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11/9/2018

Division of Corporations

757531

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Florida Department of State  
Division of Corporations  
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From:

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SECRETARY OF STATE  
TALLAHASSEE, FL

**MERGER OR SHARE EXCHANGE**

**Feeding America Tampa Bay, Inc.**

Certificate of Status	0
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Page Count	15
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**COVER LETTER**

**TO:** Amendment Section  
Division of Corporations

**SUBJECT:** Feeding America Tampa Bay, 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:

Thomas Mantz

\_\_\_\_\_  
(Contact Person)

Feeding America Tampa Bay

\_\_\_\_\_  
(Firm/Company)

4702 Transport Dr. Bldg. 6

\_\_\_\_\_  
(Address)

Tampa, FL 33605

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

For further information concerning this matter, please call:

Thomas Mantz

\_\_\_\_\_  
(Name of Contact Person)

At ( 813 ) 254-1190

\_\_\_\_\_  
(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

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**ARTICLES OF MERGER**  
(Not for Profit Corporations)

2018 NOV -9 PM 10:03

The following articles of merger are submitted in accordance with the Florida Not For Profit Corporation Act, pursuant to section 617.1105, Florida Statutes.

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

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Feeding America Tampa Bay, Inc.	Florida	757531

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

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Trinity Cafe, Inc.	Florida	N01000004121

**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** 12 / 31 / 18 (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.

(Attach additional sheets if necessary)

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**Fifth: ADOPTION OF MERGER BY SURVIVING CORPORATION**  
(COMPLETE ONLY ONE SECTION)

**SECTION I**

The plan of merger was adopted by the members of the surviving corporation on 10/24/18.  
The number of votes cast for the merger was sufficient for approval and the vote for the plan was as follows:  
21 FOR 0 AGAINST

**SECTION II**

(CHECK IF APPLICABLE) The plan or merger was adopted by written consent of the members and  
executed in accordance with section 617.0701, Florida Statutes.

**SECTION III**

There are no members or members entitled to vote on the plan of merger.  
The plan of merger was adopted by the board of directors on \_\_\_\_\_. The number of directors in  
office was \_\_\_\_\_. The vote for the plan was as follows: \_\_\_\_\_ FOR \_\_\_\_\_  
AGAINST

**Sixth: ADOPTION OF MERGER BY MERGING CORPORATION(s)**  
(COMPLETE ONLY ONE SECTION)

**SECTION I**

The plan of merger was adopted by the members of the merging corporation(s) on  
\_\_\_\_\_. The number of votes cast for the merger was sufficient for approval and the vote  
for the plan was as follows: \_\_\_\_\_ FOR \_\_\_\_\_ AGAINST

**SECTION II**

(CHECK IF APPLICABLE) The plan or merger was adopted by written consent of the members and  
executed in accordance with section 617.0701, Florida Statutes.

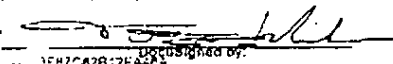
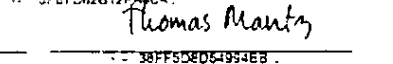

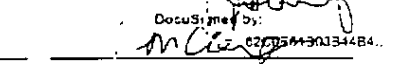
**SECTION III**

There are no members or members entitled to vote on the plan of merger.  
The plan of merger was adopted by the board of directors on September 21, 2018. The number of directors in  
office was 12. The vote for the plan was as follows: 12 FOR 0  
AGAINST

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**Seventh: SIGNATURES FOR EACH CORPORATION**

<u>Name of Corporation</u>	<u>Signature of the chairman/ vice chairman of the board or an officer.</u>	<u>Typed or Printed Name of Individual &amp; Title</u>
Feeding America Tampa Bay, Inc.	 DocuSigned by: 3F87C62B12FA281	Todd Wickner, Chairman of the Board
Feeding America Tampa Bay, Inc.	 DocuSigned by: 38FF5C8D54994EB	Thomas Mantz, Executive Director
Trinity Cafe, Inc.	 DocuSigned by: 627D5A4301344B4	Jeff Darrey, President of the Board
Trinity Cafe, Inc.	 DocuSigned by: 5E5EB8AAED742C	Mandy Cloninger, Executive Director

