

Filing Fee: See Instructions

ID Number: 231869



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Office of the Secretary of State
Corporations Division
148 W. River Street
Providence, Rhode Island 02904-2615

ARTICLES OF MERGER OR CONSOLIDATION INTO

BOURNE MILLS RENTAL 9 LLC

(Insert full name of surviving or new entity on this line.)

SECTION I: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES

Pursuant to the applicable provisions of the General Laws of Rhode Island, 1956, as amended, the undersigned entities submit the following Articles of ☒ Merger or ☐ Consolidation (check one box only) for the purpose of merging or consolidating them into one entity.

- a. The name and type (for example, business corporation, non-profit corporation, limited liability company, limited partnership, etc.) of each of the merging or consolidating entities and the state under which each is organized are:

Name of entity	Type of entity	State under which entity is organized
Bourne Mills Rental 9 LLC	limited liability company	Rhode Island
Bourne Mills Rental 4 LLC - 232630	limited liability company	Rhode Island

- b. The laws of the state under which each entity is organized permit such merger or consolidation.
- c. The full name of the surviving or new entity is Bourne Mills Rental 9 LLC
which is to be governed by the laws of the state of Rhode Island
- d. The attached Plan of Merger or Consolidation was duly authorized, approved, and executed by each entity in the manner prescribed by the laws of the state under which each entity is organized. (Attach Plan of Merger or Consolidation)
- e. If the surviving entity's name has been amended via the merger, please state the new name:
n/a
- f. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, and such surviving or new entity is not qualified to conduct business in the state of Rhode Island, the entity agrees that it: (i) may be served with process in Rhode Island in any proceeding for the enforcement of any obligation of any domestic entity which is a party to the merger or consolidation; (ii) irrevocably appoints the Secretary of State as its agent to accept service of process in any action, suit, or proceeding; and (iii) the address to which a copy of such process of service shall be mailed to it by the Secretary of State is:
n/a
- g. These Articles of Merger or Consolidation shall be effective upon filing unless a specified date is provided which shall be no later than the 90th day after the date of this filing _____

SECTION II: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A BUSINESS CORPORATION PURSUANT TO TITLE 7, CHAPTER 1.2 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, such surviving or new entity hereby agrees that it will promptly pay to the dissenting shareholders of any domestic corporation the amount, if any, to which they shall be entitled under the provisions of Title 7, Chapter 1.2 of the General Laws of Rhode Island, 1956, as amended, with respect to dissenting shareholders.

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b. Complete the following subparagraphs i and ii only if the merging business corporation is a subsidiary corporation of the surviving corporation.

i) The name of the subsidiary corporation is _____

ii) A copy of the plan of merger was mailed to shareholders of the subsidiary corporation (such date shall not be less than 30 days from the date of filing) _____

c. As required by Section 7-1.2-1003 of the General Laws, the corporation has paid all fees and franchise taxes.

.....
SECTION III: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A NON-PROFIT CORPORATION PURSUANT TO TITLE 7, CHAPTER 6 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If the members of any merging or consolidating non-profit corporation are entitled to vote thereon, attach a statement for each such non-profit corporation which sets forth the date of the meeting of members at which the Plan of Merger or Consolidation was adopted, that a quorum was present at the meeting, and that the plan received at least a majority of the votes which members present at the meeting or represented by proxy were entitled to cast; OR attach a statement for each such non-profit corporation which states that the plan was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- b. If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such non-profit corporation attach a statement which states the date of the meeting of the board of directors at which the plan was adopted, and a statement of the fact that the plan received the vote of a majority of the directors in office.

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SECTION IV: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A LIMITED PARTNERSHIP PURSUANT TO TITLE 7, CHAPTER 13 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED

a. The agreement of merger or consolidation is on file at the place of business of the surviving or resulting domestic limited partnership or other business entity and the address thereof is:

b. A copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate.

.....
SECTION V: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES

Under penalty of perjury, we declare and affirm that we have examined these Articles of Merger or Consolidation, including any accompanying attachments, and that all statements contained herein are true and correct.

