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MERGER OR SHARE EXCHANGE

SWIRL MERGER CORPORATION

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**ARTICLES OF MERGER
OF
PHILLY'S FAMOUS WATER ICE, INC. (D/B/A PHILLYSWIRL)
(a Florida Corporation)
WITH AND INTO
SWIRL MERGER CORPORATION
(a Florida Corporation)**

To the Department of State - State of Florida

Pursuant to Section 607.1105 of the Florida Business Corporation Act, Philly's Famous Water Ice, Inc. (d/b/a Phillyswirl) and Swirl Merger Corporation, each a domestic business corporation, hereby submit the following articles of merger:

1. The name, street address of its principal office and jurisdiction of the merging party is: Philly's Famous Water Ice, Inc. (d/b/a Phillyswirl), 1102 N 28th Street, Tampa, Florida 33605, a Florida business corporation (the "Merging Entity"). The Merging Entity's Florida Document/Registration Number is # V43562.
2. The name, street address of its principal office and jurisdiction of the surviving party is: Swirl Merger Corporation, 1102 N 28th Street, Tampa, Florida 33605, a Florida business corporation (the "Surviving Entity"). The Surviving Entity's Florida Document/Registration Number is # P06000120720.
3. The Plan of Merger attached hereto as Exhibit A (the "Plan of Merger") meets the requirements of Section 607.1101 of the Florida Business Corporation Act, and was approved by each of the Merging Entity and the Surviving Entity in accordance with Chapter 607 of the Florida Statutes.
4. The shareholders of the Merging Entity entitled to vote on the Plan of Merger approved and adopted the Plan of Merger by written consent as of September 21, 2006.
5. The shareholders of the Surviving Entity entitled to vote on the Plan of Merger approved and adopted the Plan of Merger by written consent as of September 21, 2006.
6. The Surviving Entity agrees to pay the dissenting shareholders of the Merging Entity, the amount, if any, to which they are entitled under section 607.1302, Florida Statutes.
7. The effective time and date of the merger herein provided for in the State of Florida shall be upon filing.

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IN WITNESS WHEREOF, each of the undersigned has caused these Articles of Merger to be signed by a duly authorized officer as of the 25th day of October, 2006.

**PHILLY'S FAMOUS WATER ICE, INC.
(D/B/A PHILLYSWIRL)**

SWIRL MERGER CORPORATION

By: 

Name: Alex Plotkin
Title: President

By: _____

Name: Robert Brown
Title: President and Chief Executive Officer

[Signatures Page to Articles of Merger]

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IN WITNESS WHEREOF, each of the undersigned has caused these Articles of Merger to be signed by a duly authorized officer as of the 25th day of October, 2006.

PHILLY'S FAMOUS WATER ICE, INC.
(D/B/A PHILLYSWIRL)

SWIRL MERGER CORPORATION

By: _____
Name: Alex Plotkin
Title: President

By:  _____
Name: Robert Brown
Title: President and Chief Executive Officer

[Signature Page to Articles of Merger]

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Exhibit A
Plan of Merger

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PLAN OF MERGER
(Non Subsidiaries)

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The following plan of merger is submitted in compliance with section 607.1101, Florida Statutes, and in accordance with the laws of any other applicable jurisdiction of incorporation.

First: The name and jurisdiction of the surviving corporation:

NameJurisdictionSwirl Merger CorporationFlorida

Second: The name and jurisdiction of each merging corporation:

NameJurisdictionPhilly's Famous Water Ice, Inc. (d/b/a PhillySwirl)Florida

Third: The terms and conditions of the merger are as follows:

The terms and conditions of the merger are as set forth on Annex A attached hereto.

Fourth: The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property are as follows:

The information required by this Section Fourth is set forth on Annex A attached hereto.

(Attach additional sheets if necessary)

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THE FOLLOWING MAY BE SET FORTH IF APPLICABLE:

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Amendments to the articles of incorporation of the surviving corporation are indicated below or attached:

The Amended and Restated Articles of Incorporation of the surviving corporation are attached as Annex B hereto.

OR

Restated articles are attached:

Other provisions relating to the merger are as follows:

Not applicable. The effective time and date of the merger herein provided for in the State of Florida shall be upon filing of the Articles of Merger to which this Plan of Merger is attached.

