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**EXAMINER**

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

2011 SEP 13 AM 9:05

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28/1 SEP 13 AM 9:05  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**COVER LETTER**

**TO:** Registration Section  
Division of Corporations

**SUBJECT:** DINGMAN BROS. 1051, LLC  
Name of Surviving Party

The enclosed Certificate of Merger and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to:

WILLIAM G. ROY, III, ESQ.

Contact Person

THE ROY LAW FIRM, PL

Firm/Company

411 W. CENTRAL PARKWAY

Address

ALTAMONTE SPRINGS, FL 32714

City, State and Zip Code

WGR@ROYLAWFIRM.COM

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

For further information concerning this matter, please call:

BILL ROY

Name of Contact Person

at ( 407 )

869-1414

Area Code and Daytime Telephone Number



Certified copy (optional) \$30.00

**STREET ADDRESS:**

Registration Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**MAILING ADDRESS:**

Registration Section  
Division of Corporations  
P. O. Box 6327  
Tallahassee, FL 32314

**Certificate of Merger  
For  
Florida Limited Liability Company**

**FILED**  
2011 SEP 13 AM 9:05  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The following Certificate of Merger is submitted to merge the following Florida Limited Liability Company(ies) in accordance with s. 608.4382, Florida Statutes.

**FIRST:** The exact name, form/entity type, and jurisdiction for each **merging** party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
TVS HOLDINGS, LLC	FLORIDA	LLC
DINGMAN BROS. 1051, LLC	FLORIDA	LLC

**SECOND:** The exact name, form/entity type, and jurisdiction of the **surviving** party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
DINGMAN BROS. 1051, LLC	FLORIDA	LLC

**THIRD:** The attached plan of merger was approved by each domestic corporation, limited liability company, partnership and/or limited partnership that is a party to the merger in accordance with the applicable provisions of Chapters 607, 608, 617, and/or 620, Florida Statutes.

**FOURTH:** The attached plan of merger was approved by each other business entity that is a party to the merger in accordance with the applicable laws of the state, country or jurisdiction under which such other business entity is formed, organized or incorporated.

**FIFTH:** If other than the date of filing, the effective date of the merger, which cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State:

\_\_\_\_\_

**SIXTH:** If the surviving party is not formed, organized or incorporated under the laws of Florida, the survivor's principal office address in its home state, country or jurisdiction is as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SEVENTH:** If the survivor is not formed, organized or incorporated under the laws of Florida, the survivor agrees to pay to any members with appraisal rights the amount, to which such members are entitles under ss.608.4351-608.43595, F.S.

**EIGHTH:** If the surviving party is an out-of-state entity not qualified to transact business in this state, the surviving entity:

a.) Lists the following street and mailing address of an office, which the Florida Department of State may use for the purposes of s. 48.181, F.S., are as follows:

Street address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Mailing address: \_\_\_\_\_

\_\_\_\_\_

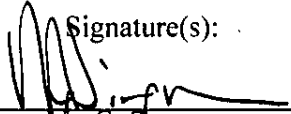


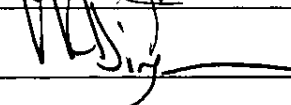
\_\_\_\_\_

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILED

b.) Appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce obligations of each limited liability company that merged into such entity, including any appraisal rights of its members under ss.608.4351-608.43595, Florida Statutes.

**NINTH:** Signature(s) for Each Party:

Name of Entity/Organization:	Signature(s):	Typed or Printed Name of Individual:
<u>TVS HOLDINGS, LLC</u>		<u>RICHARD DINGMAN, MGR</u>
<u>TVS HOLDINGS, LLC</u>		<u>WILLIAM DINGMAN, MGR</u>
<u>DINGMAN BROS. 1051, LLC</u>		<u>WILLIAM DINGMAN, MGR</u>
<u>DINGMAN BROS. 1051, LLC</u>		<u>RICHARD DINGMAN, MGR</u>

Corporations:	Chairman, Vice Chairman, President or Officer (If no directors selected, signature of incorporator.)
General partnerships:	Signature of a general partner or authorized person
Florida Limited Partnerships:	Signatures of all general partners
Non-Florida Limited Partnerships:	Signature of a general partner
Limited Liability Companies:	Signature of a member or authorized representative

**Fees:**

For each Limited Liability Company:	\$25.00
For each Corporation:	\$35.00
For each Limited Partnership:	\$52.50
For each General Partnership:	\$25.00
For each Other Business Entity:	\$25.00

