



THE UNITED STATES
CORPORATION
COMPANY

A99000000968

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:49

ACCOUNT NO. : 072100000032
REFERENCE : 530942 4322291
AUTHORIZATION : *Patricia Pizub*
COST LIMIT : \$ ~~402~~ 50

ORDER DATE : December 28, 1999

ORDER TIME : 12:05 PM

ORDER NO. : 530942-020

CUSTOMER NO: 4322291

CUSTOMER: Mr. Joshua Berman
Powell Goldstein Frazer &
191 Peachtree St., N.e.
16th Floor
Atlanta, GA 30303

157.50

600003081956-3

ARTICLES OF MERGER

MIDDELTHON INVESTMENTS LIMITED
PARTNERSHIP

INTO

MIDDELTHON INVESTMENTS LIMITED
PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY

CONTACT PERSON: Christine Lillich
EXAMINER'S INITIALS: *KL*

RECEIVED
99 DEC 28 PM 1:02
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:52

ARTICLES OF MERGER
Merger Sheet

MERGING:

MIDDLETON INVESTMENTS LIMITED PARTNERSHIP, (A99000000968), A
FLORIDA LIMITED PARTNERSHIP

INTO

MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP. entity not qualified in
Florida

File date: December 28, 1999

Corporate Specialist: Buck Kohr

Account number: 072100000032

Account charged: 157.50

ARTICLES AND CERTIFICATE OF MERGER

OF

**MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP,
A Florida Limited Partnership**

WITH AND INTO

**MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP,
A Delaware Limited Partnership**

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:52
A99000000968

Pursuant to the provisions of *Section 17-211 of the Delaware Revised Uniform Limited Partnership Act* and *Section 620.201 of the Florida Uniform Limited Partnership Act*, Middelthon Investment Limited Partnership, a Florida limited partnership, and Middelthon Investments Limited Partnership, a Delaware limited partnership, hereby execute the following Certificate of Merger.

1. The name and state of domicile of each of the constituent entities are Middelthon Investment Limited Partnership, a Florida limited partnership ("Middelthon I"), and Middelthon Investments Limited Partnership, a Delaware limited partnership ("Middelthon II").
2. Middelthon I has approved and executed an Agreement and Plan of Merger, in accordance with the laws of the State of Florida and the State of Delaware, dated December 23, 1999, by and between Middelthon I and Middelthon II (the "Plan") pursuant to which Middelthon I will merge with and into Middelthon II (the "Merger"). The Plan has been approved by the requisite action by Middelthon I, upon and with the written consent of each partner of Middelthon I.
3. Middelthon II has approved the Merger and executed the Plan in accordance with the laws of the State of Florida and the State of Delaware, dated December 23, 1999. The Plan has been approved by the requisite action by Middelthon II, upon and with the written consent of each partner of Middelthon II.
4. Middelthon II, a Delaware domiciliary, will be the entity surviving the Merger.
5. The Merger shall be effective on the date and at the time of the filing of the Certificate of Merger.
6. The executed Agreement and Plan of Merger is on file at Middelthon II's principal place of business located at 3498 Nancy Creek Road, Atlanta, Georgia 30313.
7. A copy of the Agreement and Plan of Merger will be furnished by Middelthon II on request and without cost to any partner or member of any constituent entity.

8. Middelthon II, as the surviving entity, appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting partners of each domestic limited partnership that is a party to the Merger.

9. Middelthon II, as the surviving entity, agrees to promptly pay to the dissenting partners of each domestic limited partnership that is a party to the merger the amount, if any, to which they are entitled under Florida Statutes Section 670.205.

10. In accordance with *Section 17-211 of the Delaware Revised Uniform Limited Partnership Act* and *Sections 620.201 and 620.202 of the Florida Revised Uniform Limited Partnership Act*, the Plan has been duly authorized and approved by the unanimous written consent of the partners of each of the partnerships dated December 23, 1999.