Annex A

Terms and Conditions of the Merger and Manner of Converting Shares of the Merging and Surviving Corporations

Section 1.1 **The Merger.** Upon the terms and subject to the conditions set forth in the Plan of Merger to which this Annex A is attached (together with this Annex A, the "Plan of Merger"), at the Effective Time (as defined below), Philly's Famous Water Ice, Inc. (d/b/a PhillySwirl), a Florida corporation (the "Company"), will be merged with and into Swirl Merger Corporation, a Florida corporation ("Merger Sub"), and a wholly owned subsidiary of Swirl Holdings Corporation ("Parent"), the separate existence of the Company shall cease, and Merger Sub will continue as the surviving corporation (the "Surviving Corporation").

Section 1.2 **Effect of the Merger.** The Merger shall have the effects set forth herein and in the applicable provisions of the Florida Business Corporation Act (the "FBCA").

Section 1.3 **Closing.** The consummation of the transactions contemplated by the Plan of Merger (the "Closing") shall take place at the offices of Latham & Watkins LLP, 140 Scott Drive, Menlo Park, California 94025 at a time and date to be specified by the parties. The date on which the Closing actually takes place is referred to herein as the "Closing Date."

Section 1.4 **Effective Time.** Contemporaneous with, or as promptly as practicable after the Closing, the parties shall cause the Merger to be consummated by filing with the Secretary of State of the State of Florida an articles of merger (the "Articles of Merger") executed in accordance with the relevant provisions of the FBCA. The Merger shall become effective at the time the Articles of Merger are filed with the Secretary of State of the State of Florida (the "Effective Time").

Section 1.5 **Articles of Incorporation and Bylaws; Directors and Officers.** Unless otherwise determined by Parent and the Company prior to the Effective Time:

- (a) the Articles of Incorporation of Merger Sub, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided by law and such Articles of Incorporation of the Surviving Corporation;
- (b) the Bylaws of Merger Sub, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter amended; and
- (c) the directors and officers of the Surviving Corporation immediately after the Effective Time shall be the individuals identified on Schedule 1.5(c).

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Section 1.6 Conversion of Shares. Subject to Section 1.8(c), at the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Sub, the Company or any shareholder of the Company:

(a) Each share of Common Stock, no par value, of the Company ("Company Common Stock"), outstanding immediately prior to the Effective Time shall be converted into the right to receive (A) subject to adjustment as provided in Section 1.10; an amount of cash, without interest, determined by dividing (1) the Aggregate Cash Consideration by (2) the Fully Diluted Common Number (the "Per Share Cash Consideration"), and (B) a number of shares of Parent Common Stock determined by dividing (1) 2,500,000 by (2) the Fully Diluted Common Number (the "Per Share Stock Consideration," and together with the Per Share Cash Consideration, the "Per Share Merger Consideration"). The aggregate Per Share Merger Consideration is hereinafter referred to as the "Merger Consideration."

(b) Each share of Company Common Stock held by Company, Merger Sub or Parent or any direct or indirect wholly-owned subsidiary of Company or of Parent immediately prior to the Effective Time shall be canceled and extinguished without any conversion thereof.

(c) Each share of the common stock, par value \$0.00001 per share, of Merger Sub (the "Merger Sub Common Stock") outstanding immediately prior to the Effective Time shall be converted into, and exchanged for, one newly and validly issued, fully paid and nonassessable share of common stock of the Surviving Corporation. Each certificate evidencing ownership of shares of Merger Sub Common Stock shall evidence ownership of such shares of capital stock of the Surviving Corporation.

(d) In the event Parent at any time or from time to time between the date of the Plan of Merger and the Effective Time declares or pays any dividend on Parent Common Stock payable in Parent Common Stock or in any right to acquire Parent Common Stock, or effects a subdivision of the outstanding shares of Parent Common Stock into a greater number of shares of Parent Common Stock (by stock dividends, combinations, splits, recapitalizations and the like), or in the event the outstanding shares of Parent Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Parent Common Stock, then the Per Share Stock Consideration shall be appropriately adjusted.

Section 1.7 Closing of the Company's Transfer Books. At the Effective Time, holders of certificates representing shares of the Company's capital stock that were outstanding immediately prior to the Effective Time shall cease to have any rights as shareholders of the Company, and the stock transfer books of the Company shall be closed with respect to all shares of such capital stock outstanding immediately prior to the Effective Time. No further transfer of any such shares of the Company's capital stock shall be made on such stock transfer books after the Effective Time. If, after the Effective Time, a valid certificate previously representing any of such shares of the Company's capital stock (a "Company Stock Certificate") is presented to the Surviving Corporation or Parent, such Company Stock Certificate shall be canceled and shall be exchanged as provided in Section 1.6.