**Certified Copy (optional):** \$30.00

FILED  
 2011 SEP 13 AM 9:05  
 SECRETARY OF STATE  
 TALLAHASSEE, FLORIDA

## PLAN OF MERGER

**FIRST:** The exact name, form/entity type, and jurisdiction for each merging party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
TVS HOLDINGS, LLC	FLORIDA	LLC
DINGMAN BROS. 1051, LLC	FLORIDA	LLC

**SECOND:** The exact name, form/entity type, and jurisdiction of the surviving party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
DINGMAN BROS. 1051, LLC	FLORIDA	LLC

**THIRD:** The terms and conditions of the merger are as follows:

SEE ATTACHED EX. "A"


(Attach additional sheet if necessary)

2011 SEP 13 AM 9:05  
CLERK OF DISTRICT COURT  
TALLAHASSEE, FLORIDA

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**FOURTH:**

A. The manner and basis of converting the interests, shares, obligations or other securities of each merged party into the interests, shares, obligations or others securities of the survivor, in whole or in part, into cash or other property is as follows:

**SEE ATTACHED EX. "A"**

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CLERK OF COURT  
TALAHASSEE, FLORIDA

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*(Attach additional sheet if necessary)*

B. The manner and basis of converting rights to acquire the interests, shares, obligations or other securities of each merged party into rights to acquire the interests, shares, obligations or others securities of the survivor, in whole or in part, into cash or other property is as follows:

**SEE ATTACHED EX. "A"**

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*(Attach additional sheet if necessary)*

**FIFTH:** Any statements that are required by the laws under which each other business entity is formed, organized, or incorporated are as follows:

SEE ATTACHED EX. "A"

*(Attach additional sheet if necessary)*

**SIXTH:** Other provisions, if any, relating to the merger are as follows:

SEE ATTACHED EX. "A"

*(Attach additional sheet if necessary)*

2011 SEP 13 AM 9:06  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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## MERGER AGREEMENT AND PLAN OF CONSOLIDATION

THIS MERGER AGREEMENT AND PLAN OF CONSOLIDATION (the "Agreement") is dated as of September 1st, 2011 by and among TVS HOLDINGS, LLC, a Florida limited liability company ("TVS HOLDINGS") and DINGMAN BROS. 1051, LLC, a Florida limited liability company ("DB 1051") and joined by WILLIAM E. DINGMAN, individually, RICHARD A. DINGMAN, individually, and DINGMAN BROS., LLC, a Florida limited liability company ("DINGMAN BROS.>").

### RECITALS:

A. WILLIAM E. DINGMAN and RICHARD A. DINGMAN (collectively the "Members") are the owners of 100.0% of the LLC membership interest of TVS HOLDINGS;

B. The Members are the owners of 100.00% of the LLC membership interest of DB 1051;

C. DINGMAN BROS. is the Manager of both DB 1051 and TVS HOLDINGS

D. The Members have determined it to be advantageous to merge DB 1051 into DB 1051, pursuant to the provisions of Ch. 608, Fla. Statutes;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

### Article 1 PLAN OF CONSOLIDATION

1.1 Effective Time. The Unit Exchange (as defined below) shall be effective as of 12:00 am on January 1, 2011 (the "Effective Date").

1.2 Unit Exchange. At the Closing, and effective as of the Effective Time, the Members shall exchange their respective ownership interests in TVS HOLDINGS for units of DB 1051 on the terms and conditions set forth at Article II.

1.3 Effect of Unit Exchange. At the Effective Time, TVS HOLDINGS shall be merged into DB 1051 and DB 1051 shall be the surviving entity.

1.4 Taking of Necessary Action. Prior to the Effective Time, the parties hereto shall do or cause to be done all such acts and things as may be necessary or appropriate in order to effectuate the transactions contemplated herein as expeditiously as reasonably practicable, in accordance with this Agreement.

### Article 2 EXCHANGE OF UNITS

2.1 Contribution of Securities. At the Closing, the Members shall exchange their units of TVS HOLDINGS for an equal number of newly issued units of DB 1051. The parties shall take all steps to effectuate the unit transfer and to perfect the transfer on

the books of said Controlled Entity. All transfers under this Section 2.1 shall be effective as of the Effective Time. The Members represent and warrant that they are record owners of all Units of TVS HOLDINGS to be transferred as part of this Agreement and further represent that they have clear and marketable title to such Units. The Members further represent that there are no liens against the Units and that there are no claims of third parties threatened or pending with respect to their ownership of said Units.

