

1201 HAYS STREET  
TALLAHASSEE, FL 32301-2607  
904-222-0971  
904-222-0991 FAX

800-344-8006



Premier State  
LEGAL & FINANCIAL SERVICES ACCOUNT NO. : 072100000032

REFERENCE : 191065 4327512

AUTHORIZATION :

*Patricia Pizich*

COST LIMIT : \$ 70.00

ORDER DATE : December 17, 1996

ORDER TIME : 9:47 AM

ORDER NO. : 191065-005

000002031 USD--4

CUSTOMER NO: 4327512

CUSTOMER: Ms. Donna Modugno  
QUARLES & BRADY

Suite 300  
4501 N. Tamiami Trail  
Naples, FL 33940

DOMESTIC FILING

NAME: SHIMOFF & ASSOCIATES, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

       CERTIFIED COPY  
XX PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Deborah Schroder

EXAMINER'S INITIALS:

*Dmc 12/17/96*

EFFECTIVE DATE  
*12-20-96*

RECEIVED BY STATE  
TALLAHASSEE, FLORIDA

95 DEC 17 PM 1:33

FILED

ARTICLES OF INCORPORATION  
OF  
SHIMOFF & ASSOCIATES, INC.

FILED  
96 DEC 17 PM 1:33  
CLERK OF CIRCUIT COURT  
TALLAHASSEE, FLORIDA

ARTICLE I  
CORPORATE NAME

The name of this Corporation is: SHIMOFF & ASSOCIATES, INC.

ARTICLE II  
CAPITAL STOCK

EFFECTIVE DATE  
12-20-96

The aggregate number of shares which this Corporation shall have authority to issue is 1,000 common shares. Common shares shall be the only class of shares which this Corporation shall have authority to issue.

ARTICLE III  
INCORPORATORS

The name and address of the incorporator are:

Name

Address

Kimberly Leach Johnson

4501 Tamiami Trail North  
Suite 300  
Naples, FL 34103

ARTICLE IV  
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of this Corporation is: 4501 Tamiami Trail North, Suite 300, Naples, Florida 34013, and the name of the initial registered agent of this Corporation at that address is: Kimberly Leach Johnson.

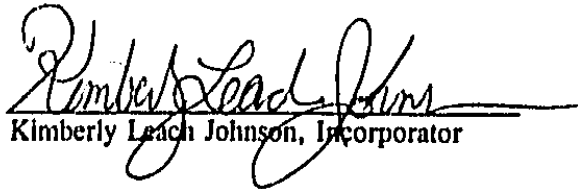
**ARTICLE V**  
**PRINCIPAL OFFICE**

The address of the principal office of this Corporation shall be 4754 West Boulevard,  
Naples, Florida 34103.

**ARTICLE VI**  
**EFFECTIVE DATE AND TIME**

The effective date and time of this Corporation shall be December 20, 1996, at 8:30 a.m.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of  
Incorporation on the 16 day of December, 1996.

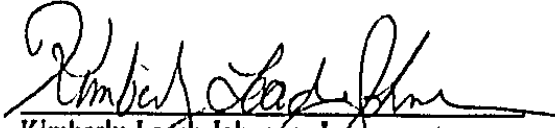
  
Kimberly Leach Johnson, Incorporator

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE  
FOR THE SERVICE OF PROCESS WITHIN FLORIDA,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**


**FILED**  
96 DEC 17 PM 1:33  
CLERK OF THE STATE  
TALLAHASSEE, FLORIDA

IN COMPLIANCE WITH SECTION 48.091, AND SECTION 607.0501, FLORIDA  
STATUTES, THE FOLLOWING IS SUBMITTED:

THAT SHIMOFF & ASSOCIATES, INC., desiring to organize or qualify under the laws  
of the State of Florida, with its principal place of business located at 4754 West Boulevard,  
Naples, Florida 34103, has named Kimberly Leach Johnson, Esquire, located at 4501 Tamiami  
Trail North, Suite 300, Naples, Florida 34103, as its agent to accept service of process within  
Florida.