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Section 1.8 Exchange of Certificates.

(a) Promptly after the Effective Time, Surviving Corporation shall deliver to Zions First National Bank, N.A. (the "Escrow Agent"), as the escrow agent under the Escrow Agreement in a form reasonably acceptable to the parties (the "Escrow Agreement"), on behalf and in the name of each Signing Shareholder such Signing Shareholder's pro rata portion of the Escrow Fund.

(b) Upon surrender of a certificate representing Company Common Stock (a "Certificate") for cancellation to the Surviving Corporation, together with a letter of transmittal in form reasonably acceptable to the Surviving Corporation, duly completed and validly executed in accordance with the instructions thereto, (i) the holder of such Certificate shall be entitled to receive in exchange therefor (X) a cash amount equal to the Per Share Cash Consideration multiplied by the number of shares of Company Common Stock represented by such Certificate, less the portion of the Escrow Fund on such holder's behalf pursuant to Section 1.8(a), and (Y) a certificate representing the number of shares of Parent Common Stock that such Signing Shareholder has the right to receive pursuant to Section 1.6(a), and (ii) the Certificate so surrendered shall forthwith be canceled. The Surviving Corporation shall, on the date of its receipt of each properly surrendered Certificate, (i) cause the payment described in the preceding sentence to be made to the holder of such Certificate by wire transfer of immediately available funds to the account designated by such holder in the letter of transmittal delivered with such Certificate and (ii) cause the delivery to the holder of such Certificate of a certificate representing the shares of Parent Common Stock issuable in respect of the shares of Company Common Stock represented by such Certificate. Until so surrendered, each outstanding Certificate that prior to the Effective Time represented shares of Company Common Stock will be deemed from and after the Effective Time, for all purposes, to evidence only the right to receive upon such surrender the Per Share Merger Consideration for each of such shares (subject to the provisions hereof relating to the Escrow Fund). If, after the Effective Time, any Certificate is presented to the Surviving Corporation or Parent, it shall be cancelled and exchanged as provided in this Section 1.8(b). If any Company Stock Certificate shall have been lost, stolen or destroyed, the Surviving Corporation may, in its discretion and as a condition precedent to the issuance of any Merger Consideration, require the owner of such lost, stolen or destroyed Certificate to provide an appropriate affidavit and to deliver a bond (in such sum as the Surviving Corporation may reasonably direct) as indemnity against any claim that may be made against Parent or the Surviving Corporation with respect to such Certificate

(c) No dividends or other distributions declared or made with respect to Parent Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Parent Common Stock represented thereby until such holder surrenders such Certificate in accordance with this Section 1.8 (at which time such holder shall be entitled to receive all such dividends and distributions).

(d) No fractional shares of Parent Common Stock shall be issued in connection with the Merger, and no certificates for any such fractional shares shall be issued.

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(e) Parent and the Surviving Corporation shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any holder or former holder of capital stock of the Company pursuant to the Plan of Merger such amounts as Parent or the Surviving Corporation may be required to deduct or withhold therefrom under the Code or under any provision of state, local or foreign Tax law. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under the Plan of Merger as having been paid to the Person to whom or to which such amounts would otherwise have been paid.

(f) Neither Parent nor the Surviving Corporation shall be liable to any holder or former holder of capital stock of the Company for Merger Consideration or for any other cash amounts, delivered to any public official pursuant to any applicable abandoned property, escheat or similar law.

Section 1.9 Further Action. If, at any time after the Effective Time, any further action is determined by Parent to be reasonably necessary to carry out the purposes of the Plan of Merger or to vest the Surviving Corporation or Parent with full right, title and possession of and to all rights and property of Merger Sub and the Company, the officers and directors of the Surviving Corporation and Parent shall be fully authorized (in the name of Merger Sub, in the name of the Company and otherwise) to take such action at its own expense.

Section 1.10 Adjustment of Aggregate Cash Consideration.

