

P04000160425

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

01/18/05--01041--018 **43.7

Merger
CRB
1/24

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, F.S.

First: The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
EXCESS MANAGEMENT COMPANY, INC.	FLORIDA	P04000160425

Second: The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
EXCESS MANAGEMENT COMPANY, INC.	NEW JERSEY	

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 12/31/04 (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days in the future.)

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 11/24 2004.

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 11/24 2004.

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)

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TALLAHASSEE, FLORIDA

Seventh: SIGNATURES FOR EACH CORPORATION

<u>Name of Corporation</u>	<u>Signature</u>	<u>Typed or Printed Name of Individual & Title</u>
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EXCESS MANAGEMENT COMPANY, INC. (FLORIDA)		MILO W. ZIDEK, PRESIDENT
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EXCESS MANAGEMENT COMPANY, INC. (NEW JERSEY)		MILO W. ZIDEK, PRESIDENT

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated as of 11/24, 2004, is entered into between EXCESS MANAGEMENT COMPANY, INC., a New Jersey corporation ("EXCESS NEW JERSEY"), and EXCESS MANAGEMENT COMPANY, INC., a Florida corporation ("EXCESS FLORIDA").

WITNESSETH:

WHEREAS, the parties hereto desire to effect the merger of EXCESS NEW JERSEY with and into EXCESS FLORIDA as a result of which (a) EXCESS FLORIDA shall be the surviving corporation, (b) the separate corporate existence of EXCESS NEW JERSEY shall cease and (c) the holders of the outstanding capital stock of EXCESS NEW JERSEY before the Merger, as hereinafter defined, shall have their shares cancelled, since they are the shareholders also of EXCESS FLORIDA in the same proportions; and

WHEREAS, the respective Boards of Directors of EXCESS NEW JERSEY and EXCESS FLORIDA have approved this Agreement and have determined that EXCESS NEW JERSEY should merge with and into EXCESS FLORIDA on the terms and conditions hereinafter set forth; and

WHEREAS, EXCESS FLORIDA is a newly-formed Florida Corporation and has not engaged in any business activities prior to the contemplated merger, and

WHEREAS, the parties hereto desire to effectuate the Merger as a nontaxable reorganization under Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

THE MERGER

1.1 **Merger.** Subject to the terms and conditions hereof, at the Effective Time (as defined in Section 1.2 hereof), EXCESS NEW JERSEY shall be merged with and into EXCESS FLORIDA in accordance with the laws of both the States of New Jersey and Florida, with EXCESS FLORIDA being the surviving corporation (the "Merger"). EXCESS FLORIDA is herein sometimes referred to as the "Surviving Corporation" and EXCESS NEW JERSEY and EXCESS FLORIDA are herein sometimes collectively referred to as the "Constituent Corporations."

1.2 **Effective Time.** Subject to compliance by EXCESS NEW JERSEY and EXCESS FLORIDA with the covenants and agreements of, and satisfaction of the conditions contained in this Agreement, the parties shall take such action as is required by law to make the Merger effective ("Effective Time") upon the filing of duly executed Articles of Merger meeting the requirements of

the Business Corporation Act of the State of Florida ("FLBCA") and a duly executed Certificate of Merger meeting the requirements of the Business Corporation Act of the State of New Jersey ("NJBCA").

ARTICLE II

ARTICLES OF INCORPORATION, BY-LAWS, DIRECTORS AND OFFICERS

2.1 **Articles and By-Laws.** The Articles of Incorporation and By-Laws of EXCESS FLORIDA in effect at the Effective Time shall be the Articles of Incorporation and By-Laws of the Surviving Corporation.

2.2 **Directors and Officers of Surviving Corporation.** The directors and officers of EXCESS FLORIDA at the Effective Time shall be as follows:

Milo P. Zidek	President, Assistant Secretary and Director
Brian P. Zidek	Executive Vice President, Secretary, Treasurer and Director

ARTICLE III

CONVERSION OF SHARES

3.1 **Cancellation of Shares.** At the Effective Time, by virtue of the Merger and without any further action:

Each share of Common Stock, of EXCESS NEW JERSEY issued and outstanding shall be cancelled.

3.2 **Certain Effects of the Merger.** At the Effective Time, and in accordance with Section 14A of the NJBCA and Sections 606.1101-7 of the FLBCA, the separate existence of EXCESS FLORIDA shall cease, and EXCESS NEW JERSEY shall be merged with and into EXCESS FLORIDA, which, as the Surviving Corporation, shall thereupon and thereafter possess all the rights, privileges, powers and franchises of a public as well as of a private nature, and shall be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporations on whatever account, for stock subscriptions and all other choses in action and other interests due or belonging to each of the Constituent Corporations, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be

thereafter as effectively the property of the Surviving Corporation as they were of the respective Constituent Corporations and shall not revert or be in any way impaired by reason of the Merger; but all rights of creditors and all liens upon any property of either of the Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by the Surviving Corporation.

ARTICLE IV

CONDITIONS PRECEDENT TO THE MERGER

4.1 **Conditions to Each Party's Obligations.** The respective obligations of each party to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following conditions:

(a) The Merger shall have been approved by the requisite vote of the stockholders of EXCESS FLORIDA in accordance with the applicable provisions of the FLBCA.

(b) The Merger shall have been approved by the requisite vote of the stockholders of EXCESS NEW JERSEY in accordance with the requirements of the NJBCA.

ARTICLE V

CLOSING

5.1 **Termination.** Anything herein or elsewhere to the contrary notwithstanding, this Agreement may be terminated and abandoned at any time before the Effective Time whether before or after adoption and approval of the Merger and related matters by the stockholders of each of EXCESS FLORIDA and EXCESS NEW JERSEY by the mutual consent of the Boards of Directors of EXCESS NEW JERSEY and EXCESS FLORIDA.

ARTICLE VI

MISCELLANEOUS

6.1 **Amendment or Waiver.** This Agreement may be amended, modified or superseded, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, but only by a written instrument executed by EXCESS NEW JERSEY and EXCESS FLORIDA. No stockholder approval shall be required for any amendment, modification or waiver. No waiver of any nature, in any one or more instances, shall be deemed to be or construed as a further or continued waiver of any condition or any breach of any other term, representation or warranty in this Agreement.

6.2 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the Merger, and supersedes all prior arrangements or understandings with respect thereto.

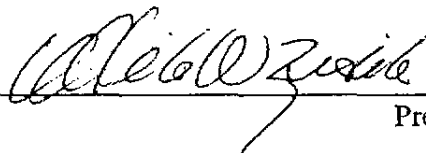
6.3 **Descriptive Headings.** The descriptive headings are for convenience of reference only and shall not control or affect the meaning or construction of any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf by their officers thereunto duly authorized as of the date first above written.

EXCESS MANAGEMENT COMPANY, INC. (A
NEW JERSEY CORPORATION)

By: 
President

EXCESS MANAGEMENT COMPANY, INC. (A
FLORIDA CORPORATION)

By: 
President