  
Kimberly Leach Johnson, Incorporator  
Dated: December 16, 1996

Having been named to accept service of process for the above-stated corporation, at the  
place designated in this Certificate, Kimberly Leach Johnson hereby agrees to comply with the  
provisions of all statutes relative to the proper and complete performance of its duties.

  
Kimberly Leach Johnson  
Dated: December 16, 1996

Barnett Center  
Suite 300  
4501 Tamiami Trail North  
Naples, Florida 34103-3000  
941/202-8939  
FAX 941/434-4999

Attorneys at Law in  
Milwaukee and Madison, Wisconsin  
West Palm Beach and Naples, Florida  
Phoenix, Arizona

Naples Attorneys

John A. Brossell  
Louise D. D'Agostino  
James T. Demarest  
Kevin A. Denti  
Robert E. Doyle, Jr.  
Timothy D. Heine  
Sandra B. Holland  
John D. Humphreys  
Kimberly L. Johnson  
Thomas E. Maloney  
F. Joseph McMeekin, III  
Mark H. Muller  
David L. Petersen  
Leo J. Salvatini  
Joseph D. Zaks

Quarles & Brady

P96000101471

June 24, 1997

Secretary of State  
Corporate Records Bureau  
Division of Corporations  
Post Office Box 6327  
Tallahassee, Florida 32314

Re: Shimoff & Associates, Inc.

Dear Sir/Madam:

Enclosed is an original and one copy of the Articles of Amendment of Shimoff & Associates, Inc. and an original and one copy of the Articles of Merger of Foreign and Domestic Corporation Into Shimoff & Associates, Inc. Also, enclosed is a check in the amount of \$175.00, which represents the following:

Filing Fee of Articles of Amendment	\$ 35.00
Certified Copy of Articles of Amendment	52.50
Filing Fee of Articles of Merger	35.00
Certified Copy of Articles of Merger	52.50
Total	\$ 175.00

If you find these enclosures to be in order, please file the same and return the certified copies to this office.

Sincerely,

QUARLES & BRADY

Joseph D. Zaks

JDZ:ml  
Enclosure  
cc: Marci Shimoff

NAP124721.01

JUL 7 1997

400002235144--5  
-07/10/97--01077--007  
\*\*\*\*\*35.00 \*\*\*\*\*35.00

400002235144--5  
-07/10/97--01077--006  
\*\*\*\*\*175.00 \*\*\*\*\*52.50

DIVISION OF CORPORATIONS

97 JUN 27 PM 12:13

RECEIVED

Amend

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
SHIMOFF & ASSOCIATES, INC.

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
97 JUN 27 PM 12:55

Pursuant to the provisions of Florida Statutes Section 617.1006, the Articles of Incorporation of SHIMOFF & ASSOCIATES, INC., a Florida corporation, are hereby amended as follows:

1. Article II of the Articles of Incorporation is hereby revoked and the following Article II is inserted in lieu thereof:

**"ARTICLE II  
CAPITAL STOCK**

The aggregate number of shares which the Corporation shall have authority to issue is two thousand (2,000) common shares. Common shares shall be the only class of shares which this Corporation shall have authority to issue."

2. The foregoing amendment was adopted on the 13th day of June, 1997.
3. The amendment was adopted by the unanimous vote of all the shareholders of the corporation. The number of votes cast for the amendment was sufficient for approval.

IN WITNESS WHEREOF, the undersigned officer of the corporation has executed these  
Articles of Amendment this 13th day of June, 1997.

SHIMOFF & ASSOCIATES, INC.

