

P 94000025183

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MERGER OR SHARE EXCHANGE

f.c.l.s., inc.

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Page Count	08
Estimated Charge	\$78.75

Merger
RC 1-27

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DIVISION OF CORPORATIONS

ARTICLES OF MERGER
Merger Sheet

MERGING:

AMERICAN GREEN LAWN CARE INC., a Delaware corporation, not qualified

INTO

F.C.L.S., INC., a Florida corporation, P94000025183

File date: January 27, 1999

Corporate Specialist: Karen Gibson

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ARTICLES OF MERGER

of

American Green Lawn Care Inc.
(a Delaware corporation)

into

F.C.L.S., Inc.
(a Florida corporation)

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1107 of the Florida Business Corporation Act, the following Articles of Merger are adopted by the undersigned corporations for the purpose of merging them into one of such corporations:

- FIRST:** The names of the undersigned corporations and the states under the laws of which they are respectively organized are:
- | <u>Name of Corporation</u> | <u>State</u> |
|-------------------------------|--------------|
| F.C.L.S., Inc. | Florida |
| American Green Lawn Care Inc. | Delaware |
- SECOND:** Pursuant to the Agreement and Plan of Merger, American Green Lawn Care Inc. shall be merged with and into F.C.L.S., Inc. and F.C.L.S., Inc. shall be the surviving corporation (the "Merger").
- THIRD:** The name of the surviving corporation is F.C.L.S., Inc. and it is to be governed by the laws of the State of Florida.
- FOURTH:** The Articles of Incorporation of the surviving corporation shall be its Articles of Incorporation.
- FIFTH:** The Agreement and Plan of Merger has been approved, adopted, certified, executed and acknowledged by the respective board of directors of each of the constituent corporations and approved by their respective shareholders in accordance with such corporations' articles of incorporation and applicable law.
- SIXTH:** The Merger is to become effective upon filing of these Articles of Merger.

SANTINO FERRANTE, ESQUIRE
LAW OFFICES OF SANTINO FERRANTE
341 BROADWAY
CAMBRIDGE, MA 02139
(617) 868-5000
MA BAR NO. 547556

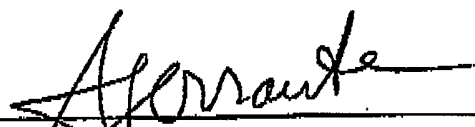
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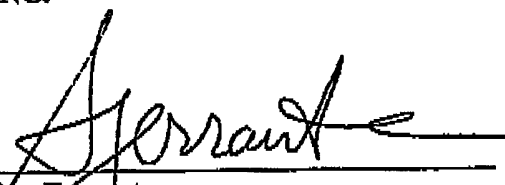
- SEVENTH:** The authorized stock of F.C.L.S., Inc. is 1,000 shares of common stock, no par value.
- EIGHTH:** The authorized stock of American Green Lawn Care Inc. is 1,500 shares of common stock, no par value.
- NINTH:** The executed Agreement and Plan of Merger is on file at the principal place of business of the surviving corporation. The address of said principal place of business is: 25522 East Marion Avenue, Punta Gorda, Florida 33950.
- TENTH:** A copy of the Agreement and Plan of Merger will be furnished by the surviving corporation on request, without cost, to any stockholder of the constituent corporations.
- ELEVENTH:** A true and correct copy of the Agreement and Plan of Merger is attached hereto as Exhibit "A" and incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned corporations have caused these Articles of Merger to be executed by their duly authorized officer as of this 26th day of January, 1999.

AMERICAN GREEN LAWN CARE INC.

By: 
Santino Ferrante
Its: Secretary

F.C.L.S., INC.

By: 
Santino Ferrante
Its: Secretary

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EXHIBIT "A"

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger is made and entered into as of this 26th day of January, 1999 by and between F.C.L.S., Inc., a Florida corporation, ("FCLS") and American Green Lawn Care Inc., a Delaware corporation ("AGLC").

