

PD6000118971

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

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(Business Entity Name)

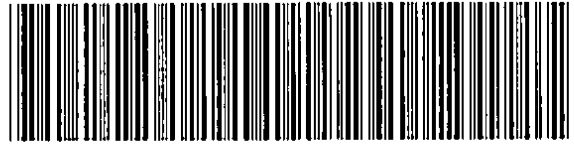
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Certificates of Status \_\_\_\_\_

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2019 MAY 31 AM 10:50  
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JUL - 3 2019

ALBRITTON

**Incorporating Services, Ltd.**

3500 S DuPont Highway  
Dover, DE 19901  
302.531.0855  
Fax: 302.531.3150  
www.Incserv.com  
e-mail: accounting@incserv.com

**ORDER FORM**

**TO** Florida Department of State  
Division of Corporations, Clifton  
Building  
2661 Executive Center Circle  
Tallahassee, FL 32301  
corphelp@dos.myflorida.com  
850-245-6051

**FROM** Madison Buzek  
mbuzek@incserv.com  
302.531.3150

**REQUEST DATE** 5/31/2019

**PRIORITY** Regular Approval

**OUR REF # (Order ID#)** 747146

**ORDER ENTITY**  
EVERYWARE, INC

**PLEASE PERFORM THE FOLLOWING SERVICES:**

File the attached merger document  
Please provide a certified copy as evidence.

**NOTES:**

\$78.75 Authorized

**RETURN/FORWARDING INSTRUCTIONS:**

ACCOUNT NUMBER: I20050000052

Please bill the above referenced account for this order.

If you have any questions please contact me at 656-7956,

Sincerely,



Please bill us for your services and be sure to include our reference number on the invoice and courier package if applicable. For UCC orders, please include the thru date on the results.

# ARTICLES OF MERGER

(Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

**First:** The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Everyware Worldwide Inc	Delaware	

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

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Everyware, Inc	Florida	P06000118971

**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**      /      /      (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.)

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

**Fifth:** Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on May 30, 2019.

The Plan of Merger was adopted by the board of directors of the surviving corporation on \_\_\_\_\_ and shareholder approval was not required.

**Sixth:** Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on May 30, 2019.

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on \_\_\_\_\_ and shareholder approval was not required.

(Attach additional sheets if necessary)

2/19/2020 11:10:50 AM

Seventh: SIGNATURES FOR EACH CORPORATION

Name of Corporation

Signature of an Officer or  
Director

Typed or Printed Name of Individual & Title

Everyware Worldwide Inc

DocuSigned by:

Larry Talley

E873758337C943D...

Larry Talley

Everyware, Inc

DocuSigned by:

Larry Talley

E873758337C943D...

Larry Talley

## **AGREEMENT AND PLAN OF MERGER**

THIS **AGREEMENT AND PLAN OF MERGER**, dated as of May 28, 2019 (this "**Agreement**"), is entered into by and between Everyware, Inc., a Florida corporation ("**Everyware (FL)**"), and Everyware Worldwide Inc., a Delaware corporation ("**Everyware Worldwide**"). Everyware (FL) and Everyware Worldwide are hereinafter sometimes collectively referred to as the "**Constituent Corporations**."

### **Preliminary Statements**

WHEREAS, Everyware (FL) is a corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, Everyware Worldwide is a corporation duly organized and existing under the laws of the State of Delaware and a wholly-owned subsidiary of Everyware (FL);

WHEREAS, the respective Boards of Directors of Everyware (FL) and Everyware Worldwide have determined that it is advisable and in the best interests of such corporations and their stockholders that Everyware (FL) merge with and into Everyware Worldwide upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, for United States federal income tax purposes, the parties hereto intend the Merger (as defined below) shall qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, and this Agreement is hereby adopted as a plan of reorganization for purposes of Section 368(a) of the Code and the Treasury Regulations promulgated thereunder;

WHEREAS, the shareholders of Everyware (FL) have approved this Agreement;

WHEREAS, Everyware (FL), in its capacity as the sole stockholder of Everyware Worldwide, has approved this Agreement, by execution of a written consent in accordance with Section 228 of the Delaware General Corporation Law.

### **Agreement**

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants herein contained, Everyware (FL) and Everyware Worldwide hereby agree as follows:

1. **Merger.** Everyware (FL) shall be merged with and into Everyware Worldwide (the "**Merger**") such that Everyware Worldwide shall be the surviving corporation (hereinafter sometimes referred to as the "**Surviving Corporation**"). Appropriate documents necessary to effectuate the Merger shall be filed with the Secretaries of State of the States of Florida and Delaware and the Merger shall become effective at the time provided by applicable law (the "**Effective Time**").