By: Mardi Shimoff  
Mardi Shimoff,  
President

Barnett Center  
Suite 300  
4501 Tamiami Trail North  
Naples, Florida 34103-3600  
941/262-5959  
FAX 941/434-4999

Attorneys at Law in  
Milwaukee and Madison, Wisconsin  
West Palm Beach and Naples, Florida  
Phoenix, Arizona

**Naples Attorneys**

Drew A. Drossell  
Louis D. D'Agostino  
James T. Dumarest  
Kevin A. Dent  
Robert F. Doyle, Jr.  
Timothy D. Helms  
Samuel S. Holland  
John D. Humphreys  
Kimberly L. Johnson  
Thomas E. Maloney  
F. Joseph McMackin, III  
Mark H. Muller  
David L. Peterson  
Leo J. Salvatori  
Joseph D. Zick

*Quarles & Brady*

**P96 0001/016 71**

Secretary of State  
Corporate Records Bureau  
Division of Corporations  
Post Office Box 6327  
Tallahassee, Florida 32314

Re: Shimoff & Associates, Inc.

Dear Sir/Madam:

**EFFECTIVE DATE**  
**7-1-97**

Enclosed is an original and one copy of the Articles of Amendment of Shimoff & Associates, Inc. and an original and one copy of the Articles of Merger of Foreign and Domestic Corporation Into Shimoff & Associates, Inc. Also, enclosed is a check in the amount of \$175.00, which represents the following:

Filing Fee of Articles of Amendment	\$ 35.00
Certified Copy of Articles of Amendment	52.50
Filing Fee of Articles of Merger	35.00
Certified Copy of Articles of Merger	52.50
<b>Total</b>	<b>\$ 175.00</b>

If you find these enclosures to be in order, please file the same and return the certified copies to this office.

Sincerely,

QUARLES & BRADY

JDZ:ml  
Enclosure  
cc: Marci Shimoff

NAP124721.01

**400002235134--6**

-07/10/97--01077--006

\*\*\*\*175.00 \*\*\*\*122.50

**RECEIVED**  
**97 JUN 27 PM 12:13**  
**DIVISION OF CORPORATIONS**

*Validate 7*  
*122.50*  
*merger*  
*11-25-97*  
*certified*

**JUL 7 1997**



Harnett Center  
Suite 300  
4501 Tamiami Trail North  
Naples, Florida 34103-3000  
941/262-5959  
FAX 941/434-4339

Attorneys at Law in  
Milwaukee and Madison, Wisconsin  
West Palm Beach and Naples, Florida  
Phoenix, Arizona

**Naples Attorneys**

Brett A. Brosson  
Louis D. D'Agostino  
James T. Demarest  
Kevin A. Danti  
Robert E. Doyle, Jr.  
Timothy D. Heine  
Samara S. Holland  
John D. Humphreville  
Kimberly L. Johnson  
Thomas E. Maloney  
F. Joseph McMackin, III  
Mark H. Muller  
David L. Petersen  
Leo J. Salvatori  
Joseph D. Zaks

July 7, 1997

**Via Federal Express**

Secretary of State  
Corporate Records Bureau  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, Florida 32314

ATTN: Thelma Lewis

Re: Shimoff & Associates, Inc.

Dear Ms. Lewis:

Pursuant to your request, enclosed please find a copy of the Plan of Merger along with a check in the amount of \$35.00 with regard to the above-captioned corporation.

Should you require anything further, please do not hesitate to contact me.

Very truly yours,

QUARLES & BRADY

  
Joseph D. Zaks

JDZ/dm  
Enclosure  
cc: Marci Shimoff

ARTICLES OF MERGER  
Merger Sheet

.....  
MERGING:

SHIMOFF & ASSOCIATES, INC., an Iowa corporation not authorized to transact  
business in Florida.

INTO

**SHIMOFF & ASSOCIATES, INC.**, a Florida corporation, P96000101671

File date: June 27, 1997, effective July 1, 1997

Corporate Specialist: Thelma Lewis

**ARTICLES OF MERGER  
OF FOREIGN AND DOMESTIC CORPORATION  
INTO  
SHIMOFF & ASSOCIATES, INC. EFFECTIVE DATE**

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
97 JUN 27 PM 12:56

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act, the undersigned corporations, SHIMOFF & ASSOCIATES, INC., a Florida corporation, and SHIMOFF & ASSOCIATES, INC., an Iowa corporation, adopt the following Articles of Merger for the purpose of merging SHIMOFF & ASSOCIATES, INC., an Iowa corporation, into SHIMOFF & ASSOCIATES, INC., a Florida corporation.

