

F 96000006302

ARTICLES OF MERGER
Merger Sheet

MERGING:

CUSTOM AIR CONDITIONING, INC., a Florida corporation, document number
F28438

into

PALM BEACH ACQUISITION SUB, INC., a Tennessee corporation
F96000006302

File date: December 20, 1996

Corporate Specialist: Karen Gibson

ARTICLES OF MERGER
BETWEEN CUSTOM AIR CONDITIONING, INC., A FLORIDA CORPORATION,
AND PALM BEACH ACQUISITION SUB, INC., A TENNESSEE CORPORATION

FILED
96 DEC 20 PM 3:30
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Florida Statute 607.1105 and the related sections of The Florida Business Corporation Act, CUSTOM AIR CONDITIONING, INC., a Florida corporation, and PALM BEACH ACQUISITION SUB, INC., a Tennessee corporation, hereby adopt the following Articles of Merger:

1. The attached Plan of Merger between CUSTOM AIR CONDITIONING, INC. and PALM BEACH ACQUISITION SUB, INC. have been approved and adopted by each of the Corporations, their Boards of Directors, and their Shareholders in accordance with the provisions of Florida Statutes 607.1105, 607.1107, 607.1103, 607.1102, 607.1101, other applicable sections of the The Florida Business Corporation Act and the applicable provisions of The Tennessee Business Corporation Act.

2. The Plan of Merger was adopted by the Board of Directors of CUSTOM AIR CONDITIONING, INC. on December 2, 1996 and duly approved by the affirmative vote of the majority of all votes entitled to cast votes by the Shareholders of CUSTOM AIR CONDITIONING, INC. on December 2, 1996. The Plan of Merger was adopted by the Board of Directors of PALM BEACH ACQUISITION SUB, INC. on December 2, 1996 and duly approved by an affirmative vote of the required percentage of all votes entitled to cast by Shareholders of PALM BEACH ACQUISITION SUB, INC. on December 3, 1996 in accordance with the laws of the State of Tennessee.

3. The Plan of Merger and the performance of the transactions contemplated thereby were duly authorized by all action required by the laws of the State of Florida and by the laws of the State of Tennessee and are not in violation of the Articles of Incorporation of CUSTOM AIR CONDITIONING, INC. or of PALM BEACH ACQUISITION SUB, INC.

4. The Plan of Merger shall be effective upon the filing of Articles of Merger with the Secretary of State of the State of Tennessee or with the

Florida Department of State of the State of Florida, whichever filing occurs last.

5. Upon the effective date of filing and upon the effective date of the Plan of Merger, CUSTOM AIR CONDITIONING, INC. shall cease to exist as a separate corporation.

IN WITNESS WHEREOF, each of the undersigned corporations has duly caused these Articles of Merger to be executed by their respective authorized Officers as of this 19th day of December, 1996.

CUSTOM AIR CONDITIONING, INC.
a Florida corporation

BY: Virginia Phillips
Virginia Phillips, President

PALM BEACH ACQUISITION SUB, INC.,
a Tennessee corporation

BY: Alan R. Sielbeck
Alan R. Sielbeck,
Chief Executive Officer

PLAN OF MERGER

WHEREAS, Palm Beach Acquisition Sub, Inc. ("Sub") is a corporation duly organized and validly existing under the laws of the State of Tennessee;

WHEREAS, Custom Air Conditioning, Inc. d/b/a Service Experts of Palm Beach (the "Company") is a corporation duly organized and validly existing under the laws of the State of Florida;

WHEREAS, the Boards of Directors of Sub and the Company have each determined that it is advisable that the Company merge with and into Sub upon the terms and conditions herein provided (the "Merger"); and

WHEREAS, the Boards of Directors of Sub and the Company have approved an Agreement and Plan of Merger (the "Merger Agreement"), dated as of October 24, 1996, among the Company, Sub and Service Experts, Inc., the parent corporation of Sub ("SEI");

NOW, THEREFORE, Sub and the Company hereby agree to merge into a single corporation as follows:

FIRST: The Company shall submit this Plan of Merger to its shareholders for their approval pursuant to the applicable provisions under the Florida Business Corporation Act, as amended (the "Florida Act"), and Sub shall submit the Merger to its sole shareholder for approval pursuant to Section 48-21-104 of the Tennessee Business Corporation Act, as amended (the "Tennessee Act").

SECOND: Following the approval of the Plan of Merger by the shareholders of the Company and the sole shareholder of Sub, and provided that this Plan of Merger has not

been terminated by either Sub or the Company, Sub will cause the Articles of Merger and this Plan of Merger and any other required documents to be executed and filed with the Secretary of State of the State of Tennessee pursuant to Section 48-21-107 of the Tennessee Act, and with the Secretary of State of the State of Florida pursuant to the applicable provisions of the Florida Act, and shall cause a copy of the Articles of Merger, certified by the Secretary of State of the State of Tennessee, to be recorded in the Register's Office in the County of Davidson, Tennessee in accordance with the provisions of Section 48-11-303 of the Tennessee Act.

THIRD: The Merger shall become effective on the later of the filing of the Articles of Merger with the Secretary of State of Florida and the Secretary of State of Tennessee, such time being hereinafter referred to as the "Effective Time."

FOURTH: Pursuant to and subject to the terms and conditions of this Plan of Merger, the holders of shares of Common Stock, \$ 1.00 par value per share, of the Company ("Company Common Stock") shall be entitled to receive a number of shares of Common Stock, \$.01 par value per share (the "SEI Common Stock"), of Service Experts, Inc. ("SEI") and cash based on the following:

(a) At the Effective Time, the shares of Company Common Stock issued and outstanding immediately prior to the Effective Time, other than treasury shares to be cancelled and other than shares held by dissenting shareholders (the "Dissenting Shares"), shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into the right to receive an aggregate of \$4,023,520, consisting of shares of SEI Common Stock (based on a per share price of \$16.50) and cash. Each Dissenting Share shall be converted into the right to receive payment from SEI with respect thereto in accordance with the Florida Business Corporation Act.