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MERGER OR SHARE EXCHANGE

Ecosphere Technologies, Inc.

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Merger

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ARTICLES OF MERGER

Pursuant to Section 607.1107 of the Florida Business Corporation Act, ECOSPHERE TECHNOLOGIES, INC., a Florida corporation ("Ecosphere-FL"), proposes to merge into ECOSPHERE TECHNOLOGIES, INC., a Delaware corporation ("Ecosphere-DE"), and in connection therewith, the corporations submit the following:

1. The surviving corporation will be Ecosphere-DE and the name of the surviving corporation will be "Ecosphere Technologies, Inc.," a Delaware corporation. The principal office address of Ecosphere-DE is 3515 S.E. Lionel Terrace, Stuart, Florida 34997.

2. The Agreement and Plan of Merger (the "Merger Agreement") was entered into on September 8, 2006, by and between Ecosphere-FL and Ecosphere-DE. A copy of the Merger Agreement is attached hereto as Exhibit A.

3. The Merger Agreement was adopted on September 8, 2006 by the vote of more than a majority of outstanding shares of capital stock of Ecosphere-FL entitled to vote in accordance with the applicable provisions of the Florida Business Corporation Act.

4. The Merger Agreement was adopted on September 8, 2006 by unanimous consent of the sole shareholder of Ecosphere-DE in accordance with the applicable provisions of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Ecosphere-FL and Ecosphere-DE have caused their respective corporate names to be signed hereto, by their respective officers, thereunto duly authorized by the respective boards of directors.

ECOSPHERE TECHNOLOGIES, INC., a Florida corporation

By: 

James C. Rushing III, Chief Financial Officer

ECOSPHERE TECHNOLOGIES, INC., a Delaware corporation

By: 

James C. Rushing III, Chief Financial Officer

Exhibit A

AGREEMENT OF MERGER AND
PLAN OF MERGER AND REORGANIZATION

THIS AGREEMENT OF MERGER AND PLAN OF MERGER AND REORGANIZATION entered into as of the 8th day of September, 2006, by and between ECOSPHERE TECHNOLOGIES, INC., a Florida corporation ("Ecosphere-FL"), and ECOSPHERE TECHNOLOGIES, INC., a Delaware corporation ("Ecosphere-DE").

WHEREAS, the Board of Directors of Ecosphere-FL and Ecosphere-DE have resolved that they be merged, pursuant to the Florida Business Corporation Act ("FBCA") and Delaware General Corporation Law ("DGCL"), into a single corporation existing under the laws of the State of Delaware, to wit, Ecosphere-DE, which shall be the surviving corporation (such corporation in its capacity as such surviving corporation being sometimes referred to herein as the "Surviving Corporation");

NOW, THEREFORE, in consideration of the covenants and agreements herein made, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. Merger. Ecosphere-FL shall be, at the Effective Date (as hereinafter defined), merged (hereinafter called "Merger") into Ecosphere-DE, which shall be the Surviving Corporation, and the parties hereto adopt and agree to the following agreements, terms, and conditions relating to the Merger and the mode of carrying the same into effect.

2. Filings; Effects of Merger.

2.1 Approval by Shareholders of Ecosphere-FL. This Agreement has been approved by the shareholders of Ecosphere-FL in the manner provided by the applicable laws of the State of Florida.

2.2 Filing of Articles of Merger; Effective Date. If (a) this Agreement is adopted by the shareholders of Ecosphere-FL, and (b) this Agreement is not thereafter, and has not theretofore been, terminated or abandoned as permitted by the provisions hereof, then duly authorized officers of the respective parties shall make and execute Articles of Merger and a Certificate of Merger and shall cause such documents to be filed with the State of Florida and the State of Delaware, respectively, in accordance with the laws of the States of Florida and Delaware. The Merger shall become effective on the date on which the Merger becomes effective under the laws of Florida or the date on which the Merger becomes effective under the laws of Delaware, whichever occurs later, which date is herein referred to as the "Effective Date."

2.3 Certain Effects of Merger. On the Effective Date, the separate existence of Ecosphere-FL shall cease, and Ecosphere-FL shall be merged into Ecosphere-DE which, as

the Surviving Corporation, shall possess all the rights, privileges, powers, and franchises, of a public as well as of a private nature, and be subject to all the restrictions, disabilities, duties and liabilities of Ecosphere-FL; and all and singular, the rights, privileges, powers, and franchises of Ecosphere-FL, and all property, real, personal, and mixed, and all debts due to Ecosphere-FL on whatever account, as well as stock subscriptions, liens and all other things in action or belonging to Ecosphere-FL, 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 effectually the property of the Surviving Corporation as they were of Ecosphere-FL, and the title to any real estate vested by deed or otherwise, under the laws of Florida or any other jurisdiction, shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of Ecosphere-FL shall be preserved, unimpaired, and all debts, liabilities, and duties of Ecosphere-FL 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 it. At any time, or from time to time, after the Effective Date, the last acting officers of Ecosphere-FL or the corresponding officers of the Surviving Corporation, may, in the name of Ecosphere-FL execute and deliver all such proper deeds, assignments, and other instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest, perfect, or confirm in the Surviving Corporation title to and possession of all Ecosphere-FL's property, rights, privileges, powers, franchises, immunities, and interests and otherwise to carry out the purposes of this Agreement.