2. The Plan of Merger setting forth the terms and conditions of the merger of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, into SHIMOFF & ASSOCIATES, a Florida corporation, is attached to these Articles as an exhibit and incorporated herein by reference.

**Adoption of Plan**

3. There are 10,000 shares of common stock, each of one cent par value, of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, issued and outstanding that were entitled to vote on the Plan of Merger. 10,000 shares were voted in favor of the Plan of Merger, and no shares were voted against the Plan of Merger, at a special meeting of the shareholders of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, held on June 13, 1997.

4. There are 1,000 shares of common stock of SHIMOFF & ASSOCIATES, INC., a Florida corporation, issued and outstanding that were entitled to vote on the Plan of Merger. 1,000 shares were voted in favor of the Plan of Merger, and no shares were voted against the Plan of Merger, at a special meeting of the shareholders of SHIMOFF & ASSOCIATES, INC.,

a Florida corporation, held on June 13, 1997.

**Effective Date**

5. The Plan of Merger shall be effective at 12:01 a.m. on July 1, 1997.

**Foreign Law**

6. The laws of the State of Iowa, the jurisdiction of organization of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, permit the merger contemplated by the Plan of Merger, and the laws of the State of Iowa have been complied with or, on fulfillment of all filing and recording requirements set forth by the applicable laws of the State of Iowa, will have been complied with.

IN WITNESS WHEREOF, each of the undersigned corporations has caused these Articles to be signed June 13, 1997.

SHIMOFF & ASSOCIATES, INC.,  
a Florida corporation

By: Marci Shimoff  
Marci Shimoff,  
President

ATTEST:

Marci Shimoff  
Marci Shimoff, Secretary

SHIMOFF & ASSOCIATES, INC.,  
an Iowa corporation

By: Marci Shimoff  
Marci Shimoff,  
President

ATTEST:

Marci Shimoff  
Marci Shimoff, Secretary

## PLAN AND AGREEMENT OF MERGER

This is a Plan and Agreement of Merger between SHIMOFF & ASSOCIATES, INC., a Florida corporation (hereafter referred to as the "Surviving Corporation"), and SHIMOFF & ASSOCIATES, INC., an Iowa corporation (hereafter referred to as the "Merging Corporation").

### ARTICLE 1. PLAN OF MERGER

#### Plan Adopted

1.01. A plan of merger of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, and SHIMOFF & ASSOCIATES, a Florida corporation, pursuant to Sections 607.1101 and 607.1107 of the Florida Statutes and Section 368(n)(1)(A) of the Internal Revenue Code, is adopted as follows:

(a) SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall be merged with and into SHIMOFF & ASSOCIATES, a Florida corporation, to exist and be governed by the laws of the State of Florida.

(b) The name of the surviving corporation shall be SHIMOFF & ASSOCIATES, INC.

(c) When this agreement shall become effective, the separate corporate existence of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall cease, and the Surviving Corporation shall succeed, without other transfer, to all the rights and property of SHIMOFF & ASSOCIATES, an Iowa corporation, and shall be subject to all the debts and liabilities of the Merging Corporation in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens on the property of each constituent corporation shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the merger.

(d) The Surviving Corporation will carry on business with the assets of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, as well as with the assets of SHIMOFF & ASSOCIATES, a Florida corporation.

(e) The shareholders of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, will surrender all of their shares in the manner hereinafter set forth.

(f) In exchange for the shares of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, surrendered by its shareholders, the Surviving Corporation will issue and transfer to these shareholders, on the basis set forth in Article 4 below, shares of its common stock.

(g) The shareholders of SHIMOFF & ASSOCIATES, INC., a Florida corporation, will retain their shares as shares of the Surviving Corporation.

(h) The Articles of Incorporation of SHIMOFF & ASSOCIATES, INC., a Florida corporation, as existing on the effective date of the merger, shall continue in full force as the Articles of Incorporation of the Surviving Corporation until altered, amended, or repealed as provided in the Articles or as provided by law.