2.2 Tax Effect of Unit Exchange. TVS HOLDINGS is currently classified as a disregarded entity and DB 1051 is classified as a partnership under the Internal Revenue Code of 1986 as amended (the "Code"). The contribution of the TVS HOLDINGS to DB 1051 units is all intended by the parties to be a tax-free transaction under the Code.

### **Article 3 REPRESENTATIONS & WARRANTIES REGARDING TVS HOLDINGS**

The Members, jointly and severally, make the following representations and warranties to all parties, each of which shall be deemed material (and said other parties, in executing, delivering and consummating this Agreement, have relied and will rely upon the correctness and completeness of each of such representations and warranties):

3.1 Organization, Good Standing and Qualification. TVS HOLDINGS is a limited liability company duly organized and validly existing under the laws of the State of Florida and is in good standing under such laws and has requisite power and authority to own the properties owned by it and to conduct business as being conducted by it.

3.2 Articles of Incorporation and Bylaws. TVS HOLDINGS has delivered to DB 1051 accurate and complete copies of its Articles and bylaws, including all amendments thereto. There has not been any violation of any deprivations of TVS HOLDINGS's Articles or bylaws, and no action has been taken that is inconsistent in any material respect with any resolution adopted by the Unitholders, the Managers or any committee of the Managers.

3.3 Corporate Authority. TVS HOLDINGS has all requisite power and authority to execute and deliver this Agreement, to carry out and perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by TVS HOLDINGS of this Agreement and the consummation of the transactions contemplated herein have been duly and validly authorized by TVS HOLDINGS's members and managers, no further authorization is necessary on the part of TVS HOLDINGS to consummate the transactions contemplated hereby.

3.4 Subsidiary. TVS HOLDINGS has no subsidiaries and does not directly or indirectly own of record or beneficially any capital stock or equity interest or investment in any corporation, association or business entity.

3.5 Capitalization. The authorized membership of TVS HOLDINGS consists of 100 units of membership interest, each having equal rights. As of the date of this Agreement, there 100 units of the 100 authorized units issued and outstanding. All the issued and outstanding Units of the TVS HOLDINGS membership interest have been duly authorized and validly issued, are fully paid and non-assessable, were not issued in

violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities of TVS HOLDINGS. As of the date hereof, TVS HOLDINGS does not have outstanding any options to purchase, or any preemptive rights or other rights to subscribe for or to purchase, any securities or obligations convertible into, or any contracts or commitments to issue or sell, Units of its membership interest or any such options, rights, convertible securities or obligations.

3.6 Valid and Binding Agreement. This Agreement constitutes the valid and binding obligation of TVS HOLDINGS, subject to: (a) applicable bankruptcy, insolvency, reorganization and moratorium laws and other laws of general application affecting enforcement of creditors' rights generally; and (b) equitable defenses and to the discretion of the court before which any proceedings seeking the remedy of specific performance and injunctive and other forms of equitable relief may be brought.

3.7 No Breach of Statute or Contract. Except for matters specifically described in this Agreement, neither the execution, delivery and performance of this Agreement by TVS HOLDINGS, compliance with the terms and provisions of this Agreement on the part of TVS HOLDINGS will not: (i) violate any provision of TVS HOLDINGS's Articles, bylaws or any other organizational documents of TVS HOLDINGS, as amended; (ii) require the issuance of any authorization, license, consent or approval of or require notice to or filing with, any federal or state governmental agency; or (iii) conflict with, result in the breach or violation of, or constitute, either by itself or upon notice or the passage of time or both a default under any mortgage, indenture, agreement, permit, deed of trust, lease, franchise, license or instrument to which TVS HOLDINGS is a party or by which it or any of its properties is bound, or any judgment, decree, order, rule or regulation or other restriction of any court or any regulatory body, administrative agency or other governmental body applicable to TVS HOLDINGS or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of TVS HOLDINGS pursuant to any such term.

3.8 Absence of Undisclosed Liabilities. Except as otherwise set forth in this Agreement, TVS HOLDINGS has not incurred any material debts, liabilities or obligations, contingent or absolute, that would be required to be reflected or reserved against in a balance sheet of TVS HOLDINGS prepared in accordance with generally accepted accounting principles ("GAAP") and that would have a material effect on such financial statements.