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### **AGREEMENT AND PLAN OF MERGER**

Pursuant to the Florida Not for Profit Corporation Act, Chapter 617, Florida Statutes, this Agreement and Plan of Merger (the "Agreement") is entered into on the date reflected below between Feeding America Tampa Bay d/b/a Feeding Tampa Bay, a Florida nonprofit corporation ("Feeding Tampa Bay") and Trinity Café, Inc., a Florida nonprofit corporation ("Trinity Café") (each a "Party" and collectively the "Parties").

### **RECITALS**

A. The Parties are each Florida nonprofit corporations organized and operated for charitable purposes. The Parties have each been determined to be a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code.

B. Trinity Café seeks to further its charitable mission of serving nutritious meals and restoring dignity to the homeless and hungry. Feeding Tampa Bay seeks to further its charitable mission of working as a caring community to end hunger in the counties it serves.

C. The Parties believe that their respective missions are consistent and compatible and will be more efficiently and effectively achieved if they merge.

**NOW, THEREFORE**, in consideration of the mutual agreements, covenants, representations and warranties set forth in this Agreement, Feeding Tampa Bay and Trinity Café agree to merge Trinity Café with and into Feeding Tampa Bay pursuant to the following terms:

### **THE MERGER**

1.1 The names of the corporations proposing to merge are Feeding America Tampa Bay d/b/a Feeding Tampa Bay, a Florida nonprofit corporation and Trinity Café, Inc., a Florida nonprofit corporation.

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1.2 As of the effective time of the merger, Trinity Café shall be merged with and into Feeding Tampa Bay, and the separate existence of Trinity Cafe shall thereupon cease, and Feeding Tampa Bay shall be the surviving corporation in the merger (the "Merger").

1.3 The name of the surviving corporation is "Feeding America Tampa Bay," which will continue to do business as "Feeding Tampa Bay."

1.4 The Articles of Incorporation and Bylaws of Feeding Tampa Bay, as amended by this Agreement, shall be the Articles of Incorporation and Bylaws of the surviving corporation.

1.5 Upon and after the effective time of the Merger, Feeding Tampa Bay shall possess all rights, privileges, and powers and shall be subject to all the restrictions and duties of Trinity Café; all rights, privileges and powers of Trinity Café shall be vested in and be the property of Feeding Tampa Bay; and all debts, liabilities and duties of Trinity Café shall thenceforth attach to Feeding Tampa Bay and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it.

#### **EFFECTIVE DATE**

2.1 Following approval of the Merger in accordance with Chapter 617, Florida Statutes, Feeding Tampa Bay and Trinity Café will cause Articles of Merger to be prepared and filed with the Florida Secretary of State as provided in Chapter 617, Florida Statutes.

2.2 The Merger shall be effective on December 31, 2018 or such later date that is agreed upon by the parties and specified in the Articles of Merger (the "Effective Date").

2.3 If, after the Merger, Feeding Tampa Bay shall be advised that further assignments, deeds, or assurances are desirable to vest in Feeding Tampa Bay any property of Trinity Café, the proper officers of each corporation shall execute all proper assignments, deeds

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or assurances and do all other things necessary and proper to vest title to such property in Feeding Tampa Bay.

### COVENANTS AND AGREEMENTS

31 Feeding Tampa Bay covenants and agrees that, as the surviving corporation, it shall be liable for all obligations of Trinity Café as of the Effective Date and hereby expressly assumes all such obligations as of the Effective Date.