#### Effective Date

1.02. The effective date of the merger (Effective Date) shall be 12:01 a.m., July 1, 1997.

#### ARTICLE 2. REPRESENTATIONS AND WARRANTIES OF CONSTITUENT CORPORATIONS

2.01. As a material inducement to the Surviving Corporation to execute this Agreement and perform its obligations under this Agreement, SHIMOFF & ASSOCIATES, INC., an Iowa corporation, represents and warrants to the Surviving Corporation as follows:

(a) SHIMOFF & ASSOCIATES, INC., an Iowa corporation, is a corporation duly organized, validly existing, and in good standing under the laws of the State of Iowa, with corporate power and authority to own property and carry on its business as it is now being conducted.

(b) SHIMOFF & ASSOCIATES, INC., an Iowa corporation, has an authorized capitalization of 1,000,000 shares of common stock, each of one cent par value, of which 10,000 shares are validly issued and outstanding, fully paid, and nonassessable on the date of this Agreement.

(c) SHIMOFF & ASSOCIATES, INC., an Iowa corporation, has furnished the Surviving Corporation with a balance sheet of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, as of June 1, 1997. This financial statement (i) is in accordance with the books and records of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, (ii) fairly presents the financial condition of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, as of that date and the results of its operations as of and for the period specified, all prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior accounting periods; and (iii) contains and reflects, in accordance with generally accepted accounting principles consistently applied, reserves for all liabilities, losses, and costs in excess of expected receipts. Specifically, but not by way of limitation, the Balance Sheet discloses, in accordance with generally accepted accounting principles, all of the debts, liabilities, and obligations of any nature (whether absolute, accrued, contingent, or otherwise, and whether due or to become due) of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, at the Balance Sheet Date, and includes appropriate reserves for all taxes and other liabilities accrued or due at that date but not yet payable.

(d) All required federal, state, and local tax returns of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, have been accurately prepared and duly and timely filed, and all federal, state, and local taxes required to be paid with respect to the periods covered by the returns have been paid. SHIMOFF & ASSOCIATES, INC., an Iowa corporation, has not been delinquent in the payment of any tax or assessment.

(e) The merger contemplated by this Plan and Agreement of Merger is permitted by the laws of the State of Iowa, and this Plan and Agreement of Merger fully complies with the laws of the State of Iowa.

#### Survivor

2.02. As a material inducement to SHIMOFF & ASSOCIATES, INC., an Iowa corporation, to execute this Agreement and perform its obligations under this Agreement, SHIMOFF & ASSOCIATES, INC., a Florida corporation, represents and warrants to SHIMOFF & ASSOCIATES, INC., an Iowa corporation, as follows:

(a) SHIMOFF & ASSOCIATES, INC., a Florida corporation, is a corporation duly organized, validly existing, and in good standing under the laws of the State Florida, with corporate power and authority to own property and carry on its business as it is now being conducted.

(b) SHIMOFF & ASSOCIATES, INC., a Florida corporation, has an authorized capitalization of 1,000 shares of common stock. As of the date of this Agreement, 1,000 shares of the common stock are validly issued and outstanding, fully paid, and nonassessable.

(c) SHIMOFF & ASSOCIATES, INC., a Florida corporation, has furnished the Surviving Corporation with a balance sheet of SHIMOFF & ASSOCIATES, INC., a Florida corporation, as of June 1, 1997. This financial statement (i) is in accordance with the books and records of SHIMOFF & ASSOCIATES, INC., a Florida corporation, (ii) fairly presents the financial condition of SHIMOFF & ASSOCIATES, INC., a Florida corporation, as of that date and the results of its operations as of and for the period specified, all prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior accounting periods; and (iii) contains and reflects, in accordance with generally accepted accounting principles consistently applied, reserves for all liabilities, losses, and costs in excess of expected receipts. Specifically, but not by way of limitation, the Balance Sheet discloses, in accordance with generally accepted accounting principles, all of the debts, liabilities, and obligations of any nature (whether absolute, accrued, contingent, or otherwise, and whether due or to become due) of SHIMOFF & ASSOCIATES, INC., a Florida corporation, at the Balance Sheet Date, and includes appropriate reserves for all taxes and other liabilities accrued or due at that date but not yet payable.

