Agreement by the shareholders of KPC or WPC, or the consummation of the Merger may be deferred for a reasonable period of time if, in the opinion of the Boards of Directors of KPC and WPC, such action would be in the best interest of such corporations. In the event of termination of this Merger Agreement, this Merger Agreement shall become void and of no effect and there shall be no liability on the part of either Constituent Corporation or its Board of Directors or shareholders with respect thereto.

2.7 Amendment. At any time before the Effective Time and for any reason, this Agreement may be amended, notwithstanding approval of this Agreement by the stockholders of KPC or WPC, by an agreement in writing executed in the same manner as this Agreement; provided, however, that after approval of this Agreement by the stockholders of KPC, this Agreement may not be amended, without such further approval as is required by law, to the extent that such amendment would: (i) alter or change the amount or kind of shares to be received by the stockholders of WPC or KPC in the Merger, (ii) alter or change any term of the Articles of Incorporation of WPC, or (iii) effect any alteration or change that would adversely affect the stockholders of KPC or WPC.

2.8 Counterparts. In order to facilitate the filing and recording of this Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

**IN WITNESS WHEREOF**, this Agreement, having first been duly approved by the Board of Directors of KPC and WPC, is hereby executed on behalf of each said corporation and attested by their respective officers thereunto duly authorized.

**KEVIN PEARCE & CO., INC.**

a Florida corporation


By: 

Name: KEVIN PEARCE

Title: President and Director

**WARREN PEARCE & CO., INC.**

a Florida corporation

By: 

Name: KEVIN PEARCE

Title: President and Director