(a) **Pre-Closing Estimate.** No later than one Business Day prior to the Closing Date, the Company shall deliver to Parent the Company's good-faith estimate of each of (i) Closing Working Capital, (ii) the Company Closing Debt, and (iii) the Unpaid Company Transaction Expenses, each such estimate to be based in good faith on the Company's books and records and other information then available. Based on such estimates and prior to the Closing Date, Parent and the Company shall in good faith calculate the Aggregate Cash Consideration to be paid at the Closing in the manner set forth in Section 1.6 (the "Estimated Aggregate Cash Consideration"). Notwithstanding anything else set forth in the Plan of Merger to the contrary, immediately prior to the Closing, the Company shall distribute to the Signing Shareholders as a dividend on their respective shares of Company Common Stock the agreed-upon calculated amount of cash, if any, of the Company as of the close of business on the day immediately prior to the Closing Date (it being understood that the final calculation of such amount shall be made in accordance with Section 1.10(b) as part of the final determination of the Aggregate Cash Consideration)

(b) **Post-Closing Adjustment.**

(i) As promptly as practicable, but in no event later than 30 calendar days following the Closing Date, Parent shall cause to be prepared, in accordance with GAAP consistently applied and using the policies, conventions, methodologies and procedures used to prepare the sample calculation of the Company's trailing twelve-month average working capital set forth on Schedule 1.10(b)(i) (the "Sample Calculation"), and delivered to the Signing Shareholders an unaudited consolidated balance sheet of the Company as of the close of business on the day immediately prior to the Closing Date (the "Closing Balance Sheet"), together with a

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statement (the "Parent Closing Statement") setting forth in reasonable detail Parent's calculation of each of the components of the Aggregate Cash Consideration.

(ii) From and after the Effective Time, Parent shall provide the Signing Shareholders and any accountants or advisors retained by the Signing Shareholders with full access to the books and records of the Surviving Corporation for the purposes of: (A) enabling the Signing Shareholders and their respective accountants and advisors to calculate, and to review Parent's calculation of, each of the components of the Aggregate Cash Consideration; and (B) identifying any dispute related to the calculation of any of the components of the Aggregate Cash Consideration set forth in the Parent Closing Statement.

(iii) If the Signing Shareholders dispute the calculation of any of the components of the Aggregate Cash Consideration set forth in the Parent Closing Statement, then the Signing Shareholders shall deliver a written notice (a "Dispute Notice") to Parent and the Escrow Agent during the 45-day period commencing upon receipt by the Signing Shareholders of the Closing Balance Sheet and the Parent Closing Statement (the "Review Period"). The Dispute Notice shall set forth, in reasonable detail, the principal basis for the dispute of such calculation.

(iv) If the Signing Shareholders do not deliver a Dispute Notice to Parent prior to the expiration of the Review Period, Parent's calculation of each of the components of the Aggregate Cash Consideration set forth in the Parent Closing Statement shall be deemed final and binding on Parent and the Signing Shareholders for all purposes of the Plan of Merger.

(v) If the Signing Shareholders deliver a Dispute Notice to Parent prior to the expiration of the Review Period, then the Signing Shareholders and Parent shall use commercially reasonable efforts to reach agreement on each of the components of the Aggregate Cash Consideration. If the Signing Shareholders and Parent are unable to reach agreement on each of the components of the Aggregate Cash Consideration within 30 calendar days after the end of the Review Period, either the Signing Shareholders, on the one hand, or Parent, on the other hand, shall have the right to refer such dispute to an independent accounting firm of nationally recognized standing that is mutually acceptable to Parent and Signing Shareholders (such firm, or any successor thereto, being referred to herein as the "Designated Accounting Firm") after such 30th day. In connection with the resolution of any such dispute by the Designated Accounting Firm: (i) each of Parent and the Signing Shareholders shall have a reasonable opportunity to meet with the Designated Accounting Firm to provide their respective views as to any disputed issues with respect to the calculation of each of the components of the Aggregate Cash Consideration; (ii) the Designated Accounting Firm shall determine each of the components of the Aggregate Cash Consideration in accordance with the Sample Calculation within 30 calendar days of such referral and, upon reaching such determination, shall deliver a copy of its calculations (the "Expert Calculations") to the Signing Shareholders, Parent and the Escrow Agent; and (iii) the determination of each of the components of the Aggregate Cash Consideration made by the Designated Accounting Firm shall be final and binding on Parent and the Signing Shareholders for all purposes of the Plan of Merger, absent manifest error. In calculating each of the components of the Aggregate Cash Consideration, the Designated Accounting Firm shall be limited to addressing any particular disputes referred to in the Dispute Notice. The Expert Calculations (i) shall reflect in detail the differences, if any, between each of