32 Feeding Tampa Bay covenants and agrees that, as the surviving corporation, it shall pay all expenses of carrying out the Merger that are paid after the Merger. Each party shall bear its own costs and expenses, including legal, accounting, or any other professional fees or expenses incurred prior to the Merger. Trinity Café shall disclose all expected Merger related costs it expects to incur, accrue such costs prior to the Merger on its books and records and pay all such costs disclosed prior to the Effective Date of the Merger.

33 Each Party covenants and agrees that, during the period from the date of this Agreement to the Effective Date, except as otherwise specifically contemplated by the terms of this Agreement, it shall carry on its business in the usual, regular and ordinary course in substantially the same manner as previously conducted and shall not enter into any material contracts or incur material financial obligations without notifying the other party in advance thereof.

34 Some obligations in this Agreement are continuing in nature and the Parties recognize that future circumstances could alter the viability or desirability of certain obligations set forth in this Agreement. Therefore, while the Parties agree to act in good faith, and to take all actions and do all things reasonably necessary in order to comply with the obligations contained in this Agreement, nothing in this Agreement shall be interpreted to require Feeding Tampa Bay,



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as the surviving corporation, to take actions which are inconsistent or detrimental to the mission of Feeding Tampa or the spirit of the Trinity Café Model attached hereto as Exhibit 1.

#### **REPRESENTATIONS AND WARRANTIES**

4.1 Each Party represents and warrants that:

- a. It is a nonprofit organization duly organized, validly existing and in good standing under the laws of the State of Florida;
- b. It is an organization described in section 501(c)(3) of the Internal Revenue Code, it has filed all federal, state, and local tax and information returns, and it has made all filings with the State of Florida required through the date of this Agreement;
- c. It has full corporate power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement;
- d. It has provided, prior to the date hereof, to the other party:
  - i. all financial statements, tax returns, and other financial information for the three (3) fiscal years prior to this Agreement;
  - ii. copies or disclosure of the contents of all material contracts and obligations; and
  - iii. any other information which (1) has been requested by the other Party, (2) which would, in whole or in part, make any of the above information not misleading, or (3) which would have a material effect on the Merger or this Agreement;
- e. All records, books, and other information provided pursuant to this Section are complete, accurate, and current through the date of this Agreement.

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4.2 Each Party represents and warrants that it has obtained any and all consents necessary for the Merger pursuant to Chapter 617, Florida Statutes, including the approval of this Agreement and the Merger by the members and/or the board of directors of each Party.

#### **ASSETS AND OPERATIONS OF TRINITY CAFÉ**

5.1 Feeding Tampa Bay, as the surviving entity, will continue the current programs and operations of both Parties following the Merger, including but not limited to the continued operations of the two existing Trinity Café restaurants. Feeding Tampa Bay agrees to continue those operations consistent with the Trinity Café model attached hereto as Exhibit 1. While Feeding Tampa Bay may subsequently modify its services and programs based on community needs and available resources, the Parties envision that by creating a combined organization that can utilize resources and deliver services more effectively and efficiently, Feeding Tampa Bay will be able to improve the quality of such services and expand them as described in Sections 5.4 and 5.5 below.

5.2 As of the Effective Date, all employees of Trinity Café will become employees of Feeding Tampa Bay at their current position, status (full time or part time), and salary or hourly pay rate. As of the Effective Date, these employees will be subject to all Feeding Tampa Bay policies and procedures and will be entitled to all benefits provided by Feeding Tampa Bay to its employees.

5.3 Feeding Tampa Bay will continue to utilize the Trinity Café brand and name in association with the operation of current and future Trinity Café restaurants in the counties served by Feeding Tampa Bay.

5.4 Feeding Tampa Bay agrees to share the Trinity Café Model with other organizations within the Feeding America network and will take all reasonable actions to adopt,

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implement, and execute a detailed plan to share the Trinity Café model (the “National Exposure Plan”) after the Merger.