(d) All required federal, state, and local tax returns of SHIMOFF & ASSOCIATES, INC., a Florida corporation, have been accurately prepared and duly and timely filed, and all

federal, state, and local taxes required to be paid with respect to the periods covered by the returns have been paid. SHIMOFF & ASSOCIATES, INC., a Florida corporation, has not been delinquent in the payment of any tax or assessment.

(e) The merger contemplated by this Plan and Agreement of Merger is permitted by the laws of the State of Florida, and this Plan and Agreement of Merger fully complies with the laws of the State of Florida.

### ARTICLE 3. COVENANTS, ACTIONS, AND OBLIGATIONS PRIOR TO THE EFFECTIVE DATE

#### Interim Conduct of Business; Limitations

3.01. Except as limited by this Paragraph 3.01, pending consummation of the merger, each of the constituent corporations will carry on its business in substantially the same manner as before and will use its best efforts to maintain its business organization intact. Except with the prior consent in writing of the Surviving Corporation, pending consummation of the merger, SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall not:

- (a) Declare or pay any dividend or make any other distribution on its shares.
- (b) Create or issue any indebtedness for borrowed money.
- (c) Enter into any transaction other than those involved in carrying on its ordinary course of business.

#### Submission to Shareholders

3.02. This Agreement shall be submitted separately to the shareholders of the constituent corporations in the manner provided by the laws of the State of Florida and the State of Iowa for approval.

#### Conditions Precedent to Obligations

3.03. Except as may be expressly waived in writing by SHIMOFF & ASSOCIATES, INC., an Iowa corporation, all of the obligations of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, under this Agreement are subject to the satisfaction, prior to or on the Effective Date, of each of the following conditions by SHIMOFF & ASSOCIATES, INC., a Florida corporation:

- (a) The representations and warranties made by SHIMOFF & ASSOCIATES, INC., a Florida corporation to SHIMOFF & ASSOCIATES, INC., an Iowa corporation, in Article 2 of this Agreement and in any document delivered pursuant to this Agreement shall be deemed to have been made again on the Effective Date and shall then be true and correct in all material

respects. If SHIMOFF & ASSOCIATES, INC., a Florida corporation, shall have discovered any material error, misstatement, or omission in those representations and warranties on or before the Effective Date, it shall report that discovery immediately to SHIMOFF & ASSOCIATES, INC., an Iowa corporation, and shall either correct the error, misstatement, or omission or obtain a written waiver from SHIMOFF & ASSOCIATES, INC., an Iowa corporation.

(b) SHIMOFF & ASSOCIATES, INC., a Florida corporation, shall have performed and complied with all agreements and conditions required by this Agreement to be performed and complied with by it prior to or on the Effective Date.

(c) No action or proceeding by any governmental body or agency shall have been threatened, asserted, or instituted to restrain or prohibit the carrying out of the transactions contemplated by this Agreement.

(d) All corporate and other proceedings and action taken in connection with the transactions contemplated by this Agreement and all certificates, opinions, agreements, instruments, and documents shall be satisfactory in form and substance to counsel for SHIMOFF & ASSOCIATES, INC., an Iowa corporation.

#### **Conditions Precedent to Obligations of Shimoff & Associates, Inc., a Florida Corporation**

3.04. Except as may be expressly waived in writing by SHIMOFF & ASSOCIATES, INC., a Florida corporation, all of the obligations of SHIMOFF & ASSOCIATES, INC., a Florida corporation, under this Agreement are subject to the satisfaction, prior to or on the Effective Date, of each of the following conditions by SHIMOFF & ASSOCIATES, INC., an Iowa corporation:

(a) The representations and warranties made by SHIMOFF & ASSOCIATES, INC., an Iowa corporation, to SHIMOFF & ASSOCIATES, INC., a Florida corporation, in Article 2 of this Agreement and in any document delivered pursuant to this Agreement shall be deemed to have been made again on the Effective Date and shall then be true and correct. If SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall have discovered any material error, misstatement, or omission in those representations and warranties on or before the Effective Date, it shall report that discovery immediately to SHIMOFF & ASSOCIATES, INC., a Florida corporation, and shall either correct the error, misstatement, or omission or obtain a written waiver from SHIMOFF & ASSOCIATES, INC., a Florida corporation.