IN WITNESS WHEREOF, Middelthon I and Middelthon II have caused these Articles to be executed in their respective names by the duly authorized general partners of Middelthon I and Middelthon II, as of the 23rd day of December, 1999.

Middelthon Investments Limited Partnership,
A Florida Limited Partnership

By: Middelthon Investments, Inc.,
General Partner

By: D. Matthew Middelthon
Name: D. Matthew Middelthon
Title: President

Middelthon Investments Limited Partnership,
A Delaware Limited Partnership

By: Middelthon Investments, Inc.,
General Partner

By: D. Matthew Middelthon
Name: D. Matthew Middelthon
Title: President

::ODMA\PCDOCS\ATL\354000\1

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4: 52

AGREEMENT AND PLAN OF MERGER
BETWEEN
MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP,
a Florida limited partnership ("MIDDELTHON I")
AND
MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP,
a Delaware limited partnership ("MIDDELTHON II")

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement"), is dated this 23rd day of December, 1999, by and between MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP, a Florida limited partnership ("Middelthon I") and MIDDELTHON INVESTMENTS LIMITED PARTNERSHIP, a Delaware limited partnership ("Middelthon II", and together with Middelthon I, the "Middelthon LPs").

WHEREAS, the Middelthon LPs are duly organized and validly existing limited partnerships organized under the laws of the State of Florida and Delaware, respectively;

WHEREAS, the partners of the Middelthon LPs have determined that it is in the best interests of the Middelthon LPs for Middelthon I to merge with and into Middelthon II upon the terms and conditions provided in this Agreement; and

WHEREAS, in accordance with Florida and Delaware law, the Certificates of Limited Partnership and the Limited Partnership Agreements of the Middelthon LPs, the necessary general and limited partners of the Middelthon LPs have duly approved this Agreement and directed that it be executed by the undersigned general partners of the Middelthon LPs;

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and conditions contained herein and for other good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, the Middelthon LPs agree as follows:

ARTICLE 1

DEFINITIONS

1.1 **Terms.** The following terms used in this Agreement shall have the meanings set forth below:

- (a) **The Delaware Act:** The *Delaware Revised Uniform Limited Partnership Act*, as in effect on the date hereof.

- FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:52
- (b) The Florida Act: The *Florida Revised Uniform Limited Partnership Act*, as in effect on the date hereof.
 - (c) Effective Date: The date upon which the Merger becomes effective under the Florida Act.
 - (d) Merger: The merger of Middelthon I with and into Middelthon II as contemplated by this Agreement and each of the Operative Documents.
 - (e) Person: An individual, company, joint venture, partnership, trust, unincorporated association, government, or any department or agency thereof, or other entity.
 - (f) Operative Documents: This Agreement and each other agreement, instrument, or other document executed and delivered pursuant hereto or in connection herewith.
 - (g) Surviving Limited Partnership: Middelthon II.

1.2 Singular/Plural; Gender. Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular, and the use of any gender includes any and all genders.

ARTICLE 2

TERMS AND CONDITIONS OF THE MERGER

2.1 Performance of Agreement of Merger. Upon the terms and subject to the conditions hereof, Middelthon I shall be merged with and into Middelthon II in accordance with applicable law. Middelthon II shall survive the Merger, and the separate legal existence of Middelthon I shall cease upon consummation of the Merger. The Merger shall be effective on the Effective Date. Prior to the Effective Date, the parties shall take all actions necessary in accordance with applicable law and their respective Certificates of Limited Partnership and Limited Partnership Agreements to cause the Merger to be consummated.

2.2 Surviving Limited Partnership Documents. The Certificate of Limited Partnership and the Limited Partnership Agreement of Middelthon II as in effect immediately prior to consummation of the Merger shall be the Certificate of Limited Partnership and the Limited Partnership Agreement of the Surviving Limited Partnership upon consummation of the Merger.