5.5 Feeding Tampa Bay agrees to expand Trinity Café locally by opening additional Trinity Café restaurants within the counties it serves and will take all reasonable actions to adopt, implement, and execute a detailed plan to expand Trinity Café locally (the “Local Growth Plan”) after the Merger.

5.6 Whereas Trinity Café’s cash plus liquid, marketable assets and receivables, less all liabilities (“Liquid Net Assets”) is expected to exceed \$700,000, Feeding Tampa Bay agrees that \$700,000 will be reserved subsequent to the Merger to be used solely in support of the Local Growth Plan and solely for associated expenses listed below. Amounts excluded from Liquid Net Assets include uncollected pledges and amounts due for future services (contracted meals which are based on meals to be served in the future.) A schedule of Liquid Net Assets is attached as Exhibit 2

- a. The purchase or lease of real estate used for the operation of new Trinity Café restaurants and pre-opening taxes, costs and expenses;
- b. Improvements or renovations to any property purchased or leased under this Section;
- c. The purchase of kitchen and restaurant equipment for the operation of new Trinity Café restaurants; and/or
- d. The purchase of kitchen and restaurant equipment costing more than \$2,500 that is needed for the continued operation of the current two Trinity Café restaurants.

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5.7 If the Liquid Net Assets as of the Effective Date of the Merger is less than \$700,000, the reserve established by Feeding Tampa Bay shall be reduced dollar for dollar.

5.8 If the initial \$700,000 reserved fund is depleted through use approved in Section 5.6, Feeding Tampa Bay is not obligated to further reserve or set aside additional resources for the uses described above.

5.9 Unless Feeding Tampa Bay reasonably determines that it is necessary Feeding Tampa Bay agrees that it will not sell, mortgage, or otherwise pledge as security for any loan or obligation, the property at 2801 N. Nebraska Avenue, Tampa, FL (the "Nebraska Property"). However, if Feeding Tampa Bay believes such sale or encumbrance is reasonably necessary, the Nebraska Property may be sold or encumbered on the condition that the proceeds from such sale or encumbrance shall be used solely for the purposes described in Section 5.6 of this Agreement.

#### **BYLAWS AND BOARD OF DIRECTORS**

6.1 Feeding Tampa Bay agrees with the Trinity Café mission and agrees to adopt the Trinity Café mission as a part of its own mission. No later than six months after the Effective Date of the Merger, Feeding Tampa Bay will amend its bylaws to restate its object consistent with the adoption of the Trinity Café mission and, in particular, to include language reflecting that "restoring dignity" is part of the Feeding Tampa Bay object.

6.2 As of the Effective Date, pursuant to Article VI, Section 3 of the Feeding Tampa Bay Bylaws, the number of directors of Feeding Tampa Bay will increase by five (5), and those new director positions will be filled by former Trinity Café Directors ("TC Directors") on the following terms:

- a The TC Directors will be selected by a joint committee of Trinity Café Directors Trey Traviesa and Jeff Darrey and the Feeding Tampa Bay Nominating

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Committee. The selected TC Directors will be submitted by the joint committee to Feeding Tampa Bay Board of Directors ("FTB Board") for full board consideration no later than the Effective Date.

b The TC Directors will become directors of Feeding Tampa Bay, as of the Effective Date, and will assume all duties and rights of Feeding Tampa Bay directors consistent with the Feeding Tampa Bay Bylaws.

c The TC Directors will serve an initial term of no less than three (3) years. After this initial term, Feeding Tampa Bay may eliminate these positions through a decrease the number of its directors, re-elect or decline to re-elect any TC Director, or otherwise act in any manner consistent with the Feeding Tampa Bay Bylaws in relation to the TC Directors.

