

# STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Office of the Secretary of State  
Corporations Division  
100 North Main Street  
Providence, Rhode Island 02903-1335

## ARTICLES OF MERGER OR CONSOLIDATION INTO (To Be Filed In Duplicate Original)

Marathon, Inc.

(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 Rhode Island General Laws, 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 states under which each is organized are:

Name of entity	Type of entity	State under which entity is organized
Encounter Foundation, Inc. <u>24116</u>	Non-profit	CT
Marathon, Inc. <u>23237</u>	Non-profit	RI

- b. The laws of the state under which each entity is organized permit such merger or consolidation. See R.I.G.L. Sec. 7-1.1-70 and C.G.S.A. Sec. 33-1155 et seq.
- c. The full name of the surviving or new entity is Marathon, Inc.  
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:  
Phoenix Houses of New England, Inc.
- f. If the surviving or new entity is to be governed by the laws of a state other than 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 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; it irrevocably appoints the Secretary of State as its agent to accept service of process in any action, suit, or proceeding; and the address to which a copy of such process of service shall be mailed to it by the Secretary of State is:
- g. The future effective date (which shall be a date or time certain no more than thirty (30) days after the filing of the Articles of Merger or, in the case of a subsidiary merger, on or after the 30th day after the mailing of a copy of the agreement of merger to the shareholders of the subsidiary corporation) of the merger or consolidation is (if upon filing, so state) upon 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 1.1 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If one or more of the merging or consolidating entities is a business corporation (except one whose shareholders are not required to approve the agreement under Section 7-1.1-67, or does not require shareholder approval pursuant to the laws of the state under which the corporation is organized, in which event that fact shall be set forth), state below as to each business corporation, the total number of shares outstanding entitled to vote on the Plan of Merger or Consolidation, respectively, and, if the shares

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By 24116 75

of any class are entitled to vote on the plan as a class, state below the designation and number of outstanding shares of each class:

<u>Name of Business Corporation</u>	<u>Total Number of Shares Outstanding</u>	<u>Entitled to Vote as a Class</u>	
		<u>Designation of Class</u>	<u>Number of Shares</u>
N/A			

- b. If one or more of the merging or consolidating entities is a business corporation (except one whose shareholders are not required to approve the agreement under Section 7-1.1-67, or does not require shareholder approval pursuant to the laws of the state under which the corporation is organized, in which event that fact shall be set forth), state below as to each business corporation, the total number of shares voted for and against such plan, respectively, and as to each class entitled to vote thereon as a class, state the number of shares of each class voted for and against the plan, respectively.

<u>Name of Business Corporation</u>	<u>Total Voted For</u>	<u>Total Voted Against</u>	<u>Entitled to Vote as a Class</u>		
			<u>Class</u>	<u>Voted For</u>	<u>Voted Against</u>
N/A					

- c. If the surviving or new entity is to be governed by the laws of a state other than Rhode Island, such surviving or new entity hereby agrees that it will promptly pay to the dissenting shareholders of any domestic entity the amount, if any, to which they shall be entitled under the provisions of Title 7, Chapter 1.1 of the General Laws of Rhode Island, 1956, as amended, with respect to dissenting shareholders.

- d. Complete the following subparagraphs i,ii, and iii only if the merging business corporation is a subsidiary corporation of the surviving corporation.

i) The name of the subsidiary corporation is N/A

- ii) State below the number of outstanding shares of each class of the subsidiary corporation and the number of the shares of each class of the subsidiary corporation owned by the surviving corporation.

<u>Number of Shares Outstanding of the Subsidiary Corporation</u>	<u>Designation of Class</u>	<u>Number of Shares of Subsidiary Corporation Owned by Surviving Corporation</u>	<u>Designation of Class</u>
N/A			

iii) A copy of the plan of merger was mailed to shareholders of the subsidiary corporation on \_\_\_\_\_

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**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.

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:

N/A

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

Marathon, Inc.

Print Entity Name

By: R J M L  
Name of person signing

President

Title of person signing

By: Mary E. McNamara  
Name of person signing

Secretary

Title of person signing

STATE OF Rhode Island  
COUNTY OF Providence

In Providence, on this 16 day of March, 2000, before me personally appeared Patrick McEneaney and Mary McNamara who, being duly sworn, declared that he/she is the President and Secretary of the above-named entity and that he/she signed the foregoing document as such authorized agent, and that the statements herein contained are true.

Notary Public

My Commission Expires: 6/25/01

Encounter Foundation, Inc.