3. Name of Surviving Corporation; Certificate of Incorporation; Bylaws; Directors; Officers

3.1 Name of Surviving Corporation. The name of the Surviving Corporation from and after the Effective Date shall be Ecosphere Technologies, Inc.

3.2 Certificate of Incorporation. The Certificate of Incorporation of Ecosphere in effect on the date hereof shall from and after the Effective Date be, and continue to be, the Certificate of Incorporation of the Surviving Corporation until changed or amended as provided by law.

3.3 Bylaws. The Bylaws of Ecosphere-DE, as in effect immediately before the Effective Date, shall from and after the Effective Date be, and continue to be, the Bylaws of the Surviving Corporation until amended as provided therein.

3.4 Directors and Officers. At the Effective Date of the Merger, the members of the board of directors, the board committees and advisory board, and the officers of Ecosphere-FL in office at the Effective Date of the Merger shall become the members of the board of directors, board committees and advisory board and the officers, respectively, of the Surviving Corporation, each of such directors, committee members and advisory board members and officers to hold office, subject to the applicable provisions of the Certificate of Incorporation and Bylaws of the Surviving Corporation and the DGCL, until his or her successor is duly elected or appointed and qualified.

4. Status and Conversion of Securities. The manner and basis of converting the

shares of the capital stock of Ecosphere-FL and the nature and amount of securities of Ecosphere-DE which the holders of shares of Ecosphere-FL common stock are to receive in exchange for such shares are as follows:

4.1 Ecosphere-FL Common Stock. Each one share of Ecosphere-FL common stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one fully paid share of Ecosphere-DE common stock, and outstanding certificates representing shares of Ecosphere-FL common stock shall thereafter represent shares of Ecosphere-DE common stock. Such certificates may, but need not be, exchanged by the holders thereof after the Merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

4.2 Ecosphere Series A Preferred Stock. Each one share of Ecosphere-FL Series A Preferred Stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one fully paid share of Ecosphere-DE Series A Preferred Stock and outstanding certificates representing shares of Ecosphere-FL Series A Preferred Stock shall thereafter represent shares of Ecosphere-DE Series A Preferred Stock. Such certificates may, but need not be, exchanged by the holders thereof after the Merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

4.3 Ecosphere-FL Series B Preferred Stock. Each one share of Ecosphere-FL Series B Preferred Stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one fully paid share of Ecosphere-DE Series B Preferred Stock and outstanding certificates representing shares of Ecosphere-FL Series B Preferred Stock shall thereafter represent shares of Ecosphere-DE Series B Preferred Stock. Such certificates may, but need not be, exchanged by the holders thereof after the Merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

4.4 Options. Each option to acquire shares of the Ecosphere-FL's common stock outstanding immediately prior to the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become an equivalent option to acquire, upon the same terms and conditions, the number of shares of the Surviving Corporation's common stock, which is equal to the number of shares of the Ecosphere-FL's common stock that the optionee would have received had the optionee exercised such option in full immediately prior to the Effective Date of the Merger (whether or not such option was then exercisable) and the exercise price per share under each of said options shall be equal to the exercise price per share thereunder immediately prior to the Effective Date of the Merger, unless otherwise provided in the instrument granting such option.

4.5 Other Rights. Any other right, including warrants, by contract or otherwise, to acquire shares of the Ecosphere-FL's common stock outstanding immediately prior

to the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become a right to acquire, upon the same terms and conditions, the number of shares of the Surviving Corporation's common stock which is equal to the number of shares of the Ecosphere-FL's common stock that the right holder would have received had the right holder exercised such right in full immediately prior to the Effective Date of the Merger (whether or not such right was then exercisable) and the exercise price per share under each of said rights shall be equal to the exercise price per share thereunder immediately prior to the Effective Date of the Merger, unless otherwise provided in the agreement granting such right.

5. Abandonment of Merger. At any time before the Effective Date of the Merger (whether it is before or after filing the Articles of Merger), this Agreement of Merger and Plan of Merger and Reorganization may be terminated and the Merger abandoned by the shareholders of Ecosphere-FL.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the date first above written.

ECOSPHERE TECHNOLOGIES, INC., a
Florida corporation

By: 

James C. Rushing III, Chief Financial
Officer

ECOSPHERE TECHNOLOGIES, INC., a
Delaware corporation

By: 

James C. Rushing III, Chief Financial
Officer

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