

P02-000053645

Florida Department of State
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MERGER OR SHARE EXCHANGE

S.O.S. CONSTRUCTION CORP.

Certificate of Status	0
Certified Copy	0
Page Count	13
Estimated Charge	\$92.50

60.00

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TALLAHASSEE, FLORIDA

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ARTICLES OF MERGER

Pursuant to Section 607.1109 of the Florida Business Corporation Act (the "Act"), S.O.S. Construction Corp., a Florida corporation, and rePipe-Florida, LLC, a Delaware limited liability company, hereby adopt the following Articles of Merger:

1. The name and state of formation of each of the constituent entities are: S.O.S. Construction Corp., a Florida corporation ("SOS"), Florida Document/Registration Number P0200053645 and FEI Number 383650030, and rePipe-Florida, LLC, a Delaware limited liability company ("rePipe-Florida").

2. A copy of the Plan of Merger (the "Plan"), as approved by each constituent entity in accordance with its organizational documents and the Act is attached hereto as Exhibit A, which is incorporated herein by this reference as is fully set forth herein. Exhibit A is a Transaction Agreement dated as of December 30, 2004 (the "Transaction Agreement"), which sets forth, among other things, the plan of merger whereby SOS will be merged with and into rePipe-Florida in accordance with Section 607.1108 of the Act and Section 18-209 of the Delaware Limited Liability Company Act (the "DLLCA").

3. The Transaction Agreement, including the Plan contained therein, was approved by SOS, by the sole shareholder of SOS and by each of the other parties thereto in accordance with the Act and the applicable laws of the state under which each such other party was formed, organized or incorporated, as applicable, including, without limitation, the DLLCA.

4. The merger of SOS with and into rePipe-Florida shall be effective upon the filing of these Articles of Merger.

5. The surviving entity (the "Surviving Entity") shall be rePipe-Florida, LLC, which shall be renamed S.O.S. Construction, LLC as a result of the merger and the filing of a Certificate of Merger with the office of the Secretary of State of the State of Delaware in accordance with the DLLCA.

6. The Surviving Entity does not maintain a principal office in the State of Delaware. The address of the principal office of the Surviving Entity is 2925 Briarpark Drive, Suite 1000, Houston, Texas 77042.

7. The Surviving Entity is deemed to have appointed the Secretary of State of the State of Florida as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of SOS.

8. The Surviving Entity hereby agrees to promptly pay to the dissenting shareholders of SOS the amount, if any, to which such shareholders of SOS are entitled under Section 607.1302 of the Act.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

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IN WITNESS WHEREOF, the undersigned have caused these Articles of Merger to be executed
as of December 30, 2004.

S.O.S. CONSTRUCTION CORP.

By: 
Randy H. Jennings, Vice President

REPIFE-FLORIDA, LLC

By: 
Randy H. Jennings, Vice President

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EXHIBIT A
Plan of Merger

(attached)

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TRANSACTION AGREEMENT

THIS TRANSACTION AGREEMENT, dated as of December 30, 2004, is entered into by and among rePipe Holdings, Inc., a Delaware corporation ("Holdings"), rePipe, Inc., a Delaware corporation and wholly owned subsidiary of Holdings ("rePipe"), S.O.S Construction Corp., a Florida corporation and wholly owned subsidiary of Holdings ("SOS"), rePipe-Texas, Inc., a Texas corporation and wholly owned subsidiary of rePipe ("RTI"), rePipe GP, LLC, a Delaware limited liability company the sole member of which is rePipe ("RGP"), rePipe-Florida, LLC, a Delaware limited liability company the sole member of which is rePipe ("RFL"), Garver-Delaware, LLC, a Delaware limited liability company the sole member of which is RTI ("GDL"), and PM Construction & Rehab, L.P., a Tennessee limited partnership the general partner of which is RGP ("PM").

