

06/16/2016

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**MERGER OR SHARE EXCHANGE  
WESTERN WAY WAREHOUSE, LLC**

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**ARTICLES OF MERGER  
 OF  
 8286 WESTERN HOLDING, LLC  
 WITH AND INTO  
 WESTERN WAY WAREHOUSE, LLC**

Western Way Warehouse, LLC, a Florida limited liability company (the "Surviving Company"), pursuant to Section 605.1025 of the Florida Revised Limited Liability Company Act (the "Act"), hereby delivers these Articles of Merger (these "Articles") to the Florida Department of State for filing. For purposes of complying with the applicable provisions of the Act with respect to the merger of 8286 Western Holding, LLC, a Florida limited liability company (the "Disappearing Company"), with and into the Surviving Company (the "Merger"), the Surviving Company has caused its duly authorized officers to execute and deliver these Articles, and to acknowledge, certify and state under penalty of perjury, the following:

**ARTICLE I**

**NAMES, PRINCIPAL ADDRESSES AND JURISDICTIONS  
 OF THE CONSTITUENT COMPANIES**

The name, principal address and jurisdiction of each of the constituent companies involved in the Merger are as follows:

<u>Name and Principal Address</u>	<u>Jurisdiction</u>	<u>Type of Entity</u>	<u>Document Number</u>
<i>Surviving Company:</i>  Western Way Warehouse, LLC 8286 Western Way Circle Jacksonville, FL 32256	Florida	Limited Liability Company	L03000056071
<i>Disappearing Company:</i>  8286 Western Holding, LLC 8286 Western Way Circle Jacksonville, FL 32256	Florida	Limited Liability Company	L07000112707

**ARTICLE II**

**PLAN OF MERGER**

The Surviving Company is the surviving company in the Merger. The Disappearing Company and the Surviving Company adopted, approved, authorized, confirmed, consented to and ratified that certain Agreement and Plan of Merger, dated as of April 30, 2016, a copy of which is attached hereto as Exhibit A (the "Plan of Merger"), in accordance with the applicable provisions of the Act.

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**ARTICLE III**

**EFFECTIVE DATE AND TIME**

The Merger will be effective as of 12:01 a.m. on the date of filing of these Articles of Merger.

**ARTICLE IV**

**APPROVALS**

**4.1 Disappearing Company.**

Pursuant to Section 605.1023 of the Act, the Disappearing Company's sole member adopted, approved, authorized, confirmed, consented to and ratified the Merger, the Plan of Merger and these Articles by Written Consent of the Sole Member in Lieu of a Special Meeting dated April 21, 2016.

**4.2 Surviving Company.**

Pursuant to Section 605.1023 of the Act, the Surviving Company's sole member adopted, approved, authorized, confirmed, consented to and ratified the Merger, the Plan of Merger and these Articles by Written Consent of the Members in Lieu of a Special Meeting dated April 21, 2016.

[The remainder of this page was left blank intentionally.]

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The constituent companies have caused these Articles to be executed and delivered by their respective duly authorized officers.

**SURVIVING COMPANY:**

WESTERN WAY WAREHOUSE, LLC

By: Rose W. Kanner  
Rose W. Kanner, Manager

**DISAPPEARING COMPANY:**

8286 WESTERN HOLDING, LLC

By: Rose W. Kanner  
Rose W. Kanner, Manager

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**EXHIBIT A**

**Plan of Merger**

See attached.

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**AGREEMENT AND PLAN OF MERGER**

This **AGREEMENT AND PLAN OF MERGER** (this "Agreement"), dated as of April 31, 2016, is by and between Western Way Warehouse, LLC, a Florida limited liability company (the "Surviving Company"), and 8286 Western Holding, LLC, a Florida limited liability company (the "Disappearing Company"). The Surviving Company and the Disappearing Company are each individually referred to as a "Party" and collectively as "Parties".

**RECITALS**

**WHEREAS**, the respective members of the Disappearing Company and the Surviving Company have determined it is in their best interest to merge the Disappearing Company with and into the Surviving Company pursuant to Section 605.1025 of the Florida Revised Limited Liability Company Act (the "Act").

**AGREEMENT**

**ACCORDINGLY**, in consideration of the mutual benefits to be derived from this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

**ARTICLE I****GENERAL****1.1 The Merger.**

Upon the terms and conditions contained in this Agreement, and in accordance with the applicable terms and conditions contained in the Act, the Disappearing Company shall be merged with and into the Surviving Company (the "Merger"). As a result of the Merger, the separate existence of the Disappearing Company shall cease and the Surviving Company shall continue as the sole surviving company of the Merger. The Surviving Company's name shall remain unchanged by the Merger.