2. Governing Documents. The Certificate of Incorporation of Everyware Worldwide shall be the Certificate of Incorporation of the Surviving Corporation, and upon the consummation of the Merger, shall be amended and restated as attached hereto as Exhibit A, and the By-Laws of Everyware Worldwide shall be the By-laws of the Surviving Corporation, and upon the consummation of the Merger, shall be amended and restated as attached hereto as Exhibit B.

3. Directors. The persons who are directors of Everyware (FL) immediately prior to the Effective Time shall, after the Effective Time, be the directors of the Surviving Corporation, without change until their successors have been duly elected and qualified in accordance with the Certificate of Incorporation and By-laws of the Surviving Corporation.

4. Officers. The persons who are officers of Everyware (FL) immediately prior to the Effective Time shall, after the Effective Time, be the officers of the Surviving Corporation, without change until their successors have been duly elected and qualified in accordance with the Certificate of Incorporation and By-laws of the Surviving Corporation.

5. Succession. At the Effective Time, the separate corporate existence of Everyware (FL) shall cease and (i) all the rights, privileges, powers and franchises of a public and private nature of each of the Constituent Corporations, subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; (ii) all assets, property, real, personal and mixed, belonging to each of the Constituent Corporations; and (iii) all debts due to each of the Constituent Corporations on whatever account, including stock subscriptions and all other things in action; shall succeed to, be vested in and become the property of the Surviving Corporation without any further act or deed as they were of the respective Constituent Corporations. To the extent permitted by law, any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted as if the Merger had not taken place. All debts, liabilities and duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it. All corporate acts, plans, policies, agreements, arrangements, approvals and authorizations of Everyware (FL), its stockholders, Board of Directors and committees thereof, officers and agents that were valid and effective immediately prior to the Effective Time, shall be taken for all purposes as the acts, plans, policies, agreements, arrangements, approvals and authorizations of the Surviving Corporation and shall be as effective and binding thereon as the same were with respect to Everyware (FL). The employees and agents of Everyware (FL) shall become the employees and agents of the Surviving Corporation and continue to be entitled to the same rights and benefits that they enjoyed as employees and agents of Everyware (FL).

6. Further Assurances. From time to time, as and when required by the Surviving Corporation or by its successors or assigns, there shall be executed and delivered on behalf of Everyware (FL) such deeds and other instruments, and there shall be taken or caused to be taken by it all such further and other action, as shall be appropriate, advisable or necessary in order to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation the title to and possession of all property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Everyware (FL), and otherwise to carry out the purposes of this Agreement. The

officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of Everyware (FL) or otherwise, to take any and all such action and to execute and deliver any and all such deeds and other instruments.

7. Conversion of Shares. At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, (i) each share of Everyware (FL) common stock, par value \$0.001 per share ("Everyware (FL) Common Stock"), issued and outstanding immediately prior to the Effective Time shall be changed and converted into one (1) validly issued, fully paid and non-assessable share of Everyware Worldwide common stock, par value \$0.0001 per share ("Everyware Worldwide Common Stock"); and (ii) each share of Everyware Worldwide Common Stock issued and outstanding immediately prior to the Effective Time and held by Everyware (FL) shall be cancelled without any consideration being issued or paid therefor. After the Effective Time, the Surviving Corporation shall reflect in its stock ledger the number of shares of Everyware Worldwide Common Stock to which each shareholder of Everyware (FL) is entitled pursuant to the terms hereof. Certificates of Everyware Worldwide Common Stock shall be issued upon surrender of the certificates of Everyware (FL) Common Stock as provided in this Section 7.

8. Appraisal Rights. The shareholders of Everyware (FL) who, except for the applicability of Section 607.1104 of the Florida Business Corporation Act (the "FBCA"), would be entitled to vote and who dissent from the Merger pursuant to Section 607.1321 of the FBCA, may be entitled, if they comply with the provisions of the FBCA regarding appraisal rights, to be paid the fair value of their shares.

9. Amendment. The parties hereto, by mutual consent of their respective Boards of Directors, may amend, modify or supplement this Agreement prior to the Effective Time.

10. Counterparts. This Agreement may be executed in one or more counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

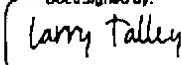
11. Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

12. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to the choice or conflict of law provisions contained therein to the extent that the application of the laws of another jurisdiction will be required thereby.

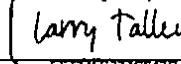
*[Signature page follows]*

IN WITNESS WHEREOF, Everyware (FL) and Everyware Worldwide have caused this Agreement to be executed and delivered as of the date first written above.

EVERYWARE, INC., a Florida corporation

By:    
 DocuSigned by:  
E075758337C943D...  
Lawrence Talley, President

EVERYWARE WORLDWIDE, INC., a Delaware corporation

By:    
 DocuSigned by:  
E075758337C943D...  
Lawrence Talley, President