BOURNE MILLS RENTAL 9 LLC

Print Entity Name

By: See attached signature page

Name of person signing

Title of person signing

By: _____

Name of person signing

Title of person signing

BOURNE MILLS RENTAL 4 LLC

Print Entity Name

By: See attached signature page

Name of person signing

Title of person signing

By: _____

Name of person signing

Title of person signing

Rhode Island Articles of Merger Signature Page

Bourne Mills Rental 4 LLC

By: Bourne Mills MM 4 LLC, its managing member

By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

Bourne Mills Rental 9 LLC

By: Bourne Mills MM 9 LLC, its managing member

By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

PLAN OF MERGER

This Plan of Merger (the "Agreement") is made and entered into as of May 14, 2009 (the "Effective Date") by and between Bourne Mills Rental 9 LLC, a Rhode Island limited liability company ("Rental 9"), Bourne Mills Rental 4 LLC, a Rhode Island limited liability company ("Rental 4"), and Bourne Mills MM 4 LLC, a Rhode Island limited liability company (the "4 Managing Member"), and consented to by Bourne Mills MM 9 LLC, a Rhode Island limited liability company ("Managing Member"), The Armory Revival Company, a Rhode Island corporation ("Non-managing Member") and EAF Bourne Mills Managing-Member LLC ("EAF").

WHEREAS, Rental 9 was formed pursuant to the Rhode Island Limited Liability Company Act (the "Act") by the filing of Articles of Organization with the Secretary of State of Rhode Island on September 13, 2007 (the "Rental 9 Certificate of Organization"), and that certain Operating Agreement of Rental 9 by and between Managing Member and Non-managing Member dated as of October 1, 2007, as amended by that certain First Amendment to Operating Agreement dated as of October 1, 2007 and that certain Second Amendment to Operating Agreement dated as of October 1, 2007;

WHEREAS, Rental 4 was formed pursuant to the Act by the filing of Articles of Organization with the Secretary of State of Rhode Island on September 13, 2007, and that certain Operating Agreement of Rental 4 by and between 4 Managing Member and Non-managing Member dated as of October 1, 2007, as amended by that certain First Amendment to Operating Agreement dated as of October 1, 2007 and that certain Second Amendment to Operating Agreement dated as of October 1, 2007;

WHEREAS, as of the date hereof, the Managing Member owns a 0.01% interest in Rental 9 and the Non-managing Member owns a 99.99% interest in Rental 9;

WHEREAS, the 4 Managing Member owns a 0.01% interest in Rental 4 and Non-managing Member owns a 99.99% interest in Rental 4;

WHEREAS, the parties hereto now desire to enter into this Agreement to set forth all of the terms and conditions pursuant to which the Rental 4 and Rental 9 have agreed to merge with Rental 9 to be the surviving entity;

NOW, THEREFORE, in consideration of the foregoing, of mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree as follows:

ARTICLE I.

AGREEMENT TO MERGE

1.01. Agreement to Merge. Subject to the terms and conditions set forth in this Agreement, Rental 4 shall merge with and into Rental 9 and Rental 4 shall transfer all its the assets and liabilities to Rental 9 (the "Merger"). The parties hereto shall take all actions necessary to consummate the Merger under the laws of the State of Rhode Island, including the prompt recording of any certificates and filings (all such requirements together, the "Certificate

of Merger"). The Merger shall occur pursuant to the provisions of and with the effect provided in Section 7-16-59 et seq. of the Act. The Merger shall become effective upon the filing of the Certificate of Merger with the Rhode Island Secretary of State (the "Merger Date"). Upon the Merger Date, pursuant to the Certificate of Merger and this Agreement:

- (a) the separate existence of Rental 4 shall cease;
- (b) the 4 Managing Member shall have no power, authority, or responsibility, and the affairs of the Rental 4 shall be managed and directed by the Managing Member;
- (c) Rental 9 shall continue as the surviving entity, organized and existing as a limited liability company, organized under and governed by the laws of the State of Rhode Island;
- (d) all of the assets and properties of Rental 4 shall be and become the assets and properties of Rental 9, and title thereto shall be deemed to be vested in Rental 9; and
- (e) Rental 9 shall assume and be responsible for all of the liabilities of Rental 4, and the liabilities of Rental 4 shall not be affected nor shall the rights of any persons dealing with Rental 4 be impaired.