3.9 Tax Matters. Except as set forth in Schedule 3.9.

(a) TVS HOLDINGS has filed all Tax Returns that it was required to file. All such Tax Returns were correct and complete in all respects. All Taxes owed by TVS HOLDINGS (whether or not shown on any Tax Return and whether or not any Tax Return was required) have been paid. TVS HOLDINGS has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, Unitholder or other third party. There are no

liens on any of the assets of TVS HOLDINGS that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) no issue relating to Taxes has been raised in writing by a taxing authority during any pending audit or examination, and no issue relating to Taxes was raised in writing by a taxing authority in any completed audit or examination, that reasonably can be expected to recur in a later taxable period;

(c) TVS HOLDINGS has never been an S corporation (within the meaning of Section 1361(a)(1) of the Code). All material elections with respect to Taxes affecting TVS HOLDINGS are disclosed or attached to a Tax Return of TVS HOLDINGS;

3.10 Litigation. There is neither pending nor, to TVS HOLDINGS's knowledge, threatened, any legal or governmental action, suit, investigation, proceeding or claim, to which TVS HOLDINGS is or may be named as a party by or before any court, governmental or regulatory authority or by any third party that is reasonably likely to have a Material Adverse Effect. TVS HOLDINGS is not a party or subject to the provisions of any material injunction, judgment, decree, or order of any court, regulatory body, administrative agency or other governmental body.

3.11 Title to Properties: Liens and Encumbrances. TVS HOLDINGS has good and valid title in all property and assets recorded on TVS HOLDINGS Financial Statements, free from all mortgages, pledges, liens, security interests, conditional sale agreements, encumbrances or charges, except: (a) as would not have a Material Adverse Effect; (b) as shown on TVS HOLDINGS Financial Statements; or (c) tax, materialmen's or like liens for obligations not yet due or payable or being contested in good faith by appropriate proceedings. TVS HOLDINGS owns or has adequate rights to use all such properties or assets as are necessary to its operations as now conducted.

3.12 Compliance with Contracts. To the best of TVS HOLDINGS's knowledge, TVS HOLDINGS is not in violation of or default under any provision of: (a) any mortgage, indenture, contract, agreement, license, deed of trust, lease, franchise, permit or other instrument to which it is a party or by which it or any of its properties are bound and there does not exist any state of facts which constitutes an event of default or which, with notice or lapse of time or both, would constitute an event of default; or (b) any judgment, decree, order, statute, rule or regulation to which TVS HOLDINGS is subject to.

3.13 Compliance with Environmental Laws. TVS HOLDINGS is in material compliance with all applicable statutes, laws and regulations relating to the protection of the environment or occupational health and safety except for non-compliance which would not, individually or in the aggregate, have a Material Adverse Effect. TVS HOLDINGS has not received any written notice of, or to the knowledge of TVS HOLDINGS, is not the subject of, any actions, claims, investigations, demands or notices alleging liability under or non-compliance with any laws relating to the protection of the

environment or occupational health and safety which would, individually or in the aggregate, have a Material Adverse Effect.

3.14 Brokers or Finders. TVS HOLDINGS represents, as to itself, and its affiliates, that no agent, broker, investment banker, financial advisor or other firm or person is or will be entitled to any brokers' or finder's fee or any other commission or similar fee in connection with any of the transactions contemplated by this Agreement.

#### **Article 4 REPRESENTATIONS & WARRANTIES OF DB 1051**

The Members, jointly and severally, make the following representations and warranties to all parties, each of which shall be deemed material (and said other parties, in executing, delivering and consummating this Agreement, have relied and will rely upon the correctness and completeness of each of such representations and warranties):

4.1 Organization, Good Standing and Qualification. DB 1051 is a limited liability company duly organized and validly existing under the laws of the State of Florida and is in good standing under such laws and has requisite power and authority to own the properties owned by it and to conduct business as being conducted by it.

4.2 Articles of Incorporation and Bylaws. DB 1051 has delivered to TVS HOLDINGS accurate and complete copies of its Articles and bylaws, including all amendments thereto. There has not been any violation of any deprivations of DB 1051's Articles or bylaws, and no action has been taken that is inconsistent in any material respect with any resolution adopted by the Unitholders, the Managers or any committee of the Managers.