6.3 The Feeding Tampa Bay Bylaws will be amended to create a committee entitled the "Trinity Café Committee" that shall be established pursuant to Article VII, Section 3 of the Feeding Tampa Bay Bylaws as of the Effective Date on the following terms:

a The Trinity Café Committee shall have eight (8) voting members including the TC Directors serving on the FTB Board and three (3) additional Feeding Tampa Bay directors selected by the Feeding Tampa Bay Board Chair. Other directors, staff, and volunteers, may serve on the committee in a non-voting capacity.

b The Trinity Café Committee shall be responsible for advising the FTB Board on matters related to the continued operation and expansion of Trinity Café restaurants, including but not limited to implementing and executing the National Exposure Plan and the Local Growth Plan.

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c Among the responsibilities of the Trinity Café Committee, is to make recommendations to the FTB Board related to the operations or expansion of Trinity Café restaurants and/or the asset/property restrictions. Before the FTB Board votes or proposes a written consent that relates to the operation or expansion of Trinity Café restaurants, including but not limited to the National Exposure Plan, the Local Growth Plan, and/or the assets and property identified in Section 5 of this Agreement, the FTB Board shall consider the advisory recommendation from the Trinity Café Committee.

d The recommendations of the Trinity Café Committee are solely advisory and shall not prevent or preclude the FTB Board from taking any action or from taking no action.

#### **AMENDMENT AND TERMINATION**

7.1 The Parties, by mutual consent of their members and/or board of directors may amend, modify or supplement this Agreement consistent with Chapter 617, Florida Statutes, in such manner as may be agreed upon by them in writing at any time prior to the Effective Date as reasonably necessary to carry out the Merger, even though this Agreement shall have been approved by the members and/or the board of directors of either or both of the Parties.

7.2 This Agreement may be terminated and the Merger abandoned for cause related to the material breach of any representations, warranties, or covenants contained in this Agreement, or for other good cause, by a resolution adopted by the board of directors of either Party at any time prior to the Effective Date, even though this Agreement shall have been approved by the members and/or the board of directors of either or both of the Parties.

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#### GENERAL PROVISIONS

81 The signatories to this Agreement represent the Parties. Each Party's representative has full authority to execute this Agreement on behalf of the entities reflected below. Each Party enters into this Agreement knowingly, voluntarily, and having consulted with legal counsel and being satisfied with the terms and conditions herein.

82 This Agreement sets forth the entire and complete agreement between the Parties relative to this matter and may not be modified or amended by oral discussions occurring prior to or after its execution and may only be modified as described in Section 7.1 of this Agreement.

83 This Agreement may be executed in counterparts. Each counterpart shall constitute an original document and evidence of the execution of this Agreement by the Party signing such counterpart. The combination of the counterparts shall constitute one agreement, which shall not be effective and binding on any Party unless and until a counterpart has been signed by each Party to this Agreement. Electronically transmitted copies of signature pages will have the full force and effect of original signed pages.

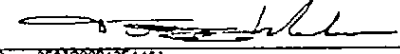
84 This Agreement, and any claim under or in connection with this Agreement (whether sounding in tort, contract, statute or otherwise), shall be governed by and enforced pursuant to the laws of the state of Florida, without giving effect to its conflicts of laws rules. Any claim referred to in the immediately preceding sentence shall be heard and determined in any state or federal court in Hillsborough County, Florida, to whose jurisdiction and venue the Parties exclusively consent for that purpose, and which the Parties agree are convenient forums for that purpose.

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**FEEDING AMERICA TAMPA BAY**

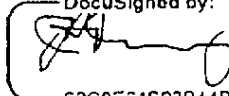
**TRINITY CAFE, INC.**

DocuSigned by:  
  
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Todd Wickner

Chairman of the Board of Directors

Dated: 11/7/2018 4:18:35 AM PST

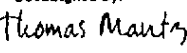
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Jeffrey A. Darrey

Jeff Darrey

President of the Board of Directors


Dated: \_\_\_\_\_

DocuSigned by:  
  
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Thomas Mantz

Executive Director

Dated: \_\_\_\_\_

DocuSigned by:  
  
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Mandy Cloninger

Executive Director

Dated: \_\_\_\_\_

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