RECITALS

The respective boards of directors of Holdings, rePipe, SOS, RTI and PPI, and the respective sole members or managers of RGP, RFL and GDL, have determined that it would be in their mutual best interests to rationalize and simplify the holding company structure of Holdings so that operations within various states are more closely aligned.

rePipe has formed RFL for the purpose of merging with SOS.

It is the intention of the parties that all the transactions contemplated by this Transaction Agreement be consummated simultaneously on the date hereof.

NOW, THEREFORE, the parties hereby agree as follows

Article I

THE TRANSACTIONS

Section 1.1 *Texas Operations.* The parties agree:

(a) rePipe will assign to RTI, and RTI will assign to GDL, the 99% limited partnership interest issued to rePipe by PM pursuant to the form of assignment attached as Exhibit A hereto. Each such assignment is hereby approved by RGP as contemplated by Section 7.3 of the Limited Partnership Agreement of PM.

(b) RGP will merge with and into RTI, pursuant to Section 18-209 of the Delaware Limited Liability Company Act ("DLLCA") and Article 5.01 of the Texas Business Corporation Act ("TBCA") with RTI being the surviving corporation (the "Texas Merger"), whereby RTI shall become the general partner of PM. The effective time of the Texas Merger will be the date and time the articles of merger specifying the Texas Merger are filed with the Secretary of State of the State of Texas (the "Texas Merger Effective Time"). At and as of the Texas Merger Effective Time, (1) RGP will merge with and into RTI in accordance with the TBCA and the DLLCA, (2) RGP will cease to exist as a separate legal entity, (3) RTI will be the surviving corporation and, as such, will, all with the effect the TBCA and the DLLCA provide, (i) possess all the assets, properties and rights,

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STATE
OF TEXAS

and be subject of all the restrictions, obligations and duties (including without limitation all obligations under the Financing Agreement dated as of February 12, 2004 to which each of the parties hereto (other than RFL) is a party (as amended, the "Financing Agreement") and all of the other Loan Documents (as defined in the Financing Agreement)), of RTI and RGP and (ii) be governed by the laws of the State of Texas, (4) the articles of incorporation and bylaws of RTI then in effect (the "Texas Charter Documents") will become and thereafter remain (until changed in accordance with (i) applicable law (in the case of the articles of incorporation) or (ii) their terms (in the case of the bylaws)) the articles of incorporation and the bylaws of the surviving corporation, (5) the initial board of directors of the surviving corporation will be the directors of RTI, and those persons will hold the office of director of the surviving corporation, subject to the provisions of the applicable laws of the State of Texas and the Texas Charter Documents, and (6) the initial officers of the surviving corporation will be the officers of RTI, and each of those persons will serve in each office he or she holds, subject to the provisions of the Texas Charter Documents, until that person's successor is duly elected to, and, if necessary, qualified for, that office.

(c) As of the Texas Merger Effective Time, as a result of the Texas Merger and without any action on the part of any holder thereof, the 1,000 common shares of RGP issued and outstanding and held of record by rePipe immediately prior to the Texas Merger Effective Time will (i) convert into the right to receive from RTI \$10.00, without interest, on surrender of the certificate evidencing those common shares, (ii) cease to be outstanding and to exist and (iii) be canceled and retired. At the Texas Merger Effective Time, the 375 shares of common stock of RTI outstanding immediately prior to the Texas Merger Effective Time shall, by virtue of the Texas Merger and without any further action, be converted into one hundred percent of outstanding shares of common stock of the surviving corporation, all of which will be owned of record by rePipe.

(d) The partnership agreement of PM shall be amended to reflect the changes in ownership of its limited partner and general partner interests.