**1.2 Effective Date of the Merger.**

The Merger shall be effective as of the date the Articles of Merger are filed with the Department of State of the State of Florida (the "Effective Date").

**1.3 Effect of the Merger.**

Except as expressly provided elsewhere in this Agreement, the Disappearing Company and the Surviving Company shall be affected by the Merger in the manner provided by the applicable terms and conditions contained in the Act.

**1.4 Articles of Organization and Operating Agreement of the Surviving Company.**

(a) Articles of Organization. The Surviving Company's articles of organization, as in effect immediately prior to the Effective Date, shall remain the Surviving Company's articles of organization from and after the Effective Date until the same are amended, modified, supplemented and/or restated pursuant to the applicable terms and conditions contained in the Act.

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**1.5 Managers and Officers of the Surviving Company.**

(a) Managers. The Surviving Company's sole manager before the Merger is Rose W. Kanner and Rose W. Kanner shall remain the sole manager following the Merger until such manager's respective successors are duly elected and qualified pursuant.

(b) Officers. The Surviving Company's officers in office immediately prior to the Effective Date will remain the Surviving Company's officers from and after the Effective Date until such officers' respective successors are duly elected or appointed and qualified.

**ARTICLE II****EFFECT OF MERGER ON INTERESTS AND OTHER SECURITIES****2.1. Disappearing Company's Membership Interests.**

At the Effective Date, by virtue of the Merger and without any further action on the part of the Disappearing Company or the Surviving Company, all of the Disappearing Company's membership interests automatically will be converted into fifty percent (50%) of the membership interests of the Surviving Company.

**2.2. The Disappearing Company's Other Securities.**

At the Effective Date, by virtue of the Merger and without any further action on the part of the Disappearing Company or the Surviving Company, any and all options, warrants and other securities exercisable or exchangeable for, or convertible into, the Disappearing Company's interests or other securities of the Disappearing Company shall be canceled without any conversion thereof and no payment or distribution shall be made with respect thereto.

**2.3. The Surviving Company's Membership Interests.**

At the Effective Date, by virtue of the Merger and without any further action on the part of the Disappearing Company or the Surviving Company, all of the interests of the Surviving Company prior to the Merger shall continue to be issued and outstanding interests of the Surviving Company in the same percentages as in effect prior to the Merger.

**2.4. The Surviving Company's Other Securities.**

The Surviving Company's options, warrants and other securities exercisable or exchangeable for, or convertible into, the Surviving Company's interests or other securities of the Surviving Company shall terminate at the Effective Date.

**2.5. Filing of Articles of Merger.**

As soon as practicable, (a) the Disappearing Company will execute Articles of Merger (the "Articles"), (ii) the Surviving Company will execute the Articles, and (iii) the Surviving Company will cause the Articles to be delivered to and filed with the Florida Department of State, pursuant to the Act.

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**ARTICLE III**  
**MISCELLANEOUS**

**3.1. Notices.**

All demands, documents, notices, payments, reports, requests, returns or other communications delivered pursuant to the conditions, provisions and terms contained in this Agreement and other applicable law will be in writing and will be deemed to be sufficient if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested, postage prepaid, (iii) sent by facsimile or other electronic transmission device, or (iv) sent by a nationally-recognized, overnight courier, to the Parties at the following addresses (or at such other address for a Party as is specified by a written notice satisfying the conditions, provisions and terms contained in this Section):

- (i) If to the Surviving Company, to it at:  
  
8286 Western Way Circle  
Jacksonville, FL 32256  
Attention: Rose W. Kanner
- (ii) If to the Disappearing Company, to it at:  
  
8286 Western Way Circle  
Jacksonville, FL 32256  
Attention: Rose W. Kanner

All such demands, documents, notices, payments, reports, requests, returns or other communications will be deemed to have been delivered and received (i) in the case of personal delivery, on the date of such delivery, (ii) in the case of delivery by certified or registered mail, on the third (3rd) Business Day following such mailing, (iii) in the case of delivery by facsimile or other electronic transmission device, on the date of such delivery if delivered on a Business Day, or if not delivered on a Business Day, then on the next Business Day after the day delivered, and (iv) in the case of delivery by a nationally-recognized, overnight courier guaranteeing next Business Day delivery, on the Business Day following dispatch. "Business Day" means any day that is not a Saturday, Sunday or a day on which banking institutions in Jacksonville, Florida are authorized or required to be closed.

**3.2. Benefits of Agreement.**

All of the conditions, provisions and terms contained in this Agreement will be binding upon and will inure to the benefit of the Parties and their respective affiliates, estates, executors, heirs, permitted assignees, personal representatives and successors, as applicable. Except as otherwise expressly contained in this Agreement, this Agreement will not confer any remedies or rights upon any Person other than the Persons referred to in the immediately preceding sentence. This Agreement is not assignable by any Party without the prior written consent of each other Party.