(b) SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall have performed and complied with all agreements or conditions required by this Agreement to be performed and complied with by it prior to or on the Effective Date.

(c) No action or proceeding by any governmental body or agency shall have been threatened, asserted, or instituted to restrain or prohibit the carrying out of the transactions contemplated by this Agreement.

(d) All corporate and other proceedings and action taken in connection with the transactions contemplated by this Agreement and all certificates, opinions, agreements, instruments, and documents shall be satisfactory in form and substance to counsel for SHIMOFF & ASSOCIATES, INC., a Florida corporation.

#### ARTICLE 4. MANNER OF CONVERTING SHARES

##### Manner

4.01. The holders of shares of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall surrender their shares to the Secretary of the Surviving Corporation promptly after the Effective Date, in exchange for shares of the Surviving Corporation to which they are entitled under this Article 4.

##### Basis

4.02. (a) The shareholders of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall be entitled to receive 1,000 shares of common stock of the Surviving Corporation, being fifty percent of the total outstanding common stock of the Surviving Corporation, to be distributed on the basis of one share for each ten shares of common stock of SHIMOFF & ASSOCIATES, INC., an Iowa corporation.

##### Shares of Survivor

4.03. (a) The currently outstanding 1,000 shares of common stock of SHIMOFF & ASSOCIATES, INC., a Florida corporation, shall remain outstanding as common stock of the Surviving Corporation.

#### ARTICLE 5. DIRECTORS AND OFFICERS

##### Directors and Officers of Survivor

5.01. (a) The present Board of Directors of SHIMOFF & ASSOCIATES, INC., a Florida corporation, shall continue to serve as the Board of Directors of the Surviving Corporation until the next annual meeting or until their successors have been elected and qualified.

(b) If a vacancy shall exist on the Board of Directors of the Surviving Corporation on the Effective Date of the merger, the vacancy may be filled by the shareholders as provided in the bylaws of the Surviving Corporation.

(c) All persons who as of the Effective Date of the merger shall be executive or administrative officers of SHIMOFF & ASSOCIATES, INC., a Florida corporation, shall remain as officers of the Surviving Corporation until the Board of Directors of the Surviving Corporation shall determine otherwise. The Board of Directors of the Surviving Corporation may elect or appoint additional officers as it deems necessary.

## **ARTICLE 6. BYLAWS**

### **Bylaws of Survivor**

6.01. The bylaws of SHIMOFF & ASSOCIATES, INC., a Florida corporation, as existing on the Effective Date of the merger, shall continue in full force as the bylaws of the Surviving Corporation until altered, amended, or repealed as provided in the bylaws or as provided by law.

## **ARTICLE 7. NATURE AND SURVIVAL OF WARRANTIES**

### **Nature and Survival of Representations and Warranties**

7.01. All statements contained in any memorandum, certificate, letter, document, or other instrument delivered by or on behalf of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, SHIMOFF & ASSOCIATES, INC., a Florida corporation, or the stockholders pursuant to this Agreement shall be deemed representations and warranties made by the respective parties to each other under this Agreement. The covenants, representations, and warranties of the parties and the stockholders shall survive for a period of three years after the Effective Date. No inspection, examination, or audit made on behalf of the parties or the stockholders shall act as a waiver of any representation or warranty made under this Agreement.

## **ARTICLE 8. TERMINATION**

### **Circumstances**

8.01. This Agreement may be terminated and the merger may be abandoned at any time prior to the filing of the Articles of Merger with the Secretary of State of Florida, notwithstanding the approval of the shareholders of either of the constituent corporations:

- (a) By mutual consent of the Board of Directors of the constituent corporations.