Section 1.2 Florida Operations. The parties agree that:

(a) SOS will merge with and into RFL pursuant to Section 18-209 of the DLLCA and Section 607.1108 of the Florida Business Corporation Act ("FBCA") with RFL being the surviving entity (the "Florida Merger"), whereby rePipe shall become the sole owner and member of RFL. The effective time of the Florida Merger will be the date and time the articles of merger specify, as filed with the Secretary of State of the State of Texas (the "Florida Merger Effective Time"). At and as of the Florida Merger Effective Time, (1) SOS will merge with and into RFL in accordance with the FBCA and the DLLCA, (2) SOS will cease to exist as a separate legal entity, (3) RFL will be the surviving entity and, as such, will, all with the effect the FBCA and the DLLCA provide, (i) possess all the assets, properties and rights, and be subject of all the restrictions, obligations and duties (including without limitation all obligations under the Financing Agreement and all of the other Loan Documents), of SOS and RFL and (ii) be governed by the laws of the State of Delaware, (4) the certificate of formation and limited liability company agreement of RFL then in effect (the "Delaware Charter Documents") will

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become and thereafter remain (until changed in accordance with (i) applicable law (in the case of the certificate of formation) or (ii) their terms (in the case of the limited liability company agreement)) the certificate of formation and the limited liability company agreement of the surviving entity, except that that Article First of such certificate of formation shall be changed pursuant to the Florida Merger so that it shall read in its entirety as follows: "FIRST: The name of the limited liability company (the "Company") is S.O.S Construction, LLC", (5) the initial managers of the surviving entity will be Bruce C. MacRae and Peter G. Taft (2925 Briarpark Drive, Suite 1000, Houston, Texas 77042), and those persons will hold the office of manager of the surviving entity, subject to the provisions of the applicable laws of the State of Delaware and the Delaware Charter Documents, and (6) the initial officers of the surviving entity will be the officers of RFL, and each of those persons will serve in each office he or she holds, subject to the provisions of the Delaware Charter Documents, until that person's successor is duly elected to, and, if necessary, qualified for, that office.

(b) As of the Florida Merger Effective Time, as a result of the Florida Merger and without any action on the part of any holder thereof, the 1,000 shares of common stock of SOS issued and outstanding and held of record by Holdings immediately prior to the Florida Merger Effective Time will (i) convert into the right to receive from RFL an aggregate of \$1,000.00, without interest, on surrender of the certificate evidencing those shares of common stock, (ii) cease to be outstanding and to exist and (iii) be canceled and retired. At the Florida Merger Effective Time, the membership interest of RFL outstanding immediately prior to the Florida Merger Effective Time shall, by virtue of the Florida Merger and without any further action, be converted into one hundred percent of outstanding membership interests of the surviving entity, all of which will be owned of record by rePipe.

Article II

MISCELLANEOUS

Section 2.1 Injunctions. The parties acknowledge that irreparable damage would occur in the event that any of the provisions of this Transaction Agreement were not performed in accordance with their specific terms or were otherwise breached. The parties hereto shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Transaction Agreement and to enforce specifically the terms and provisions hereof in any court having jurisdiction, such remedy being in addition to any other remedy to which they may be entitled at law or in equity.

Section 2.2 Severability. If any term, provision, covenant or restriction of this Transaction Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any thereof which may be hereafter declared invalid, void or unenforceable. In the event that any such term, provision, covenant or restriction is held to be invalid, void or unenforceable, the parties hereto

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shall use their best efforts to find and employ an alternate means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction.

Section 2.3 Assignment. Except by operation of law or in connection with the sale of all or substantially all the assets of a party hereto, this Transaction Agreement shall not be assignable, in whole or in part, directly or indirectly, by any party hereto without the written consent of the other party; and any attempt to assign any rights or obligations arising under this Transaction Agreement without such consent shall be void; provided, however, that the provisions of this Transaction Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

Section 2.4 Further Assurances. Subject to the provisions hereof, the parties hereto shall make, execute, acknowledge and deliver such other instruments and documents, and take all such other actions, as may be reasonably required in order to effectuate the purposes of this Transaction Agreement and to consummate the transactions contemplated hereby. Subject to the provisions hereof, each of the parties shall, in connection with entering into this Transaction Agreement, performing its obligations hereunder and taking any and all actions relating hereto, comply with all applicable laws, regulations, orders and decrees, obtain all required consents and approvals and make all required filings with any governmental agency, other regulatory or administrative agency, commission or similar authority and promptly provide the other parties with all such information as they may reasonably request in order to be able to comply with the provisions of this sentence.

