

Division of Corporations

Page 1 of 1

L91208

Florida Department of State  
Division of Corporations  
Public Access System

## Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

(((H05000096850 3)))

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To:  
Division of Corporations  
Fax Number : (850) 205-0380

From:  
Account Name : C T CORPORATION SYSTEM  
Account Number : FCA000000023  
Phone : (850) 222-1092  
Fax Number : (850) 222-9428

FILED  
05 APR 19 PM 4:27  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

RECEIVED

05 APR 19 PM 4:08

DIVISION OF CORPORATIONS

## MERGER OR SHARE EXCHANGE

MAINTENANCE DEPOT, INC.

Certificate of Status	0
Certified Copy	1
Page Count	08
Estimated Charge	\$78.75

Electronic Filing Menu

Corporate Filing

Public Access Help

May 4 4/19/05/jou

**ARTICLES OF MERGER**

of

**MDI HOLDINGS, INC.,**  
a Florida corporation

with and into

**MAINTENANCE DEPOT, INC.,**  
a Florida corporation

**FILED**  
**05 APR 19 PM 4:27**  
CLERK OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act, these Articles of Merger provide that:

**FIRST:** MDI Holdings, Inc., a Florida corporation ("MDI Holdings"), shall be merged with and into Maintenance Depot, Inc., a Florida corporation ("Maintenance Depot"), which will be the surviving corporation in the merger.

**SECOND:** MDI Holdings owns approximately 86% of the outstanding shares of capital stock of Maintenance Depot.


**THIRD:** The Plan of Merger, dated as of March 16, 2005 (the "Plan of Merger"), was approved by unanimous consent of the Board of Directors and the shareholders of MDI Holdings on March 16, 2005 in accordance with Section 607.1104 of the Florida Business Corporation Act. Approval of the Board of Directors and shareholders of Maintenance Depot was not required under the provisions of the Florida Business Corporation Act. The Plan of Merger is attached to these Articles of Merger as Appendix I.

**FOURTH:** The merger shall be effective as of the date and time of the filings of these Articles of Merger with the Secretary of State of the State of Florida.

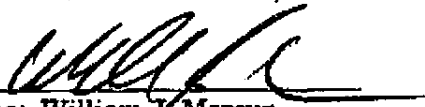
[Remainder of page intentionally left blank; next page is signature page]

IN WITNESS WHEREOF, the parties to these Articles of Merger have caused them to be duly executed by their respective authorized as of this 19<sup>th</sup> day of April, 2005.

MDI HOLDINGS, INC.

By:   
Name: William J. Mercur  
Title: President

MAINTENANCE DEPOT, INC.

By:   
Name: William J. Mercur  
Title: President

**APPENDIX I  
PLAN OF MERGER**

THIS PLAN OF MERGER, dated as of March 16, 2005 (this "Plan of Merger"), by MDI Holdings, Inc., a Florida corporation ("MDI Holdings").

**WITNESSETH:**

WHEREAS, MDI Holdings owns approximately eighty-six percent (86%) of the issued and outstanding shares of common stock of Maintenance Depot, Inc., a Florida corporation ("Maintenance Depot"); and

WHEREAS, the Board of Directors of MDI Holdings has determined to merge MDI Holdings with and into Maintenance Depot in accordance with Section 607.1104 of the Florida Business Corporations Act (the "Act") and on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the agreements contained herein, MDI Holdings, intending to be legally bound agrees as follows:

**ARTICLE 1  
NAMES OF CONSTITUENT CORPORATION**

The name of the parent corporation is MDI Holdings, Inc., a Florida corporation. The name of the subsidiary corporation is Maintenance Depot, Inc., a Florida corporation.

**ARTICLE 2  
THE MERGER**

2.1 **THE MERGER.** Upon the terms and subject to the conditions of this Plan of Merger, at the Effective Time in accordance with the Act, MDI Holdings shall be merged with and into Maintenance Depot and the separate existence of MDI Holdings shall thereupon cease (the "Merger"). Maintenance Depot shall be the surviving corporation in the Merger and is hereinafter sometimes referred to as "Surviving Corporation."

2.2 **EFFECTIVE TIME OF THE MERGER.** The Merger shall become effective at such time (the "Effective Time") as shall be stated in the Articles of Merger to be filed with the Secretary of State of the State of Florida in accordance with the Act.