(b) At the election of the Board of Directors of either constituent corporation if:

- (1) The number of shareholders of either constituent corporation, or of both, dissenting from the merger shall be so large as to make the merger, in the opinion of either Board of Directors, inadvisable or undesirable.
- (2) Any material litigation or proceeding shall be instituted or threatened against either constituent corporation, or any of its assets, that, in the opinion of either Board of Directors, renders the merger inadvisable or undesirable.
- (3) Any legislation shall be enacted that, in the opinion of either Board of Directors, renders the merger inadvisable or undesirable.
- (4) Between the date of this Agreement and the Effective Date, there shall have been, in the opinion of either Board of Directors, any materially adverse change in the business or condition, financial or otherwise, of either constituent corporation.

(c) At the election of the Board of Directors of SHIMOFF & ASSOCIATES, INC., a Florida corporation, if without the prior consent in writing of SHIMOFF & ASSOCIATES, INC., a Florida corporation, SHIMOFF & ASSOCIATES, INC., an Iowa corporation, shall have:

- (1) Declared or paid any dividend or made any other distribution on its shares.
- (2) Created or issued any indebtedness for borrowed money.
- (3) Entered into any transaction other than those involved in carrying on its business in the usual manner.

#### Notice of Liability on Termination

8.02. If an election is made to terminate this Agreement and abandon the merger:

(a) The President or any Vice President of the constituent corporation whose Board of Directors has made the election shall give immediate written notice of the election to the other constituent corporation.

(b) On the giving of notice as provided in Subparagraph (a), this Agreement shall terminate and the proposed merger shall be abandoned, and except for payment of its own costs and expenses incident to this Agreement, there shall be no liability on the part of either constituent corporation as a result of the termination and abandonment.

## ARTICLE 9. INTERPRETATION AND ENFORCEMENT

### Further Assurances

9.01. SHIMOFF & ASSOCIATES, INC., an Iowa corporation, agrees that from time to time, as and when requested by the Surviving Corporation or by its successors or assigns, it will execute and deliver or cause to be executed and delivered all deeds and other instruments. SHIMOFF & ASSOCIATES, INC., an Iowa corporation, further agrees to take or cause to be taken any further or other actions as the Surviving Corporation may deem necessary or desirable to vest in, to perfect in, or to conform of record or otherwise to the Surviving Corporation title to and possession of all the property, rights, privileges, and powers referred to in Article 1 of this Agreement, and otherwise to carry out the intent and purposes of this Agreement.

### Notices

9.02. Any notice or other communication required or permitted under this Agreement shall be properly given when deposited with the United States Postal Service for transmittal by certified or registered mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed as follows:

(a) In the case of SHIMOFF & ASSOCIATES, INC., an Iowa corporation, to: SHIMOFF & ASSOCIATES, INC., an Iowa corporation, Marci Shimoff, 404 E. Buchanan, Fairfield, Iowa 52556, or to such other person or address as SHIMOFF & ASSOCIATES, INC., an Iowa corporation, may from time to time request in writing.

(b) In the case of SHIMOFF & ASSOCIATES, INC., a Florida corporation, Marci Shimoff, 4754 West Boulevard, Naples, Florida 34103, or to such other person or address as SHIMOFF & ASSOCIATES, INC., a Florida corporation, may from time to time request in writing.

### Entire Agreement; Counterparts

9.03. This Agreement and the exhibits to this Agreement contain the entire agreement between the parties with respect to the contemplated transaction. This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed one original.

**Controlling Law**

9.04. The validity, interpretation, and performance of this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, this Agreement was executed on June 13, 1997.

SHIMOFF & ASSOCIATES, INC.,  
an Iowa corporation

By: *Marci Shimoff*  
Marci Shimoff, President

ATTEST:

*Marci Shimoff*  
Marci Shimoff, Secretary

SHIMOFF & ASSOCIATES, INC.,  
a Florida corporation

By: *Marci Shimoff*  
Marci Shimoff, President

ATTEST:

*Marci Shimoff*  
Marci Shimoff, Secretary