4.3 Corporate Authority. DB 1051 has all requisite power and authority to execute and deliver this Agreement, to carry out and perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by DB 1051 of this Agreement and the consummation of the transactions contemplated herein have been duly and validly authorized by DB 1051's members and managers, no further authorization is necessary on the part of DB 1051 to consummate the transactions contemplated hereby.

4.4 Subsidiary. DB 1051 has no subsidiaries and does not directly or indirectly own of record or beneficially any capital stock or equity interest or investment in any corporation, association or business entity.

4.5 Capitalization. The authorized membership of DB 1051 consists of 100 units of membership interest, each having equal rights. As of the date of this Agreement, there 100 units of the 100 authorized units issued and outstanding. All the issued and outstanding Units of the DB 1051 membership interest have been duly authorized and validly issued, are fully paid and non-assessable, were not issued in violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities of DB 1051. As of the date hereof, DB 1051 does not have outstanding any options to purchase, or any preemptive rights or other rights to subscribe for or to purchase, any securities or obligations convertible into, or any contracts or commitments to issue or

sell, Units of its membership interest or any such options, rights, convertible securities or obligations.

4.6 Valid and Binding Agreement. This Agreement constitutes the valid and binding obligation of DB 1051, subject to: (a) applicable bankruptcy, insolvency, reorganization and moratorium laws and other laws of general application affecting enforcement of creditors' rights generally; and (b) equitable defenses and to the discretion of the court before which any proceedings seeking the remedy of specific performance and injunctive and other forms of equitable relief may be brought.

4.7 No Breach of Statute or Contract. Except for matters specifically described in this Agreement, neither the execution, delivery and performance of this Agreement by DB 1051, compliance with the terms and provisions of this Agreement on the part of DB 1051 will not: (i) violate any provision of DB 1051's Articles, bylaws or any other organizational documents of DB 1051, as amended; (ii) require the issuance of any authorization, license, consent or approval of or require notice to or filing with, any federal or state governmental agency; or (iii) conflict with, result in the breach or violation of, or constitute, either by itself or upon notice or the passage of time or both a default under any mortgage, indenture, agreement, permit, deed of trust, lease, franchise, license or instrument to which DB 1051 is a party or by which it or any of its properties is bound, or any judgment, decree, order, rule or regulation or other restriction of any court or any regulatory body, administrative agency or other governmental body applicable to DB 1051 or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of DB 1051 pursuant to any such term.

4.8 Absence of Undisclosed Liabilities. Except as otherwise set forth in this Agreement, DB 1051 has not incurred any material debts, liabilities or obligations, contingent or absolute, that would be required to be reflected or reserved against in a balance sheet of DB 1051 prepared in accordance with generally accepted accounting principles ("GAAP") and that would have a material effect on such financial statements.

4.9 Tax Matters. Except as set forth in this Agreement.

(a) DB 1051 has filed all Tax Returns that it was required to file. All such Tax Returns were correct and complete in all respects. All Taxes owed by DB 1051 (whether or not shown on any Tax Return and whether or not any Tax Return was required) have been paid. DB 1051 has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, Unitholder or other third party. There are no liens on any of the assets of DB 1051 that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) no issue relating to Taxes has been raised in writing by a taxing authority during any pending audit or examination, and no issue relating to Taxes was raised in writing by a taxing authority in any completed audit or examination, that reasonably can be expected to recur in a later taxable period;

(c) DB 1051 has never been an S corporation (within the meaning of Section 1361(a)(1) of the Code). All material elections with respect to Taxes affecting DB 1051 are disclosed or attached to a Tax Return of DB 1051;

4.10 Litigation. There is neither pending nor, to DB 1051's knowledge, threatened, any legal or governmental action, suit, investigation, proceeding or claim, to which DB 1051 is or may be named as a party by or before any court, governmental or regulatory authority or by any third party that is reasonably likely to have a Material Adverse Effect. DB 1051 is not a party or subject to the provisions of any material injunction, judgment, decree, or order of any court, regulatory body, administrative agency or other governmental body.

4.11 Title to Properties: Liens and Encumbrances. DB 1051 has good and valid title in all property and assets recorded on DB 1051 Financial Statements, free from all mortgages, pledges, liens, security interests, conditional sale agreements, encumbrances or charges, except: (a) as would not have a Material Adverse Effect; (b) as shown on DB 1051 Financial Statements; or (c) tax, materialmen's or like liens for obligations not yet due or payable or being contested in good faith by appropriate proceedings. DB 1051 owns or has adequate rights to use all such properties or assets as are necessary to its operations as now conducted.