Section 2.5 Parties in Interest. Except as herein otherwise specifically provided, nothing in this Transaction Agreement expressed or implied is intended to confer any right or benefit upon any person, firm or corporation other than the parties and their respective successors and permitted assigns.

Section 2.6 Waivers, Etc. No failure or delay on the part of the parties in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. No modification or waiver of any provision of this Transaction Agreement nor consent to any departure by the parties therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

Section 2.7 Change of Law. If, due to any change in applicable law or regulations or the interpretation thereof by any court of law or other governing body having jurisdiction subsequent to the date of this Transaction Agreement, performance of any provision of this Transaction Agreement or any transaction contemplated thereby shall become impracticable or impossible, the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

Section 2.8 Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

Section 2.9 Counterparts. For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto, and each such executed counterpart shall be, and shall be deemed to be, an original instrument.

Section 2.10 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the domestic substantive laws of the State of Texas without regard to any choice or conflict of laws, rule or provision that would cause the application of the domestic substantive laws of any other jurisdiction.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this date first above written.

REPIPE HOLDINGS, INC.

By: 
Randy E. Jennings, Vice President


REPIPE, INC.

By: 
Randy E. Jennings, Vice President


S.O.S. CONSTRUCTION CORP.

By: 
Randy E. Jennings, Vice President

REPIPE-TEXAS, INC.

By: 
Randy E. Jennings, Vice President

REPIPE GP, LLC

By: 
Randy E. Jennings, Vice President

REPIPE-FLORIDA, LLC

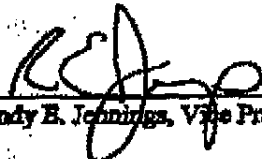
By: 
Randy E. Jennings, Vice President

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TALLAHASSEE, FLORIDA

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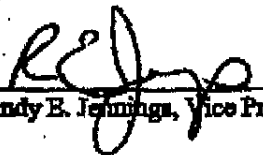
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GARVER-DELAWARE LLC

By: 
Randy E. Jennings, Vice President

PM CONSTRUCTION & REHAB, L.P.

By: rePipe GP, LLC, its general partner

By: 
Randy E. Jennings, Vice President

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EXHIBIT A

ASSIGNMENT OF PARTNERSHIP INTEREST

For valuable consideration, the receipt and adequacy of which are hereby conclusively established, rePipe-Texas, Inc., a Texas corporation ("rePipe"), hereby unconditionally and irrevocably transfers and assigns to Garver-Delaware, LLC, a Delaware limited liability company wholly owned by rePipe, the 99% limited partnership interest in PM Construction & Rehab, L.P., a Tennessee limited partnership ("PM") owned of record by rePipe, the same being all of the limited partnership interests rePipe holds in PM. The parties hereto shall take all actions necessary to effectuate the transactions described herein.

DATED as of December __, 2004.

REPIPE-TEXAS, INC., a Texas corporation

By: _____

Name:

Title:

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EXHIBIT A

ASSIGNMENT OF PARTNERSHIP INTEREST

For valuable consideration, the receipt and adequacy of which are hereby conclusively established, rePipe, Inc., a Delaware corporation ("rePipe"), hereby unconditionally and irrevocably transfers and assigns to rePipe-Texas, Inc., a Texas corporation wholly owned by rePipe, the 99% limited partnership interest in PM Construction & Rehab, L.P., a Tennessee limited partnership ("PM") owned of record by rePipe, the same being all of the limited partnership interests rePipe holds in PM. The parties hereto shall take all actions necessary to effectuate the transactions described herein.

DATED as of December __, 2004.

REPIPE, INC., a Delaware corporation

By: _____

Name:

Title:

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