WITNESSETH

WHEREAS, FCLS and AGLC (individually sometimes called a "Constituent Corporation" and together called the "Constituent Corporations") desire that AGLC merge with and into FCLS with FCLS being the surviving entity;

WHEREAS, the Articles of Incorporation of FCLS were filed in the office of the Secretary of State of the State of Florida on April 1, 1994;

WHEREAS, FCLS has authorized capital stock of 1,000 shares of Common Stock, no par value ("FCLS Common Stock") of which 100 shares are issued and outstanding as of the date hereof;

WHEREAS, the Certificate of Incorporation of AGLC were filed in the office of the Secretary of State of the State of Delaware on September 9, 1995;

WHEREAS, AGLC has authorized capital stock of 1,500 shares of Common Stock, no par value ("AGLC Common Stock") of which 100 shares are issued and outstanding as of the date hereof;

WHEREAS, the registered office of FCLS in the State of Florida is located at 25522 East Marion Avenue, Punta Gorda, Florida 33950 and the name and address of its registered agent is Vaughn Fine, 25522 East Marion Avenue, Punta Gorda, Florida;

WHEREAS, the registered principal office of AGLC in the State of Delaware is located at 1209 Orange Street, Wilmington, Delaware and the name and address of its registered agent is The Corporation Trust, Company, 1209 Orange Street, Wilmington, Delaware; and

WHEREAS, the respective Boards of Directors of the Constituent Corporations desire that the merger provided for herein be a tax-free reorganization pursuant to Section 368(a) of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and provisions hereinafter contained, the sufficiency of which is hereby acknowledged, the Constituent Corporations, intending to be legally bound, do hereby agree as follows:

FIRST: Subject to the terms and conditions of this Agreement, and in accordance with the Florida Business Corporation Act (the "Florida Act"), AGLC shall be merged (the "Merger") with and into FCLS, whereupon the separate existence of AGLC shall cease, and FCLS shall be the surviving corporation and shall continue to be governed by the laws of the State of Florida. The

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name of the surviving corporation shall be F.C.L.S., Inc.

SECOND: The Articles of Incorporation of FCLS, as in effect on the date of the Merger, shall continue in full force and effect as the Articles of Incorporation of the surviving corporation.

THIRD: The manner of converting the outstanding shares of the capital stock of each of the Constituent Corporations into the shares or other securities of the surviving corporation shall be as follows:

- (a) Each share of AGLC Common Stock that is issued and outstanding (other than shares of AGLC Common Stock, if any, held in the treasury of AGLC) on the effective date of the Merger shall, by virtue of the Merger and without further action, cease to exist and shall be converted into 100 shares of FCLS Common Stock. There shall not be any issued and outstanding stock of AGLC that will not be so converted.
- (b) Each share of AGLC Common Stock, if any, that shall then be held in the treasury of AGLC on the effective date of the Merger shall, by virtue of the Merger and without further action, cease to exist and all certificates representing such shares shall be canceled.
- (c) After the effective date of the Merger, each holder of an outstanding certificate representing shares of AGLC Common Stock shall surrender the same to FCLS and each holder shall be entitled upon such surrender to receive certificates for the number of shares of FCLS Common Stock on the basis provided herein. Until so surrendered, the outstanding shares of the capital stock of AGLC to be converted into the capital stock of FCLS as provided herein may be treated by FCLS for all corporate purposes as evidencing the ownership of shares of FCLS, as though said surrender and exchange had taken place.

FOURTH: The other terms and conditions of the Merger are as follows:

- (a) The By-laws of FCLS as they shall exist on the effective date of the Merger shall be and remain the By-laws of the surviving corporation until the same shall be altered, amended or repealed as therein provided.
- (b) The directors and officers of FCLS as of the effective date of the Merger shall be the directors and officers of the surviving corporation and shall continue in office as provided in the By-Laws and charter of FCLS.
- (c) The Merger shall become effective upon filing with the Secretary of State of Florida a Articles of Merger pursuant to Section 607.1101 of the Florida Act.