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the components of the Aggregate Cash Consideration reflected therein and each of the components of the Aggregate Cash Consideration set forth in the Parent Closing Statement, and (ii) with respect to any specific discrepancy or disagreement, shall be no greater than the higher amount calculated by Parent or the Signing Shareholders, as the case may be, and no lower than the lower amount calculated by Parent or the Signing Shareholders as the case may be. The fees, costs and expenses of the Designated Accounting Firm (i) shall be paid by the Signing Shareholders in the proportion that the aggregate dollar amount of the disputed items so submitted that are unsuccessfully disputed by the Signing Shareholders (as finally determined by the Designated Accounting Firm) bears to the aggregate dollar amount of all disputed items so submitted (as finally determined by the Designated Accounting Firm) and (ii) shall be borne by the Parent and Merger Sub in the proportion that the aggregate dollar amount of the disputed items so submitted that are successfully disputed by the Signing Shareholders (as finally determined by the Designated Accounting Firm) bears to the aggregate dollar amount of all disputed items so submitted (as finally determined by the Designated Accounting Firm).

(c) Procedure for Payment Following Post-Closing Adjustment.

(i) If the Aggregate Cash Consideration, as finally determined in accordance with this Section 1.10, exceeds the Estimated Aggregate Cash Consideration, then the Surviving Corporation shall, no later than one Business Day after such determination, cause to be paid to the Signing Shareholders (by wire transfer of immediately available funds) the total amount of such excess, which shall be paid to the Signing Shareholders in accordance with their respective ownership percentages in the Company.

(ii) If the Aggregate Cash Consideration, as finally determined in accordance with this Section 1.10, is less than the Estimated Aggregate Cash Consideration, then the amount of such deficiency (up to a maximum amount of \$50,000) shall be paid to the Surviving Corporation from the Escrow Fund, it being understood that if the deficiency exceeds \$50,000, then the Signing Shareholders shall pay (in accordance with their pro rata percentage interests of the Company) to the Surviving Corporation (by wire transfer of immediately available funds) the full amount of such deficiency in excess of \$50,000.

Section 1.11 Definitions. For the purposes of the Plan of Merger:

"Aggregate Cash Consideration" shall mean (a) \$14,500,000 less (b) the sum of (i) the amount, if any, by which Closing Working Capital is less than Target Working Capital, (ii) the Unpaid Company Transaction Expenses and (iii) Company Closing Debt, plus (c)(i) the amount, if any, by which Closing Working Capital exceeds Target Working Capital and (ii) the amount of cash, if any, in the payroll and checking accounts of the Company to the extent such cash would be reflected on a balance sheet of the Company as of the close of business on the day immediately prior to the Closing Date, as such balance sheet would be prepared consistent with the past practices of the Company.

"Business Day" shall mean any day other than a Saturday, a Sunday or other day on which banks are not required to be open or are authorized to close in New York, New York.

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"Closing Working Capital" shall mean Working Capital as of the close of business on the day immediately prior to the Closing Date (excluding for all purposes Company Closing Debt and Unpaid Company Transaction Expenses).

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Company Closing Debt" shall mean the debt of the Company as of the date of the Closing Balance Sheet, excluding the aggregate amount of the Debt relating to the Company's car leases for employees. The parties acknowledge and agree that for purposes of the Plan of Merger, the account payable to WCB for the filler equipment purchased by the Company and delivered to it on August 14, 2006 does not constitute "Company Closing Debt."

"Debt" means (i) all outstanding obligations for senior debt and subordinated debt and any other outstanding obligation for borrowed money, including that evidenced by notes, bonds, debentures or other instruments (and including all outstanding principal, prepayment premiums, if any, and accrued interest, fees and expenses related thereto), (ii) any outstanding obligations under capital leases and purchase money obligations, (iii) any amounts owed with respect to drawn letters of credit, and (iv) any outstanding guarantees of obligations of the type described in clauses (i) through (iii) above.

"Entity" shall mean any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

"Escrow Fund" shall mean collectively, \$850,000.

"Fully Diluted Common Number" shall mean means the sum of (A) the aggregate number of shares of Company Common Stock outstanding immediately prior to the Effective Time (including any such shares that are subject to a repurchase option or risk of forfeiture under any restricted stock purchase agreement or other agreement), plus (B) the aggregate number of shares of Company Common Stock issuable upon conversion of any convertible securities of the Company outstanding immediately prior to the Effective Time.