2.3 EFFECT OF THE MERGER. The Merger shall have the effects set forth in Section 607.1106 of the Act.

### ARTICLE 3 THE SURVIVING CORPORATION

3.1. ARTICLES OF INCORPORATION. The Articles of Incorporation of Maintenance Depot as in effect immediately prior to the Effective Time shall be the Articles of Incorporation of Surviving Corporation after the Effective Time, until thereafter amended in accordance with its terms and as provided in the Act.

3.2. BY-LAWS. The by-laws of Maintenance Depot as in effect immediately prior to the Effective Time shall be the by-laws of Surviving Corporation after the Effective Time, and thereafter may be amended in accordance with its terms and as provided by the Articles of Incorporation of Surviving Corporation and the Act.

3.3. DIRECTORS AND OFFICERS OF SURVIVING CORPORATION. The directors and officers of MDI Holdings in office immediately prior to the Effective Time shall be the directors and officers of Surviving Corporation, and such directors and officers shall serve in accordance with the by-laws of Surviving Corporation until their respective successors are duly elected or appointed and qualified.

### ARTICLE 4 APPRAISAL RIGHTS

EACH SHAREHOLDER OF MAINTENANCE DEPOT WHO, EXCEPT FOR THE APPLICABILITY OF SECTION 607.1104 OF THE ACT, WOULD HAVE BEEN ENTITLED TO VOTE ON THE MERGER AND WHO DISSENTS FROM THE MERGER PURSUANT TO SECTION 607.1321 OF THE ACT, MAY BE ENTITLED, IF SUCH SHAREHOLDER COMPLIES WITH THE PROVISIONS OF THE ACT REGARDING APPRAISAL RIGHTS, TO BE PAID THE FAIR VALUE OF THEIR MD COMMON STOCK (AS DEFINED BELOW).

### ARTICLE 5 CONVERSION OF SHARES

5.1. CONVERSION OF SHARES. At the Effective Time, by virtue of the Merger, and without any action on the part of MDI Holdings or Maintenance Depot:

(a) Except as set forth in Section 5.1(b), each share of common stock, \$0.0001 par value per share, of Maintenance Depot ("MD Common Stock") issued and outstanding immediately prior to the Effective Time (other than MD Common Stock held in the treasury of Maintenance Depot or owned by MDI

Holdings) shall be converted into the right to receive \$1.00 (the "Merger Consideration") payable upon the surrender of the certificate formerly representing such MD Common Stock. All shares of MD Common Stock when so converted, will no longer be outstanding and will automatically be canceled and retired and each holder of a certificate or certificates representing MD Common Stock will cease to have any rights with respect thereto, except the right to receive such Merger Consideration.

(b) MD Common Stock outstanding immediately prior to the Effective Time and held by a shareholder who has delivered written notice of such shareholder's dissent from the Merger and, in accordance with Section 607.1321 of the Act of such shareholder's intent to demand payment for such MD Common Stock if the Merger is effectuated (the "Dissenting Shares") will not be converted into the right to receive the Merger Consideration, unless such shareholder fails to perfect, withdraws or otherwise loses the right to appraisal, in which case such shares of MD Common Stock will be treated as if they had been converted as of the Effective Time into the right to receive the Merger Consideration. All Dissenting Shares shall be converted into the right to receive payment of the aggregate fair value of such Dissenting Shares as determined in accordance with Sections 607.1301 - 607.1333 of the Act (the "Appraisal Consideration"). All Dissenting Shares when so converted, will no longer be outstanding and will automatically be canceled and retired and each holder of a certificate or certificates representing Dissenting Shares will cease to have any rights with respect thereto, except the right to receive payment of the Appraisal Consideration. Each record holder of Dissenting Shares who becomes entitled to payment of the Appraisal Consideration, will receive payment thereof from the Surviving Corporation and, upon such payment, the record holder shall cease to have any interest in the Dissenting Shares.

(c) Each share of MD Common Stock held in the treasury of Maintenance Depot or owned by MDI Holdings immediately prior to the Effective Time shall be canceled and retired and no shares of stock of the Surviving Corporation or any other corporation shall be issuable, and no payment of Merger Consideration or any other consideration shall be made, with respect thereto.