**3.3. Remedies.**

Each Party will have and retain all remedies and rights existing in her, his or its favor under this Agreement, at law or in equity, including rights to bring actions for injunctive relief, specific performance and other non-monetary equitable relief (specifically excluding the remedy of rescission) to enforce or prevent a breach of or default under, or threatened breach of or default under, any condition, provision or

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term contained in this Agreement. The pursuit of any remedy or right by a Party will not be deemed an election of such remedy or right and will not preclude such Party from exercising or pursuing any other available remedy or right (other than the remedy of rescission).

### **3.4. Waiver.**

The failure of any Party to seek redress for a breach of or default under, or failure to insist upon the strict performance of, any condition, provision or term contained in this Agreement, will not prevent a subsequent act or failure from having the effect of an original breach of or default under, or failure to satisfy, any such condition, provision or term contained in this Agreement. No waiver of any condition, provision or term contained in this Agreement will be effective unless it is contained in a written document executed by each Party, and then only to the extent specifically provided in such writing. No waiver by any Party of any breach of or default will be deemed to extend to any prior or subsequent breach of or default, or affect in any way any rights arising out of, based upon, connected with, incidental to or related to any such prior or subsequent occurrence.

### **3.5. Litigation Expenses.**

The prevailing Party in any action, appeal, investigation, proceeding or suit before any arbitrator, governmental authority or mediator (each a "Proceeding") brought to enforce, or resolve a dispute under, the conditions, provisions and terms contained in this Agreement will be entitled to an award of all and any out-of-pocket costs, expenses and fees incurred in connection with such Proceeding, including reasonable fees and disbursements of outside accountants, consultants, expert witnesses, investigators, legal counsel and other professionals, which award of costs, expenses and fees will be in addition to any other remedy awarded in such Proceeding. This paragraph applies to any costs, expenses and fees of legal counsel in any Proceeding to determine entitlement to reasonable fees and disbursements of legal counsel, as well as in determining and quantifying the amount of the foregoing costs, expenses and fees.

### **3.6. Governing Law.**

This Agreement will be construed, governed by and interpreted in accordance with the domestic laws of the State of Florida without giving effect to any choice of law or any conflicting provision, rule or term (whether of the State of Florida or any other jurisdiction) that would cause the laws of any jurisdiction other than the State of Florida to be applied.

### **3.7. Jurisdiction and Venue.**

Each of the Parties irrevocably and unconditionally submits, for herself, himself or itself and her, his or its assets, to the exclusive jurisdiction and venue of any Florida state court or United States federal court sitting in Duval County, Florida, and any appellate court from any such Florida state court or federal court (each individually, a "Florida Court"), in any Proceeding arising out of, based upon, connected with, incidental to or related to this Agreement or the transactions contemplated hereby, or for enforcement or recognition of any judgment arising therefrom, based upon, connected thereto, incidental thereto or related thereto. Each of the Parties irrevocably and unconditionally waives, to the fullest extent he, she or it effectively and legally may do so, (i) any objection that he, she or it now or hereafter may have to the laying of venue of any Proceeding arising out of, based upon, connected with, incidental to or related to this Agreement or the transactions contemplated hereby in any Florida Court and (ii) the claim or defense of an inconvenient forum to the maintenance of such Proceeding in any Florida Court.

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**3.8. Counterparts and Electronic Delivery.**

The Parties may execute this Agreement in any number of counterparts, and each such counterpart will be deemed an original signature page to this Agreement. All such counterparts will be considered one and the same contract and will become effective when one (1) or more counterparts have been executed by each Party and delivered to each other Party, it being understood that all Parties need not execute the same counterpart. Any counterpart or other signature delivered by facsimile, e-mail or other electronic device will be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such Party, and the signatures of the Parties transmitted electronically will be deemed for all purposes as an "electronic signature" within the meaning of the Uniform Electronic Transaction Act.

**3.9. Entire Agreement.**

This Agreement and the other agreements and documents referenced herein and attached to this Agreement (including the Articles) and any other document contemporaneously entered into with this Agreement contain all of the agreements, contracts and understandings between the Parties with respect to the transactions contemplated hereby and thereby and supersede all prior agreements, contracts and understandings between the Parties with respect to such transactions.

[The Parties have left the remainder of this page blank intentionally.]

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement and Plan of Merger to be executed and delivered by their respective duly authorized officers as of the date first written above.

**SURVIVING COMPANY:**

WESTERN WAY WAREHOUSE, LLC

By: Rose W. Kanner  
Rose W. Kanner, Manager

**DISAPPEARING COMPANY:**

8286 WESTERN HOLDING, LLC

By: Rose W. Kanner  
Rose W. Kanner, Manager