

N03 000001496

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP     WAIT     MAIL

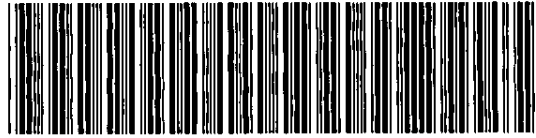
(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



700253654157

RECEIVED  
DEPARTMENT OF STATE  
13 DEC 17 PM 4:29

*12/18/13  
13/1/13  
in brown*

FILED  
13 DEC 17 PM 2:59  
DEPARTMENT OF STATE



CORPORATION SERVICE COMPANY

ACCOUNT NO. : I20000000195  
REFERENCE : 930334 4327615  
AUTHORIZATION : *[Handwritten Signature]*  
COST LIMIT : \$ 70.00

ORDER DATE : December 17, 2013  
ORDER TIME : 2:53 PM  
ORDER NO. : 930334-005  
CUSTOMER NO: 4327615

ARTICLES OF MERGER

KATHERINE AND KEITH SACHS  
CHARITABLE FOUNDATION, INC.

INTO

THE KATHERINE AND KEITH L.  
SACHS CHARITABLE FOUNDATION,  
INC.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

\_\_\_\_\_ CERTIFIED COPY  
XX \_\_\_\_\_ PLAIN STAMPED COPY

CONTACT PERSON: Susie Knight

EXAMINER'S INITIALS: \_\_\_\_\_

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

eff  
12/31

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)
<u>The Katherine and Keith L. Sachs Charitable Foundation, Inc.</u>	<u>Delaware</u>	<u></u>

FILED  
13 DEC 17 PM 2:59

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

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
<u>Katherine and Keith Sachs Charitable Foundation, Inc.</u>	<u>Florida</u>	<u>N03000001496</u>
<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**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 / 2013 (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).

(Attach additional sheets if necessary)

**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 \_\_\_\_\_.  
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 December 16, 2013. The number of directors in office was three. The vote for the plan was as follows: X 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 December 16, 2013. The number of directors in office was three. The vote for the plan was as follows: X FOR \_\_\_\_\_  
AGAINST

**Seventh: SIGNATURES FOR EACH CORPORATION**

Name of Corporation

Signature of the chairman/  
vice chairman of the board  
or an officer.

Typed or Printed Name of Individual & Title

Katherine and Keith Sachs  
Charitable Foundation, Inc.

*Katherine Sachs*

Katherine Sachs, President

The Katherine and Keith L. Sachs  
Art Foundation

*Katherine Sachs*

Katherine Sachs, President

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## PLAN OF MERGER

The following plan of merger is submitted in compliance with section 617.1101, Florida Statutes and in accordance with the laws of any other applicable jurisdiction of incorporation.

The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>
The Katherine and Keith L. Sachs Charitable Art Foundation <small>(Whose name will change as shown below.)</small>	Delaware

The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>
Katherine and Keith Sachs Charitable Foundation, Inc.	Florida
_____	_____
_____	_____
_____	_____
_____	_____

The terms and conditions of the merger are as follows:

See attached Agreement and Plan of Merger

A statement of any changes in the articles of incorporation of the surviving corporation to be effected by the merger is as follows:

The name of the surviving corporation shall be changed to "The Katherine and Keith L. Sachs Charitable Foundation, Inc."

Other provisions relating to the merger are as follows:

See attached Agreement and Plan of Merger

---

AGREEMENT AND PLAN OF MERGER

Dated as of December 16, 2013

by and between

Katherine and Keith Sachs Charitable Foundation, Inc.

And

The Katherine and Keith L. Sachs Art Foundation

to be effective as of December 31, 2013

---

## **AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER, dated as of December 16, 2013 (the "Agreement"), is by and between Katherine and Keith Sachs Charitable Foundation, Inc., a Florida nonprofit corporation (the "Florida Foundation"), and The Katherine and Keith L. Sachs Art Foundation, a Delaware nonprofit corporation (the "Delaware Foundation"). The Florida Foundation and the Delaware Foundation are sometimes hereinafter referred to individually as a "Foundation" and collectively as the "Foundations."

### **WITNESSETH:**

**WHEREAS**, each of the Foundations is a nonprofit corporation that has received an IRS determination letter that it is a Section 501(c)(3) organization;

**WHEREAS**, the Boards of Directors of each of the Foundations has determined that it is in the best interests of its respective Foundation that they merge and thereby consolidate their respective operations (the "Merger") into the Delaware Foundation so as to achieve efficiencies and cost savings that will inure to the benefit of the charitable beneficiaries of the Foundations;

**WHEREAS**, the Florida Foundation is operated as a "private foundation" as defined in Section 509 of the Internal Revenue Code of 1986, as amended (the "Code");

**WHEREAS**, the Delaware Foundation has operated as a "private operating foundation" under Section 4942(j)(3) of the Code;

**WHEREAS**, after the Merger, the Delaware Foundation, as the surviving entity to the Merger will cease to be a "operating private foundation" and will continue solely as a "private foundation;" and

**WHEREAS**, the Foundations desire to set forth in this Agreement their mutual agreements concerning the terms and conditions of the Merger and such other matters as they deem necessary to effect the merger.