4.12 Compliance with Contracts. To the best of DB 1051's knowledge, DB 1051 is not in violation of or default under any provision of: (a) any mortgage, indenture, contract, agreement, license, deed of trust, lease, franchise, permit or other instrument to which it is a party or by which it or any of its properties are bound and there does not exist any state of facts which constitutes an event of default or which, with notice or lapse of time or both, would constitute an event of default; or (b) any judgment, decree, order, statute, rule or regulation to which DB 1051 is subject to.

4.13 Compliance with Environmental Laws. DB 1051 is in material compliance with all applicable statutes, laws and regulations relating to the protection of the environment or occupational health and safety except for non-compliance which would not, individually or in the aggregate, have a Material Adverse Effect. DB 1051 has not received any written notice of, or to the knowledge of DB 1051, is not the subject of, any actions, claims, investigations, demands or notices alleging liability under or non-compliance with any laws relating to the protection of the environment or occupational health and safety which would, individually or in the aggregate, have a Material Adverse Effect.

4.14 Brokers or Finders. DB 1051 represents, as to itself, and its affiliates, that no agent, broker, investment banker, financial advisor or other firm or person is or will be entitled to any brokers' or finder's fee or any other commission or similar fee in connection with any of the transactions contemplated by this Agreement.

## **Article 5 PARTIES**

5.1 Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligations or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

5.2 Notices. Any notice, demand, request, offer, consent, approval or communications (collectively, a "Notice") to be provided under this Agreement shall be in writing and sent by one of the following methods: (a) postage prepaid, United States certified or registered mail with a return receipt requested, addressed to the appropriate party at the addresses set forth below; (b) overnight delivery with a nationally recognized and reputable air courier (with electronic tracking requested) addressed to the appropriate party at the addresses set forth below; (c) personal delivery to the appropriate party at the addresses set forth below; or (d) by confirmed facsimile or telecopier transmission to the appropriate party at the facsimile numbers set forth below and in such case of facsimile transmission, a copy must also be contemporaneously sent by one of the methods described in the preceding clause (a), (b) or (c) of this Section (it being understood and agreed, however, that such Notice shall be deemed received upon receipt of electronic transmission). Any such Notice shall be deemed given upon receipt thereof, or, in case of any Notice sent pursuant to clause (a), (b) or (c) above, the refusal thereof by the intended receipt. Notwithstanding the foregoing, in the event any Notice is sent by overnight delivery or personal delivery and it is received (or delivery is attempted) during non business hours (i.e., other than during 8:30 a.m. to 5:30 p.m. [Monday through Friday, excluding holidays]), then such Notice shall not be deemed to have been received until the next Business Day. Either party may designate a different address for receiving Notices hereunder by notice to the other party in accordance with the provisions of this Section 5.2. Further notwithstanding the foregoing, if any Notice is sent by either party hereto to the other and such Notice has not been sent in compliance with this Section but has in fact actually been received by the other party, then such Notice shall be deemed to have been duly given by the sending party and received by the recipient party effective as of such date of actual receipt.

(a) If to TVS:

Richard A. Dingman, Manager  
1051 W. Webster Avenue  
Winter Park, FL 32789

(b) If to DB 1051,

Richard A. Dingman, Manager  
1051 W. Webster Avenue  
Winter Park, FL 32789

or to such other address as either party shall have specified by notice in writing given to the other party. Notwithstanding anything in this Section to the contrary, any Notice delivered in accordance herewith to the last designated address of any person or party to which a Notice may be or is required to be delivered pursuant to this Agreement shall not be deemed ineffective if actual delivery cannot be made due to a change of address of the person or party to which the Notice is directed or the failure or refusal of such person or party to accept delivery of the Notice.

5.3 **Affiliates** Wherever used in this Agreement, the term "Affiliate" means, as respects any person or entity, any other person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the first person or entity.

## **Article 6 MISCELLANEOUS**

6.1 **Non-Assignability; Binding Effect.** Neither this Agreement, nor any of the rights or obligations of the parties hereunder, shall be assignable by any party hereto without the prior written consent of all other parties hereto, which such consent may be granted or withheld in such other party's sole and absolute discretion. The rights and obligations of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns. Nothing expressed or implied herein shall be construed to give any other person any legal or equitable rights hereunder.