"Governmental Body" shall mean any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; or (c) governmental or quasi-governmental authority of any nature (including any governmental division, department, agency, commission, instrumentality, official, organization, unit, body or Entity and any court or other tribunal).

"Parent Common Stock" shall mean the common stock, \$0.00001 per share, of Parent.

"Person" shall mean any individual, Entity or Governmental Body.

"Signing Shareholder" shall mean either Maxwell Lapin or Alex Plotkin.

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"Signing Shareholders" shall mean Maxwell Lapin and Alex Plotkin.

"Target Working Capital" shall mean \$998,324..

"Tax" shall mean any and all taxes, including, without limitation, any net income, alternative or add-on minimum, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license, registration, recording, documentary, conveyancing, gains, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental or windfall profit, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax or additional amount imposed by any governmental authority responsible for the imposition of any such tax (United States (federal, state or local) or foreign).

"Unpaid Company Transaction Expenses" shall mean (i) the fees and disbursements payable to legal counsel and accountants of the Company and the Signing Shareholders incurred through the Closing Date which are payable by the Company in connection with the transactions contemplated by the Plan of Merger, (ii) any bonuses or severance payments to be paid to any shareholder, director, officer or employee of the Company solely in connection with the Merger or any of the other transactions contemplated by the Plan of Merger, and any payroll taxes incurred by the Company in connection therewith and (iii) all other miscellaneous expenses or costs, in each case, incurred by the Company or the Signing Shareholders through the Closing Date which are payable by the Company in connection with the transactions contemplated by the Plan of Merger but only to the extent they have not been paid by the Company in cash on or prior to the close of business on the day immediately preceding the Closing and have, accordingly, not reduced the Closing Working Capital; provided, however, that the foregoing clauses "(i)" and "(iii)" shall not include any fees, expenses or disbursements incurred by Parent (or its investors), or by the Surviving Corporation which are on behalf of Parent, including the fees and expenses of Parent's attorneys, accountants and other advisors.

"Working Capital" shall mean with respect to the Company, (a) the current assets of the Company, minus (b) the current liabilities of the Company, all as calculated in accordance with the Sample Calculation.

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Schedule 1.5(c)

List of Directors and Officers of Surviving Corporation

Directors:

Alex Plotkin
Max Lapin
Robert Brown
Scott Sellers
Megan Pirsch
Gary Smith

Officers:

President and Chief Executive Officer
Secretary
Vice President
Treasurer

Max Lapin
Alex Plotkin
Megan Pirsch
Robert Brown

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**Schedule 1.10(b)(i)
Sample Calculation**

PhillySwirl
Working Capital Analysis

	Sept-05	Oct-05	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06
Total Current Assets	1,811,846	1,560,710	1,345,215	1,193,188	1,318,587	1,530,943	2,104,118	2,311,327	2,356,415	2,850,523	3,370,346	3,299,945
Allowance for bad debt												
Labor and overhead in inventory	28,383	26,681	28,268	27,732	33,616	25,632	38,838	70,260	54,453	9,710	15,609	27,521
Signer loan inventory						(303,479)	(386,237)	(280,403)	(759,064)	(615,040)	(95,997)	
Adj. Total Current Assets	1,840,229	1,587,390	1,373,483	1,220,920	1,352,203	1,651,139	1,746,699	2,231,383	2,260,806	2,815,233	3,488,958	3,327,465
Cash - Checking	587,856	663,467	539,276	470,612	331	301,348	(132,561)	144,979	(45,985)	226,033	602,207	1,064,648
Cash - BofA/Payroll Acct	5,808	5,176	5,469	287	301,108	-	-	(22)	127	168,088	335,877	303,657
Adj. Total Current Assets Less Cash	1,246,564	918,348	809,338	749,951	1,050,944	1,349,791	1,973,260	2,108,426	2,306,663	2,421,119	2,550,174	1,959,179
Total Current Liabilities	1,602,344	1,431,837	1,367,852	1,353,148	1,985,719	2,707,413	2,649,372	3,013,124	2,598,177	2,564,460	2,912,463	2,601,153
Payroll and bonus accrual	28,608	41,336	13,217	25,476	47,578	48,472	33,443	52,154	29,267	46,205	97,166	32,476
Adj. Total Current Liabilities	1,631,452	1,473,173	1,381,069	1,378,624	2,033,297	2,755,884	2,682,817	3,065,277	2,627,444	2,610,665	3,003,628	2,633,628
Capital Lease - Current	58,245	58,245	58,245	58,245	58,245	58,245	58,245	58,245	58,245	58,245	58,245	58,245
Current Portion of LT Debt	(492,832)	(493,590)	(494,452)	(492,087)	(1,774)	(2,251)	(4,476)	(13,191)	(61,748)	(113,614)	(124,137)	8,190
Due from Shareholders	432,896	435,288	437,450	440,465	446,893	449,692	449,999	364,240	362,995	362,995	362,995	362,995
Line of Credit	1,180,361	1,150,901	1,121,258	1,092,260	1,062,380	1,033,899	1,039,196	1,464,382	1,443,338	1,423,068	1,402,342	1,381,524
Loan for ruger						500,000	396,104	309,624	232,798	155,597	78,021	
Adj. Total Current Liabilities Less Debt	452,142	322,590	237,689	199,701	467,154	717,900	733,749	883,978	591,216	708,373	1,226,142	842,675
Adj. Total Working Capital	\$793,722	\$555,818	\$551,709	\$550,250	\$553,810	\$631,890	\$512,448	\$517,154	\$517,154	\$517,154	\$517,154	\$517,154
Avg. 1/TH Aug 06	3988,374											