**NOW, THEREFORE**, in consideration of the premises and the representations, warranties, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

### **ARTICLE I THE MERGER**

**SECTION 1.1 The Merger.** Upon the terms and subject to the conditions of this Agreement, at the Effective Date (as defined in Section 1.2), in accordance with the Florida Not for Profit Corporations Act (the "Florida Act") and the Delaware General Corporation Law (the "Delaware Law"), the Florida Foundation shall merge with and into the Delaware Foundation, the separate existence of the Florida Foundation shall cease, and the Delaware Foundation shall be the surviving corporation in the Merger under the name "The Katherine and Keith L. Sachs Charitable Foundation, Inc." and shall continue its corporate existence under the Delaware Law. The Delaware Foundation is hereinafter sometimes referred to as the "Surviving Corporation."



**SECTION 1.2 Effective Date of the Merger.** The Merger shall become effective as of the close of business on December 31, 2013 and after the filing of Articles of Merger (the "Articles of Merger") with the Secretary of State of the State of Florida and a Certificate of Merger (the "Certificate of Merger") with the Secretary of State of the State of Delaware in accordance with the Florida Act and the Delaware Law (the "Effective Date"). The filing of the Articles of Merger and Certificate of Merger shall be done prior to the Effective Date.

**SECTION 1.3 Closing.** The closing of the Merger ("Closing") will take place on the Effective Date.

**SECTION 1.4 Closing Deliverables.** At the Closing:

(a) The Florida Foundation shall deliver resignations of its directors and officers, effective as of the Effective Date; and

(b) Each Foundation shall deliver the fully executed Articles of Merger and Certificate of Merger.

## **ARTICLE II THE SURVIVING CORPORATION**

**SECTION 2.1 Articles of Incorporation.** The Certificate of Incorporation of the Delaware Foundation attached hereto as Schedule 2.1, shall be the Certificate of Incorporation of the Surviving Corporation following the Effective Date.

**SECTION 2.2 By-Laws.** The By-Laws of the Surviving Corporation shall be the by-laws (the "Bylaws") attached hereto as Schedule 2.2.

**SECTION 2.3 Directors and Officers.** The directors and officers of the Surviving Corporation following the Merger shall be as set forth in Schedule 2.3, and such directors and officers shall serve in accordance with the By-Laws of the Surviving Corporation until their respective successors are duly elected or appointed and qualified.

## **ARTICLE III EFFECTS OF MERGER**

**SECTION 3.1 Existence, Powers and Rights.** On the Effective Date, the corporate identity, existence, purposes, powers, rights and immunities of the Foundations shall be merged and vested in the Surviving Corporation. The Surviving Corporation, by operation of law, shall acquire all of the right, title and interest in all of the assets of the Foundations, and assume all of the debts, liabilities and trust obligations of the Foundations in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens, and all trust obligations on or arising from the properties of the Foundations shall be preserved, unimpaired.

**ARTICLE IV**  
**REPRESENTATIONS AND WARRANTIES OF THE FOUNDATIONS**

Each Foundation makes the following representations and warranties to the other Foundation, each of which is true and correct as of the date hereof, and will be true and correct on the Effective Date:

**SECTION 4.1 Foundation and Qualification.** Such Foundation is a nonprofit corporation duly organized, validly subsisting and in good standing under the laws of the state of its incorporation and has the requisite power and authority to own, lease and operate its assets and properties and to carry on its business as it is now being conducted. Such Foundation is not in breach or violation of, or default under, its articles of incorporation, bylaws or any other organizational document.

**SECTION 4.2 Tax Exemption.** Such Foundation is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and exempt from federal income taxation under Section 501(a)(1) of the Code. No event has occurred that places in jeopardy the tax-exempt status of such Foundation.

**SECTION 4.3 Authority; Non-Contravention; Approvals.**

(a) Such Foundation has all necessary corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement has been approved by the Board of Directors of such Foundation, and no other corporate proceedings on the part of such Foundation are necessary to authorize the execution and delivery of this Agreement or the consummation by such Foundation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by such Foundation, and constitutes a valid and legally binding agreement of such Foundation enforceable against it in accordance with its terms, except that such enforcement may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and (ii) general equitable principles.

(b) The execution and delivery of this Agreement by such Foundation do not violate, conflict with or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, or result in the creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of such Foundation under any of the terms, conditions or provisions of (i) its articles of incorporation or bylaws, (ii) any statute, law, ordinance, rule, regulation, judgment, decree, order, injunction, writ, permit or license of any court or governmental authority applicable to it or any of its properties or assets or (iii) any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument, obligation or agreement of any kind to which it is now a party or by which it or any of its properties or assets may be bound or affected, excluding those violations, conflicts, breaches, defaults, terminations, accelerations or creations of liens, security interests, charges or encumbrances that would not, in the aggregate, have a material adverse effect on the business, operations, properties, assets, condition (financial or other), results of operations or prospects of such Foundation taken as a whole (a "Material Adverse Effect").

SECTION 4.4 **Tax Returns.** The Surviving Corporation shall file and cause to be filed on behalf of the Florida Foundation any close out or other tax returns resulting from activities of the Foundations in the year 2013.

## ARTICLE V TERMINATION

SECTION 5.1 **Termination of Agreement.** This Agreement and the transactions contemplated hereby may be terminated prior to the Effective Date only by mutual consent of the parties hereto;

SECTION 5.2 **Effect of Termination.** If this Agreement is terminated pursuant to Section 5.1 of this Agreement, all obligations of the parties hereunder shall terminate, without liability of any party to any other party. In such event, each party hereto shall pay all legal and other costs and expenses incurred by such party in connection with this Agreement and the transactions contemplated hereby, except as otherwise agreed in writing.

SECTION 5.3 **Remedies.** Nothing contained herein is intended to or shall be construed to limit the remedies which either party may have against the other in the event of a breach of or default under this Agreement, it being intended that any remedies shall be cumulative and not exclusive.

## ARTICLE VI MISCELLANEOUS

SECTION 6.1 **Assignment; Binding Agreement of the Other Foundation.** Neither this Agreement nor the rights and obligations of either Foundation hereunder may be assigned by such Foundation without prior written consent of the other Foundation. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors.

SECTION 6.2 **Entire Agreement and Modification.** This Agreement, including the Schedules and Exhibits attached hereto and the documents delivered pursuant hereto, constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written and oral among the parties, or any of them, with respect to the subject matter hereof. No changes, modifications, or additions to this Agreement shall be valid unless the same shall be in writing and signed by all parties hereto.

SECTION 6.3 **Severability.** If any provision of this Agreement shall be determined to be contrary to law and unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms.

SECTION 6.4 **Counterparts.** This Agreement may be executed in one or more identical counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

SECTION 6.5 **Headings; Interpretation.** The table of contents and article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement. The parties have participated

substantially in the negotiation and drafting of this Agreement and each party hereby disclaims any defense or assertion in any litigation or arbitration that any ambiguity herein should be construed against the draftsman.

**SECTION 6.6 Governing Law.** This agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the states of Florida and Delaware applicable to corporations formed under their respective state laws.

**SECTION 6.7 Payment of Fees and Expenses.** Each party shall pay all fees and expenses of its respective counsel, accountants and other experts and pay all of its other expenses incident to the negotiation, preparation and execution of this Agreement and the consummation of the transactions contemplated hereby, except as otherwise agreed in writing.

**SECTION 6.8 Incorporation by Reference.** All Exhibits and Schedules to this Agreement are incorporated herein by references and made a part hereof.

**SECTION 6.9 Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, mailed by registered or certified mail (return receipt requested) or sent via facsimile or electronic mail (with confirmation of receipt) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to the Florida Foundation:

Katherine and Keith Sachs Charitable Foundation, Inc.  
1035 Washington Lane  
Rydal, PA 19046-1708  
Attention: Keith Sachs  
Email: [ksachs2@gmail.com](mailto:ksachs2@gmail.com)

If to Delaware Foundation:

The Katherine and Keith L. Sachs Art Foundation  
1035 Washington Lane  
Rydal, PA 19046-1708  
Attention: Keith Sachs  
Email: [ksachs2@gmail.com](mailto:ksachs2@gmail.com)

**SECTION 6.10 Third Party Beneficiaries.** Notwithstanding anything stated to the contrary in this Agreement, this Agreement is intended solely for the benefit of the parties hereto. This Agreement is not intended to, and shall not, create any enforceable third party beneficiary rights against any or all of the parties hereto or vest in any third person any action against any or all of the parties hereto.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the Foundations have each caused this Agreement to be signed by their respective officers as of the date first written above.

**KATHERINE AND KEITH SACHS  
CHARITABLE FOUNDATION, INC.**

By: /s/Katherine Sachs  
Name: Katherine Sachs  
Title: President

**THE KATHERINE AND KEITH L. SACHS ART  
FOUNDATION**

By: /s/Katherine Sachs  
Name: Katherine Sachs  
Title: President

[Signature Page to Merger Agreement]