6.2 **Waiver.** No failure to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude the exercise of any other right, power or privilege. No waiver of any breach of any provision shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, nor shall any waiver be implied from any course of dealing between the parties. No extension of time for performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts. No waiver shall be effective unless in writing, and signed by the party or parties to which the performance of duty is owed. The rights and remedies of the parties under this Agreement are in addition to all other rights and remedies, at law or equity, that they may have against each other except as may be specifically limited herein.

6.3 **Independent Covenants.** The parties agree that each of the covenants, clauses and provisions contained in this Agreement shall be deemed severable and construed as independent of any other covenant, clause or provision.

6.4 **Severability.** If all or any portion of a covenant, clause or provision in this Agreement is held to be illegal, invalid, or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision, the remaining covenants, clauses and provisions shall remain valid and enforceable. In lieu of each covenant, clause or provision of this Agreement that is held to be illegal, invalid or unenforceable, there shall be added as a part of this Agreement a covenant, clause or provision as nearly identical as may be possible and as may be legal, valid and enforceable, and the parties expressly agree to be bound by any such added covenant, clause or provision as if the resulting

covenant, clause or provision were separately stated in, and made a part of this Agreement. In the event any covenant, clause or provision of this Agreement is illegal, invalid or unenforceable as aforesaid and the effect of such illegality, invalidity or unenforceability is that either party no longer has the substantial benefit of its bargain under this Agreement and a covenant, clause or provision as nearly identical as may be possible cannot be added, then, in such event, such party may in its discretion cancel and terminate this Agreement provided such party exercises such right within a reasonable time after such occurrence.

6.5 Entire Agreement. This Agreement contains and represents the entire and complete understanding and agreement concerning and in reference to the arrangement between the parties hereto. The parties hereto agree that no prior statements, representations, promises, agreements, instructions, or understandings, written or oral, pertaining to this Agreement, other than those specifically set forth and stated herein, shall be of any force or effect. The parties agree that prior drafts of this Agreement shall not be deemed to provide any evidence as to the meaning of any provision hereof or the intent of the parties with respect thereto.

6.6 Modifications and Amendments. This Agreement may not be, and shall not be construed to have been modified, amended, rescinded, canceled, or waived, in whole or in part, except if done so in writing and executed by the parties hereto.

6.7 Time of Essence. The parties to this Agreement acknowledge and agree that time is of the essence with respect to the consummation of the transactions contemplated by this Agreement.

6.8 Governing Law. The validity, interpretation and enforcement of this Agreement shall be governed by, and construed and enforced in accordance with the local laws of the State of Florida without giving effect to its conflicts of laws provisions, and to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

6.9 Exclusive Jurisdiction: Venue. EACH PARTY HERETO AGREES TO SUBMIT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE STATE AND/OR FEDERAL COURTS LOCATED IN SEMINOLE COUNTY, FLORIDA, FOR RESOLUTION OF ALL DISPUTES ARISING OUT OF, IN CONNECTION WITH, OR BY REASON OF THE INTERPRETATION, CONSTRUCTION, AND ENFORCEMENT OF THIS AGREEMENT, AND HEREBY WAIVES THE CLAIM OR DEFENSE THEREIN THAT SUCH COURTS CONSTITUTE AN INCONVENIENT FORUM.

6.10 Waiver of Jury Trial. AS A MATERIAL INDUCEMENT FOR THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ALL RIGHTS TO A TRIAL BY JURY OF ANY ISSUES SO TRIABLE.

6.11 Construction. The parties agree and acknowledge that they have jointly participated in the negotiation and drafting of this Agreement and that this Agreement has been fully reviewed and negotiated by the parties and their respective counsel. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall

be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant. The mere listing (or inclusion of copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty relates solely to the existence of the document or other items itself).

6.12 Section Headings. The titles to the numbered sections in this Agreement and the ordering or position thereof are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of said covenants or provisions set forth herein.

6.13 Counterparts. This Agreement may be executed by each party upon a separate counterpart, each of which shall be deemed an original, and in such case one copy of this Agreement shall consist of enough of such counterparts to reflect the signature of all of the parties to this Agreement. A telecopy signature of any party shall be considered to have the same binding legal effect as an original signature.