1.02. Merger Consideration; Membership Interests. At the conclusion of the Merger, Managing Member shall have a 0.006% interest in Rental 9, 4 Managing Member shall have a 0.004% interest in Rental 9 and Non-managing Member shall continue to have a 99.99% interest in Rental 9. Immediately subsequent to the Merger, 4 Managing Member shall distribute its 0.004% interest in Rental 9 to its sole member EAF. EAF, which is also the sole member of the Managing Member, shall then immediately contribute the 0.004% interest in Rental 9 to the Managing Member so that after such transfer, the Managing Member shall have a 0.01% interest in Rental 9.

1.03. Amendments to Articles of Organization. No changes shall be made to the Rental 9 Articles of Organization.

1.04. Federal Income Tax Treatment. The parties hereto intend that, for United States federal income tax purposes, the Merger shall be treated as the merger of Rental 4 into Rental 9, resulting in the termination of Rental 4 and the continuation of Rental 9, pursuant to Section 708(b)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"). The parties intend that Rental 4 be treated as contributing all of its assets and liabilities to Rental 9 in exchange for an interest in Rental 9, and immediately thereafter as distributing its interest in Rental 9 to its members in liquidation (the "assets-over form," as described in Treasury Regulations Section 1.708-1(c)(3)(i), as amended). It is noted that prior to the merger EAF was the sole member of both the Managing Member and the 4 Managing Member and therefore such entities were disregarded entities for tax purposes and EAF was deemed to directly own the 0.01% interests in Rental 4 and Rental 9. It is also noted that the Non-Managing Member owned the 99.99% interests Rental 9 and Rental 4. As a result prior to the merger, for tax purposes the ownership of Rental 4 and Rental 9 was identical with EAF owning a 0.01% interest in both entities and the Non-Managing Member owning a 99.99% interest in both entities. After the completion of the merger, EAF and the Non-Managing Member will continue to own the same

respective 0.01% and 99.99% interests. As a result, the Merger has merely been a change in the form of ownership.

ARTICLE II.

MISCELLANEOUS

2.01. Entire Agreement. This Agreement and all attached Exhibits contain the entire understanding of the parties and supersede all prior agreements and understandings relating to the subject matter hereof.

2.02. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the internal laws (and not the choice-of-law rules) of the State of Rhode Island.

2.03. Binding Agreement. This Agreement is intended to take effect and be binding upon the parties hereto and their successors and assigns as a sealed instrument, and can be amended only by an instrument duly executed and delivered by all of the parties hereto that is clearly designated an amendment to this Agreement.

2.04. Headings. The descriptive section headings do not limit or modify in any way the contents of the section thereunder.

2.05. Counterparts. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

[Signature pages follow]

IN WITNESS WHEREOF, the parties have affixed their signatures to this Plan of Merger as an instrument under seal of the date first written above.

Bourne Mills Rental 4 LLC

By: Bourne Mills MM 4 LLC, its managing member

By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

Bourne Mills Rental 9 LLC

By: Bourne Mills MM 9 LLC, its managing member

By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

Bourne Mills MM 4 LLC

By: EAF Bourne Mills Managing Member LLC, its managing member

By: EAF Bourne Mills MM LLC, its managing member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

CONSENTING PARTIES:

Bourne Mills MM 9 LLC

By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

The Armory Revival Company

By: _____

Name: _____

Title: _____

EAF Bourne Mills Managing Member LLC

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: 

Edward A. Fish, its President

CONSENTING PARTIES:

Bourne Mills MM 9 LLC

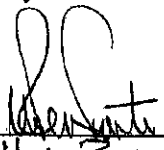
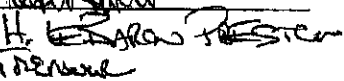
By: EAF Bourne Mills Managing Member LLC, its sole member

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: _____
Edward A. Fish, its President

The Armory Revival Company

By: 
Name: H. E. Baker
Title: 

EAF Bourne Mills Managing Member LLC

By: EAF Bourne Mills MM LLC, its sole member

By: Dellbrook Manager Inc., its Manager

By: _____
Edward A. Fish, its President