Print Entity Name

By: Linton A. Fluck  
Name of person signing

President

Title of person signing

By: Peter H. Hurley  
Name of person signing

Secretary

Title of person signing

STATE OF RI  
COUNTY OF Providence

In Providence, on this 3rd day of February, 2000, before me personally appeared Linton A. Fluck and Peter H. Hurley who, being duly sworn, declared that he/she is the President and Secretary of the above-named entity and that he/she signed the foregoing document as such authorized agent, and that the statements herein contained are true.

Notary Public

My Commission Expires: 6/25/01

Plan of Merger of  
Encounter Foundation, Inc.

Into

Marathon, Inc.

ARTICLE I

Names of Constituent Corporations and  
Surviving Corporation

1. The names of the constituent corporations are Marathon, Inc. and Encounter Foundation, Inc.
2. Marathon, Inc. shall be the surviving corporation, the name of which shall be changed to "Phoenix Houses of New England, Inc."

ARTICLE II

Members of Constituent Corporations

1. Phoenix House Foundation, Inc. is the sole member of each of the constituent corporations. There are no holders of any certificates evidencing capital contributions or subventions of either constituent corporation.

ARTICLE III

Terms and Conditions of Proposed Merger

1. On the effective date of the merger, Encounter Foundation, Inc. shall be merged with and into Marathon, Inc., which shall be the surviving corporation.
2. Phoenix House Foundation, Inc., the sole member of each of the constituent corporations, shall, as of the effective date of the merger, remain the sole member of the surviving corporation, with all the rights and privileges attendant thereto, subject to the terms and conditions as set forth in the by-laws of the surviving corporation.

3. Upon such merger, the Articles of Incorporation of Marathon, Inc. shall be the Articles of Incorporation of the surviving corporation, except that the Articles of Incorporation shall be amended and restated to read in their entirety as set forth in Exhibit 1 hereto, including to change the name of the surviving corporation to Phoenix Houses of New England, Inc.

## ARTICLE IV

### Miscellaneous Provisions

1. **Effective Date.** This plan shall be submitted to the sole member of each of the constituent corporations as provided by law for the adoption thereof by the requisite vote of the member of each of the constituent corporations as provided by law.
2. **Effect of Merger.** When articles of merger shall have been filed with the Secretary of State of Rhode Island and a certificate of merger shall have been filed with the Secretary of State of Connecticut, the separate existence of Encounter Foundation, Inc. shall cease and said corporation shall be merged in accordance with the provisions of this plan into Marathon, Inc., to be renamed Phoenix Houses of New England, Inc., which shall survive such merger and shall continue in existence. The surviving corporation shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a corporation organized under Chapter 7-6 of the Rhode Island Nonprofit Corporation Act. The surviving corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the constituent corporations; and all property, real, personal, and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the constituent corporations, shall be taken and deemed to be transferred to and vested in the surviving corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of the constituent corporations shall not revert or be in any way impaired by reason of the merger. The surviving corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the constituent corporations; and any claim existing or action or proceeding pending by or against any of the constituent corporations may be prosecuted as if the merger had not taken place, or the surviving corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any constituent corporation shall be impaired by the merger.
3. **Abandonment of Merger.** If, at any time prior to the effective date hereof, events or circumstances occur, which in the opinion of the sole member of either constituent corporation, renders it inadvisable to consummate the merger, this plan of merger shall not become effective even though

previously adopted by the member of each constituent corporations as hereinbefore provided. The filing of the certificate of merger shall conclusively establish that no action to terminate this plan has been taken by the Board of Directors or member of either constituent corporation.

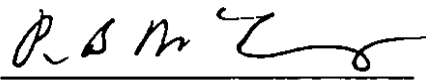
## ARTICLE V

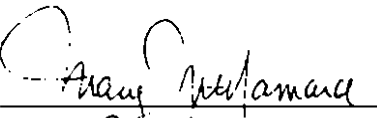
### Adoption of Plan of Merger

The foregoing plan has been duly approved and adopted by the respective Board of Directors of each constituent corporation.

Dated: Providence, Rhode Island,  
November 9, 1999

Marathon, Inc.

by:   
~~Vice~~ President

Attest:   
Secretary

Dated: Providence, Rhode Island,  
November 9, 1999

Encounter Foundation, Inc.

by:   
Senior Vice President

Attest:   
Secretary

**Resolution re: Approval of Plan of Merger by Sole Member of Constituent Corporations**

RESOLVED, that the Board of Directors of Phoenix House Foundation, Inc. (the "Corporation"), acting for the Corporation, in accordance with its By-Laws, as the sole member of each of Marathon, Inc. and Encounter Foundation, Inc., hereby approves and adopts in all respects the Plan of Merger of Encounter Foundation, Inc. with and into Marathon, Inc. presented to this meeting, which Plan of Merger, including an Amended and Restated Articles of Incorporation of the surviving corporation that changes its name to Phoenix Houses of New England, Inc., was approved and adopted by resolutions of the Board of Directors of Marathon, Inc. on the 9<sup>th</sup> day of November, 1999 and by resolutions of the Board of Directors of Encounter Foundation, Inc. on the 19<sup>th</sup> day of November, 1999; and