2.3 General Partner of the Surviving Limited Partnership. The general partner of the Surviving Limited Partnership upon consummation of the Merger shall be Middelthon

Investments, Inc., a Delaware corporation, whose address is 3498 Nancy Creek Road, Atlanta, Georgia 30327.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
DEC 28 PM 4:52

2.4 Rights of Surviving Limited Partnership. Upon consummation of the Merger: (a) the Surviving Limited Partnership shall possess all the rights, privileges, powers, and franchises of a public as well as a private nature, and be subject to all the restrictions, disabilities, and duties, in each case of Middelthon I and Middelthon II; and all property, real, personal and mixed, and all debts, choses in action, and other interests due or belonging to Middelthon I and Middelthon II, or any of them, shall be vested in the Surviving Limited Partnership; (b) all properties, rights, privileges, powers, and franchises, and all and every other interest, shall be thereafter the property of the Surviving Limited Partnership as they were of Middelthon I or Middelthon II, and the title to any real estate vested by deed or otherwise in either Middelthon I or Middelthon II shall not revert or in any way be impaired by reason of the Merger; (c) all rights of creditors and all liens upon any property of any of Middelthon I or Middelthon II shall be preserved unimpaired, and all debts, liabilities, and duties of each of Middelthon I and Middelthon II shall thenceforth attach to the Surviving Limited Partnership, and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred by it.

2.5 Agreement of Merger. All documents required to effect the Merger under the Delaware Act and Florida Act shall be authorized, executed, and delivered by each of the partnerships and their respective partners, who shall cause each of such documents to be filed in all appropriate places to the extent necessary or desirable to effect the Merger.

2.6 Effectiveness of Merger. If this Agreement is not terminated and abandoned pursuant to the provision of Section 2.7 hereof, a Certificate of Merger shall be filed and recorded in accordance with the laws of the State of Delaware. The Merger shall become effective upon the Effective Date.

2.7 Termination. At any time prior to the filing and recordation of the Certificate of Merger with the Secretary of State of Delaware, the Partners of Middelthon I or the Partners of Middelthon II may terminate and abandon this Agreement in such manner as they deem appropriate at any time.

ARTICLE 3

MANNER AND BASIS OF CONVERTING INTERESTS OF THE PARTNERS

Partnership Interests. Prior to the consummation of the Merger, the following Persons have the following partnership interests in each of Middelthon I and Middelthon II:

SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:52

For Each of Middelthon I and Middelthon II

General Partner

Middelthon Investments, Inc.

Partnership Interest

1%

Limited Partner

William R. Middelthon, III.

2%

D. Matthew Middelthon

2%

The Louisa Candler Eldredge
Revocable Trust

95%

Upon consummation of the Merger, the partnership interests of the partners of Middelthon I shall be deemed to have been converted into interests in the Surviving Limited Partnership. Immediately after the consummation of the Merger, the following persons shall have the following interests in the Surviving Limited Partnership:

General Partner

Membership Interest

Middelthon Investments, Inc.

1%

Limited Partner

William R. Middelthon, III.

2%

D. Matthew Middelthon

2%

The Louisa Candler Eldredge
Revocable Trust

95%

ARTICLE 4

MISCELLANEOUS

4.1 **Construction.** This Agreement shall be construed and enforced in accordance with the laws of the State of Delaware without reference to the conflict of law principles thereof.

4.2 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

4.3 Captions and Section Headings. Captions and section headings used herein are for convenience only, and shall not have any effect in the interpretation or enforcement hereof.

[Remainder of Page Intentionally Left Blank]

SECRETARY OF STATE
DIVISION OF CORPORATIONS
DEC 28 PM 4:52

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

Middelthon Investments Limited Partnership,
A Florida Limited Partnership

By: Middelthon Investments, Inc.,
General Partner

By: D. Matthew Middelthon
Name: D. Matthew Middelthon
Title: President

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 DEC 28 PM 4:52

Middelthon Investments Limited Partnership,
A Delaware Limited Partnership

By: Middelthon Investments, Inc.,
General Partner

By: D. Matthew Middelthon
Name: D. Matthew Middelthon
Title: President

::ODMA\PCDOCS\ATL\353985\11