(d) Each share of common stock, \$0.0001 par value per share, of MDI Holdings ("MDI Common Stock") issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive one share of common stock, par value \$0.0001 per share of Surviving Corporation upon the surrender of the certificate formerly representing the MDI Common Stock.

(e) Each warrant to purchase shares of the MD Common Stock (the "MD Warrants") that is outstanding and unexercised at the Effective Time shall be canceled as of the Effective Time and converted at the Effective Time

into the right to receive, in full satisfaction of such MD Warrants, cash from Surviving Corporation in an amount equal to \$45,000.

## **5.2 SURRENDER AND PAYMENT.**

(a) Within ten days after the Effective Time, Surviving Corporation (as successor-in-interest to MDI Holdings) will deliver to each record shareholder of MD Common Stock entitled to receive the Merger Consideration or the Appraisal Consideration a written appraisal notice and the form (the "Election Form") required under Section 607.1322 of the Act. Each such shareholder shall elect to accept the Merger Consideration or, if such shareholder has provided written notice to Maintenance Depot at 516 Monceaux Road, West Palm Beach, Florida 33405, Attention: William J. Mercur on or before April 5, 2005 of dissent from the Merger and intent to demand payment of the fair value of such shareholder's shares and who also after the Merger is effective complies with the requirements of Section 607.1321 of the Act, such shareholder may exercise the appraisal rights available pursuant to Section 607.1302 of the Act within [forty-five (45)] days after the date the appraisal notice and the Election Form are sent.

(b) Each shareholder who has not provided the written notice described in Section 5.2(a) shall (i) state such shareholder's acceptance of the Merger Consideration on the Election Form, (ii) return the Election Form in accordance with the instructions set forth in the appraisal notice, (iii) deposit the certificate or certificates representing such shareholder's MD Common Stock with Surviving Corporation or its designated transfer agent in accordance with the instructions set forth in the appraisal notice, and (iv) provide written instructions for delivery of a check payable to the order of such shareholder in the amount of the aggregate Merger Consideration to which such record holder is entitled pursuant to Section 5.1(a). Surviving Corporation shall pay the Merger Consideration to each such shareholder within ninety (90) days after receipt of the shareholder's Election Form. Upon payment of the Merger Consideration, the shareholder shall cease to have any interest in the MD Common Stock.

(c) Each shareholder electing to exercise appraisal rights shall (i) state on the Election Form that such shareholder does not accept the Merger Consideration, provide such shareholder's estimated fair value of the MD Common Stock and demand payment for such estimated value plus interest, (ii) return the Election Form in accordance with the instructions set forth in the appraisal notice, (iii) deposit the certificate or certificates representing such shareholder's MD Common Stock with Surviving Corporation or its designated transfer agent in accordance with the instructions set forth in the appraisal notice, and (iv) provide written instructions for delivery of a check payable to the order of such shareholder in the amount of Appraisal Consideration. Any shareholder that fails to notify Surviving Corporation in writing of such shareholder's demand to be

paid the shareholder's estimate of the fair value of the MD Common Stock within the time period set forth in the appraisal notice, waives the right to demand payment and shall be entitled only to payment of the Merger Consideration.

**ARTICLE 6**  
**AMENDMENT OF TERMINATION**

At any time prior to filing of the Articles of Merger, the Board of Directors of MDI Holdings may, in its sole discretion, amend this Plan of Merger. If at any time prior to filing of the Articles of Merger the Board of Directors of MDI Holdings determines, in its sole discretion, that consummation of the Merger is inadvisable, the Board of Directors of MDI Holdings may terminate this Plan of Merger. Upon such termination, this Plan of Merger shall be of no further effect and there shall be no liability by reason of this Plan of Merger or its termination on the part of MDI Holdings, Maintenance Depot or any of their respective directors, officers or shareholders.

**ARTICLE 7**  
**ADOPTION OF PLAN OF MERGER**

The foregoing Plan of Merger has been duly approved and adopted by the Board of Directors and the shareholders of MDI Holdings.

IN WITNESS WHEREOF, the Board of Directors and shareholders of MDI Holdings have caused this Plan of Merger to be executed on the date first written above.

MDI HOLDINGS, INC.

By: \_\_\_\_\_  
Name: William J. Mercur  
Title: President