FURTHER RESOLVED, that the President, or his designee, and the Secretary or an Assistant Secretary of each of Marathon, Inc. and Encounter Foundation, Inc., be and are hereby authorized to execute and deliver to the Secretary of State in Connecticut and the Secretary of State in Rhode Island, Articles of Merger in form and substance as required by applicable law and to do other acts and deeds necessary or advisable to effect the merger; provided, however, all required third party consents and approval necessary or desirable for consummation of the merger have been obtained; and

FURTHER RESOLVED, that the Corporation hereby waives notice of the meeting for the purpose of voting on the Plan of Merger under applicable state law.

Certified on this 16 day of March, 2000.

MARATHON, INC.

By: R A M Z

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

In Providence, in said County, on this 16 day of March, 2000, before me personally appeared the within-named Patrick P. G. G. G., who being duly sworn declared that he is the President of the above-named entity and that he signed the foregoing document as such authorized agent, and that the statements herein contained are true.

[Signature]  
Notary Public  
My Commission Expires: 6/28/01

Certified on this 28 day of February, 2000.

ENCOUNTER FOUNDATION, INC.

By: PA F. F.

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

In Providence, in said County, on this 28 day of February, 2000, before me personally appeared the within-named Lincoln A. F. F., who being duly sworn declared that he is the President of the above-named entity and that he signed the foregoing document as such authorized agent, and that the statements herein contained are true.

[Signature]  
Notary Public  
My Commission Expires: 6/28/01



AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
PHOENIX HOUSES OF NEW ENGLAND, INC.

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PURSUANT TO SECTION 7-6-43 OF THE RHODE ISLAND NON-PROFIT CORPORATION ACT, the Articles of Incorporation of Marathon, Inc., as the Surviving Corporation of the merger of Encounter Foundation, Inc., a non-profit corporation organized under the laws of the State of Connecticut, with and into Marathon, Inc., a non-profit corporation organized under the laws of the State of Rhode Island, are hereby amended and restated to read in their entirety as follows:

I

The name of the corporation is PHOENIX HOUSES OF NEW ENGLAND, INC.

II

The corporation is organized and operated not for profit but exclusively for charitable purposes. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its member, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this Article II and in Article III hereof. The Corporation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office. No substantial part of the activities of the Corporation shall constitute the carrying on of propaganda or otherwise attempting to influence legislation. Notwithstanding any other provision of these articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Code, or (b) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a) and 2522(a) of the Code.

Subject to the above provisions, the Corporation shall have the following specific objectives:

- A. To establish, maintain and operate residential and ambulatory treatment centers for the rehabilitation of alcohol and substance abusers.
- B. To engage in and promote research, public information and awareness, and to engage in and promote all activities, benefits, performances, lectures, and otherwise in connection with the prevention of alcohol and substance abuse, and the treatment and rehabilitation of alcohol and substance abusers, and the operation of therapeutic communities.

### III

The Corporation shall have all the powers given to non-profit corporations under the laws of the State of Rhode Island.

### IV

The office of the Corporation is to be located in the City of Providence and State of Rhode Island.

### V

The Corporation hereby designates the Secretary of State of the State of Rhode Island as agent of the Corporation upon whom process may be served. The post office address to which the Secretary of State shall mail a copy of any notice required by law is:

Phoenix Houses of New England, Inc.  
131 Wayland Avenue  
Providence, Rhode Island 02906  
Attn: Vice President, Regional Director

### VI

Upon dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all the assets of the Corporation exclusively for the purpose set forth in Article II, in such manner, or to such organization or organizations as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Code, as the Board of Directors shall determine, subject to the approval of the members.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
DIVISION OF TAXATION  
One Capitol Hill  
Providence, RI 02908-5800

March 29, 2000

TO WHOM IT MAY CONCERN:

**Re: ENCOUNTER FOUNDATION, INC.**

It appears from the documents submitted that the above named non-profit corporation has paid all taxes due and is in good standing with this Division as of this date regarding any liability under the Rhode Island Business Corporation Tax Law.

This letter is issued pursuant to the request of the above named non-profit corporation for the purpose of:

**A MERGER – CORPORATION IS THE NONSURVIVOR**

Very truly yours,

R. Gary Clark  
Tax Administrator

Edward J. Flanagan, Jr.  
Chief Revenue Agent  
Corporations