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- (d) Upon the effective date of the Merger, all property, rights, privileges, franchises, patents, trademarks, licenses, registrations and other assets of every kind and description of AGLC shall be transferred to, vested in and devolved upon FCLS without further act or deed and all property rights, and every other interest of FCLS and AGLC shall be as effectively the property of FCLS as they were of FCLS and AGLC, respectively. All rights of creditors of AGLC and all liens upon any property of AGLC shall be preserved unimpaired, and all debts, liabilities, obligations and duties of AGLC may be enforced against FCLS to the same extent as if said debts, liabilities, obligations and duties had been incurred or contracted by it. At any time, or from time to time, after the effective date of the Merger, the last acting officers of AGLC, or the corresponding officers of FCLS, may, in the name of AGLC, execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further or other actions as FCLS may deem necessary or desirable in order to vest in FCLS title to and possession of any property of AGLC acquired or to be acquired by reason of or as a result of the Merger and otherwise to carry out the intents and purposes hereof, and the proper officers and directors of FCLS are fully authorized in the name of AGLC or otherwise to take any and all such action.
- (e) FCLS hereby (i) agrees that it may be served with process in the State of Florida in any proceeding for the enforcement of any obligation of AGLC and in any proceeding for the enforcement of the rights of a dissenting stockholder of AGLC pursuant section 607.1302 of the Florida Act, and (ii) irrevocably appoints the Secretary of State of the State of Florida as its agent to accept service of process in any such proceeding.

FIFTH: Anything herein or elsewhere to the contrary notwithstanding, this Agreement may be terminated and abandoned by the Boards of Directors of the Constituent Corporations at any time prior to the date that the requisite Articles of Merger are filed in the office of the Secretary of State of the State of Florida. This Agreement may be amended by the Boards of Directors of the Constituent Corporations at any time prior to the date on which the requisite Articles of Merger are filed in the office of the Secretary of State of Florida, provided that an amendment made subsequent to the approval of this Agreement by the stockholders of either Constituent Corporation shall not (1) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation, (2) alter or change any term of the Certificate of Incorporation of the surviving corporation to be effected by the Merger, or (3) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class thereof of such Constituent Corporation.

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SIXTH:

- (a) This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of Florida; and
- (b) FCLS and AGLC each agrees to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors, have caused this Agreement to be executed by the President and attested to by the Secretary or Clerk of each party hereto as the respective act, deed and agreement of each of the Constituent Corporations, as of the 26th day of January, 1999.

F.C.L.S., INC.

ATTEST:

By: _____ By: _____
Secretary President

[CORPORATE SEAL]

AMERICAN GREEN LAWN CARE INC.

ATTEST:

By: _____ By: _____
Secretary President

[CORPORATE SEAL]

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SECRETARY'S CERTIFICATE

I, Santino Ferrante, Secretary of F.C.L.S., Inc., a corporation organized and existing under the laws of the State of Florida, hereby certify that the Agreement and Plan of Merger to which this certificate is attached, after having been first duly signed on behalf of said corporation and having been signed on behalf of American Green Lawn Care Inc., a corporation organized and existing under the laws of the State of Delaware, was duly submitted to the stockholders of F.C.L.S., Inc. and, by written action of said stockholders, the Agreement and Plan of Merger was approved by the affirmative vote of stockholders representing at least a majority of the outstanding stock of said corporation entitled to vote thereon on the 26th day of January, 1999.

WITNESS my hand on this 26th day of January, 1999.

Secretary

I, Santino Ferrante, Secretary of American Green Lawn Care Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certify that the Agreement and Plan of Merger to which this certificate is attached, after having been first duly signed on behalf of said corporation and having been signed on behalf of F.C.L.S., Inc. a corporation organized and existing under the laws of the State of Florida, was duly submitted to the stockholders of American Green Lawn Care Inc. and, by written action of said stockholders, the Agreement and Plan of Merger was approved by the affirmative vote of stockholders representing at least a majority of the outstanding stock of said corporation entitled to vote thereon on the 26th day of January, 1999.

WITNESS my hand on this 26th day of January, 1999.

Secretary

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