6.14 Attorneys' Fees. Notwithstanding this Article 6, in the event either party employs an attorney or brings an action against the other arising out of the terms of this Agreement, the prevailing party (whether such prevailing party has been awarded a money judgment or not) shall receive from the other party (and the other party shall be obligated to pay) the prevailing party reasonable legal fees and expenses (including the fees and expenses of experts and para-professionals), whether such fees and expenses are incurred before, during or after any trial, re trial, re-hearing, mediation or arbitration, administrative proceedings, appeals or bankruptcy or insolvency proceedings, and irrespective of whether the prevailing party would have been entitled to such fees and expenses under applicable law in the absence of this Section. Without limiting the generality of the foregoing, the term "expenses" shall include expert witness fees, bonds, filing fees, administrative fees, transcriptions, depositions or proceedings, costs of discovery and travel costs. The term "prevailing party" as used in this Section shall mean that party whose positions substantially prevail in such action or proceeding, and any action or proceeding brought by either party against the other as contemplated in this Section may include a plea or request for judicial determination of the "prevailing party" within the meaning of this Section. In the event neither party substantially prevails in its positions in such action or proceeding, the court may rule that neither party has so substantially prevailed, in which event each party shall be responsible for its own fees and expenses in connection therewith. In addition, the fees and expenses for the services of "in-house" counsel (if any) shall be included within the prevailing party's fees and expenses as fully as if such in-house legal services were provided by an "outside" attorney or law firm as contemplated within this Section, irrespective of whether

"outside" legal services are obtained in connection with such matter. The fees and expenses on the part of in-house counsel as aforesaid shall be determined based upon the prevailing hourly rates, fees and expenses for an attorney(s) of comparable experience in the Orlando, Florida area.

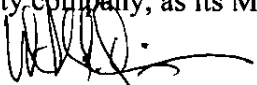
6.15 Arm's Length Negotiations. Each party herein expressly represents and warrants to all other parties hereto that: (a) before executing this Agreement, said party has fully informed itself of the terms, contents, conditions and effects of this Agreement; (b) said party has relied solely and completely upon its own judgment in executing this Agreement; (c) said party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) said party has acted voluntarily and of its own free will in executing this Agreement; (e) said party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's length negotiations conducted by and among the parties and their respective counsel.

6.16 Rules of Interpretation. Except as otherwise expressly provided in this Agreement, the following rules shall apply hereto: (a) the singular includes the plural and plural includes the singular; (b) "or" is not exclusive and "include" and "including" are not limiting; (c) a reference to any agreement or other contract includes any permitted supplements and amendments; (d) a reference to a section or paragraph in this Agreement shall, unless the context clearly indicates to the contrary, refer to all sub-parts or sub-components of any said section or paragraph; (e) words such as "hereunder", "hereto", "hereof", and "herein", and other words of like import shall, unless the context clearly indicates to the contrary, refer to the whole of this Agreement and not to any particular clause hereof; (f) a reference in this Agreement to a "person" or "party" (whether in the singular or the plural) shall (unless otherwise indicated herein) include both natural persons and unnatural persons (including, but not limited to, corporations, partnerships, limited liability companies or partnerships, trusts, etc.); (g) all accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with GAAP; and (h) any reference in this Agreement to a "Business Day" shall include each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which national banks in Orlando, Florida are closed.

IN WITNESS WHEREOF, the parties have executed this Agreement and Plan of Merger as of the date first set forth above.

DINGMAN BROS. 1051, LLC, a Florida limited liability company


By: DINGMAN BROS., LLC, a Florida limited liability company, as its Manager


By:   
William E. Dingman, as its Manager

By:   
Richard A. Dingman, as its Manager

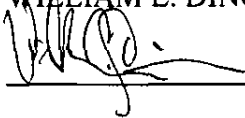
TVS HOLDINGS, LLC, a Florida limited liability company

By: DINGMAN BROS., LLC, a Florida limited liability company, as its Manager

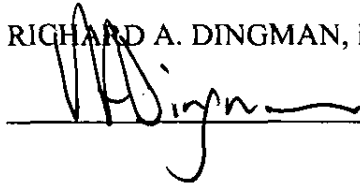
By:   
William E. Dingman, as its Manager

By:   
Richard A. Dingman, as its Manager

WILLIAM E. DINGMAN, individually



RICHARD A. DINGMAN, individually



2011 SEP 13 AM 9:05  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILED