

Florida Department of State
Division of Corporations
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.

((H12000262053 3)))



H120002620533ABCV

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) 617-6380

From:

Account Name : C T CORPORATION SYSTEM
Account Number : FCA000000023
Phone : (850) 222-1092
Fax Number : (850) 878-5368

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

**MERGER OR SHARE EXCHANGE
TERREMARK NORTH AMERICA, INC.**

Certificate of Status	0
Certified Copy	0
Page Count	09
Estimated Charge	\$70.00

RECEIVED

12 NOV - 1 PM 3:04

Division of Corporations
Tallahassee, Florida

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

12 NOV - 1 PM 12:22

FILED

Electronic Filing Menu

Corporate Filing Menu

Help

MCLEOD

NOV - 2 2012

<https://efile.sunbiz.org/scripts/efilcovr.exe>

11/1/2012

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: Terremark North America, Inc.
(Name of Surviving Corporation)

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Jessica Portela
(Contact Person)

Terremark
(Firm/Company)

2 South Biscayne Blvd., Suite 2800
(Address)

Miami, FL 33131
(City/State and Zip Code)

For further information concerning this matter, please call:

Jessica Portela At (305) 961-3220
(Name of Contact Person) (Area Code & Daytime Telephone Number)

☒ Certified copy (optional) \$8.75 (Please send an additional copy of your documents if a certified copy is requested)

STREET ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

FILED

12 NOV - 1 PM 12: 23

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER

OF

NAP WEST, LLC,
a Delaware limited liability company

INTO

TERREMARK NORTH AMERICA, INC.,
a Florida corporation

Pursuant to the provisions of the Florida Business Corporation Act, the entities herein named do hereby submit the following articles of merger.

FIRST: The name and jurisdiction of the surviving corporation is **TERREMARK NORTH AMERICA, INC.,** a Florida Corporation

SECOND: The name and jurisdiction of each merging corporation is:

TERREMARK NORTH AMERICA, INC., a Florida Corporation
NAP WEST, LLC, a Delaware Limited Liability Company

THIRD: Attached hereto as Exhibit A and made a part hereof is the Agreement and Plan of Merger (the "Plan of Merger") for merging NAP West, LLC, a Delaware limited liability company (the "Merging Company"), with and into Terremark North America, Inc., a Florida corporation (the "Surviving Corporation").

FOURTH: The board of directors and sole member of the Merging Company entitled to vote on the aforesaid Plan of Merger approved and adopted the Plan of Merger by written consent on November 1, 2012. The surviving corporation in the merger shall be the Surviving Corporation. Upon the merger becoming effective, the name of the Surviving Corporation shall be "Terremark North America, Inc."

FIFTH: The board of directors of the Surviving Corporation approved the aforesaid Plan of Merger on November 1, 2012, and shareholder approval was not required, in accordance with the provisions of Section 607.1103 of the Florida Business Corporation Act.

SIXTH: The merger of Merging Company with and into the Surviving Corporation is permitted under the respective laws of all applicable jurisdictions and is not prohibited by any shareholders' agreement or the by-laws or articles of incorporation of any party to the merger.

SEVENTH: The merger shall become effective November 1, 2012.

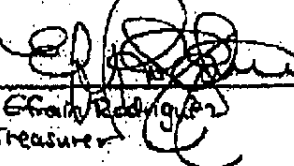
[Signature Page to Follow]

Executed on this 1st day of November, 2012.

TERREMARK NORTH AMERICA, INC.,
a Florida corporation

By: 
Name: Christopher Drungole
Title: Secretary

NAP WEST, LLC,
a Delaware limited liability company

By: 
Name: Efraim Rodriguez
Title: Treasurer

[Signature Page to Articles of Merger]

EXHIBIT A

Agreement and Plan of Merger

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger, made and entered into as of this 1st day of November, 2012, is by and between NAP West, LLC, a Delaware limited liability company (the "Merging Company"), and Terremark North America, Inc., a Florida corporation (the "Surviving Corporation").

WITNESSETH

WHEREAS, each of the Merging Company and the Surviving Corporation desires that the Merging Company merge with and into the Surviving Corporation (the "Merger");

WHEREAS, the Merging Company caused its Certificate of Formation to be filed in the offices of the Secretary of State of the State of Delaware on March 25, 2009,

WHEREAS, the Surviving Corporation caused its Articles of Incorporation to be filed in the office of the Secretary of State of the Florida on May 23, 2000, and has authorized capital stock of ten thousand (10,000) shares of common stock, par value of one cent (\$0.01) per share, of which five thousand, one hundred (5,100) shares are duly issued and outstanding; and

WHEREAS, the parties desire that the Merger provided for herein be a tax-free capital contribution pursuant to Section 351 of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and provisions hereinafter contained, the parties hereto do hereby agree as follows:

FIRST: The terms and conditions of the Merger are as follows:

(a) The Merger shall become effective at 11:59 pm (EST) on November 1, 2012 (the "Effective Time"); provided that prior thereto the following actions have been completed:

1. All of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof;
2. Executed Articles of Merger meeting the requirements of the Florida Business Corporation Act, shall have been filed with the Secretary of State of the State of Florida; and
3. An executed Certificate of Merger, meeting the requirements of the Delaware shall have been filed with the Secretary of State of Delaware.

(b) At the Effective Time, the Merging Company shall be merged with and into the Surviving Corporation in accordance with provisions of the Florida Business Corporation Act, whereupon the separate existence of the Merging Company shall cease, and the

Surviving Corporation shall be the corporation surviving the Merger.

(c) The Articles of Incorporation of the Surviving Corporation, as in effect at the Effective Time, shall continue in full force and effect as the Articles of Incorporation of the Surviving Corporation.

(d) The By-laws of the Surviving Corporation, as in effect at the Effective Time, shall be and remain the By-laws of the Surviving Corporation until the same shall be altered, amended or repealed as therein provided.

(e) The directors and officers of the Surviving Corporation as of the Effective Time shall be the directors and officers of the Surviving Corporation and shall continue in office for the terms provided by law or in the By-laws, or until their respective successors are elected and qualified.

(f) At the Effective Time, all property, rights, privileges, patents, trademarks, licenses, registration, and other assets of every kind and description of the Merging Company shall be transferred to, vested in and devolved upon the Surviving Corporation without further act or deed and all property, rights, and every other interest of the Merging Company and the Surviving Corporation, respectively, shall be as effectively the property of the Surviving Corporation as they were of the Merging Company and the Surviving Corporation, respectively. All rights of creditors of the Merging Company and all liens upon any property of the Merging Company shall be preserved unimpaired, and all debts, liabilities and duties of the Merging Company shall attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by the Surviving Corporation. At any time, or from time to time, after the Effective Time, the last acting officers of the Merging Company, or the corresponding officers of the Surviving Corporation, may, in the name of the Merging Company, execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest in and conform to the Surviving Corporation title to and possession of any property of the Merging Company acquired or to be acquired by reason of or as a result of the Merger herein provided for and otherwise to carry out the intents and purposes hereof, and the proper officers and directors of the Surviving Corporation are fully authorized in the name of the Merging Company or otherwise to take any and all such action.

(g) The Surviving Corporation hereby agrees that (i) it may be served with process in the State of Florida in any proceeding for the enforcement of any obligation of the Merging Company and in any proceeding for the enforcement of the appraisal rights of a member of the Merging Company entitled to vote; and (ii) it will promptly pay to members of the Merging Company the amount, if any, to which they shall be entitled pursuant to the laws of the State of Florida.

(h) The Merger shall be a tax-free capital contribution pursuant to Section 351 of the Internal Revenue Code of 1986, as amended.

SECOND: The manner and basis of converting or exchanging the membership interests of the Merging Company into stock of the Surviving Corporation shall be as follows: The outstanding membership interests of the Merging Company shall not be converted in any manner, but each said interest which is outstanding immediately prior to the Effective Time shall be surrendered and extinguished.

THIRD: Anything herein or elsewhere to the contrary notwithstanding, this Agreement may be terminated and abandoned by the board of directors of either party at any time prior to the date of filing of the Articles of Merger with the Office of the Secretary of State of the State of Florida or the Certificate of Merger with the Office of the Secretary of State of the State of Delaware. This Agreement may be amended by the boards of directors of the constituent companies at any time prior to the date of filing of the the Articles of Merger with the Office of the Secretary of State of the State of Florida and the Certificate of Merger with the Office of the Secretary of State of the State of Delaware, provided that an amendment made subsequent to the adoption of this Agreement by the stockholders or members of either constituent entity shall not (a) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such constituent entity; (b) alter or change any term of the Articles of Incorporation of the surviving corporation to be effected by the Merger; or (c) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class or series thereof of such constituent entity.

FOURTH: (a) This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of Florida.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns, provided that this Agreement may not be assigned by operation of law or otherwise by any party without the prior written consent of the other party.

(c) This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated herein, and supersedes all prior agreements and understandings, whether written or oral, between the parties hereto with respect to the subject matter of this Agreement.

(d) The Merging Company and the Surviving Corporation each agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement the transactions contemplated by this Agreement.

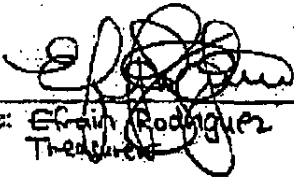
(e) Venue for the adjudication of any claim or dispute arising out of this Agreement is proper only in the state or federal courts of the State of Florida, and all parties hereto hereby consent to such venue and agree that it is not inconvenient and not subject to review by any court other than such courts in Florida.

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

"SURVIVING CORPORATION"
TERREMARK NORTH AMERICA, INC.
a Florida corporation

By: 
Name: Christopher Drumgoole
Title: Secretary

"MERGING COMPANY"
NAP WEST, LLC
a Delaware limited liability company

By: 
Name: Efraim Rodriguez
Title: Treasurer