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Annex B
Amended and Restated Articles of Incorporation

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**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
SWIRL MERGER CORPORATION
(a Florida corporation)**

Swirl Merger Corporation, a corporation organized and existing under the Business Corporation Law of the State of Florida does hereby certify as follows, pursuant to the provisions of the Florida Business Corporation Act.

1. That the corporation was incorporated on September 20, 2006 under the name Swirl Merger Corporation, pursuant to the provisions of the Florida Business Corporation Act.

2. This amendment and restatement of the Articles of Incorporation of the Corporation originally filed with the Secretary of State of the State of Florida on September 20, 2006 (the "Articles of Incorporation") requires approval by the shareholders of the Corporation pursuant to Section 607.1003 of the Florida Business Corporations Act, which approval was obtained on October 23, 2006.

3. Pursuant to Sections 607.1003 and 607.1007 of the Florida Business Corporation Act, the Articles of Incorporation are hereby amended and restated in their entirety to read as follows:

FIRST: The corporate name for the corporation (hereinafter called the "Corporation") is Philly's Famous Water Ice, Inc.

SECOND: The street address, wherever located, of the principal office of the Corporation is 2333 San Ramon Valley Blvd., Suite 160, San Ramon, California 94583.

THIRD: The number of shares that the corporation is authorized to issue is One Thousand (1,000) shares, all of which are of a par value of \$0.00001 dollars each and are of the same class and are Common shares.

FOURTH: The street address of the registered office of the corporation in the State of Florida is c/o Corporation Service Company, 1201 Hays Street, Tallahassee, Florida 32301.

The name of the registered agent of the corporation at the said registered office is Corporation Service Company.

The written acceptance of the said registered agent, as required by the provisions of Section 607.0501(3) of the Florida Business Corporation Act, is set forth following the signature of the incorporator and is made a part of these Articles of Incorporation.

FIFTH: The name and the address of the incorporator are: Connie Chen, Latham & Watkins LLP, 140 Scott Drive, Menlo Park, California 94025.

SIXTH: The purpose of the Corporation is to engage in any lawful business for which corporations may be organized under the Florida Business Corporation Act.

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SEVENTH: The duration of the corporation shall be perpetual.

EIGHTH: The corporation shall, to the fullest extent permitted by the provisions of the Florida Business Corporation Act, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said provisions from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said provisions, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

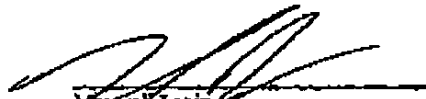
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Signed on October 25, 2006


Maxwell Lapin
President

Having been named as registered agent and to accept service of process for the above-named corporation at the place designated in these Articles of Incorporation, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

CORPORATION SERVICE COMPANY

By: Cynthia L. Harris
Name: Cynthia L. Harris
Title: as its agent
Date: 10/25/06

[Signature Page to Amended and Restated Articles of Incorporation]

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