

Division of Corporations

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Florida Department of State
Division of Corporations
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MERGER OR SHARE EXCHANGE
SERVICO, INC

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DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

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Corporate Filing Menu

Help

**ARTICLES OF MERGER
OF
SERVICO HOTELS II, INC.
SERVICO HOTELS III, INC.
SERVICO HOTELS IV, INC.
SERVICO WORCESTER, INC.
SERVICO OPERATIONS CORPORATION
WITH AND INTO
SERVICO, INC.**

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned corporations **DO HEREBY CERTIFY:**

1. That the names and states of incorporation of each of the domestic corporations that are parties to the merger are as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
Servico Hotels II, Inc.	Florida
Servico Hotels III, Inc.	Florida
Servico Hotels IV, Inc.	Florida
Servico Worcester, Inc.	Florida
Servico Operations Corporation	Florida
Servico, Inc.	Florida

2. That an Agreement and Plan of Merger by and among Servico Hotels II, Inc., Servico Hotels III, Inc., Servico Hotels IV, Inc., Servico Worcester, Inc., Servico Operations Corporation, and Servico, Inc. (the "Agreement and Plan of Merger") has been approved by each domestic corporation that is a party to the merger in accordance with the applicable provisions of Chapter 607, Florida Statutes. A copy of the Agreement and Plan of Merger is attached hereto as Exhibit A.

3. That the name of the sole surviving corporation of the merger is Servico, Inc.

4. That the articles of incorporation of Servico, Inc., a Florida for-profit corporation, which is surviving the merger, shall continue in full force and effect as the articles of incorporation of the surviving corporation. No amendments to the articles of incorporation are desired to be effected by the merger.

5. That the Agreement and Plan of Merger was adopted by each of the corporations that is a party to the merger on October 22, 2013.

[REMAINDER OF PAGE INTENTIONALLY BLANK, SIGNATURES APPEAR ON
FOLLOWING PAGES]

Dated: October 23, 2013.

SERVICO HOTELS II, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO HOTELS III, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO HOTELS IV, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO WORCESTER, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO OPERATIONS CORPORATION

By: Marc L. Lipshy
Marc L. Lipshy, President

10/28/2013 12:35:39 From: To: 8506176380

(4/12)

SERVICO, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

10/28/2013 12:35:39 From: To: 8506176380

(5/12)

Exhibit A

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**AGREEMENT AND PLAN OF MERGER
OF
SERVICO HOTELS II, INC.
SERVICO HOTELS III, INC.
SERVICO HOTELS IV, INC.
SERVICO WORCESTER, INC.
SERVICO OPERATIONS CORPORATION
(each, a Florida corporation)**

WITH AND INTO

**SERVICO, INC.
(a Florida corporation)**

THIS AGREEMENT AND PLAN OF MERGER, dated as of the 22nd day of October, 2013 (the "Agreement"), is entered into pursuant to Section 607.1101, Florida Statutes, by and among Servico Hotels II, Inc., a Florida corporation ("Hotels II"), Servico Hotels III, Inc., a Florida corporation ("Hotels III"), Servico Hotels IV, Inc., a Florida corporation ("Hotels IV"), Servico Worcester, Inc., a Florida corporation ("Worcester"), Servico Operations Corporation, a Florida corporation ("SOC") (all of the foregoing corporations are referred to collectively as the "Merging Corporations" and individually as a "Merging Corporation") and Servico, Inc., a Florida corporation ("Servico" or the "Surviving Corporation") (the Merging Corporations and the Surviving Corporation hereinafter are sometimes collectively referred to as the "Constituent Corporations").

RECITALS

WHEREAS, each of the Constituent Corporations is a corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, KDS Corporation, a Nevada corporation ("KDS"), is the sole shareholder of Hotels IV;

WHEREAS, SOC is the sole shareholder of KDS;

WHEREAS, Servico is the sole shareholder of SOC;

WHEREAS, Lodgian, LLC, a Delaware limited liability company ("Parent"), is the sole shareholder of each of Hotels II, Hotels III, Worcester and Servico;

WHEREAS, each of the Boards of Directors (the "Boards") of the Merging Corporations deems it advisable and in the best interests of their respective entities and shareholders that its own Merging Corporation merge with and into Servico as provided herein (the "Merger") and by resolutions duly adopted have approved and adopted the form, terms and provisions of this Agreement.

WHEREAS, the Board of Directors of Servico has determined that the Merger is in the best interests of Servico and its sole shareholder and has approved and adopted this Agreement and declared its advisability and approved the Merger and the other transactions contemplated hereby, and Parent, as the sole shareholder of Servico, has approved and adopted this Agreement and the Merger.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth, in accordance with the provisions of applicable law, the parties hereby agree as follows:

AGREEMENT

1. The Merger. The Constituent Corporations agree to effect the Merger, subject to the terms and conditions herein set forth.
2. Name of the Surviving Corporation. The name of the Surviving Corporation shall be "Servico, Inc."
3. Directors. At the Effective Time, the directors of each of the Merging Corporations immediately prior to the Effective Time shall cease to be directors, and the director or directors of Servico shall be the directors of the Surviving Corporation, and each of them, subject to the Bylaws of the Surviving Corporation and the laws of the State of Florida, shall serve until his successor is elected or appointed and qualified or until his earlier death, incapacity, resignation or removal.
4. Officers. The officers of each of the Merging Corporations immediately prior to the Effective Time shall cease to be officers, and the officers of Servico shall be the officers of the Surviving Corporation, and each of them, subject to the Bylaws of the Surviving Corporation and to the laws of the State of Florida, shall hold office from the Effective Time until his successor is duly elected or appointed and qualified or until the earlier of this death, incapacity, resignation or removal.
5. Surviving Corporation. At the Effective Time, as defined in Section 9 hereof, the Merger shall be accomplished by merging the Merging Corporations with and into Servico, and the separate existence of each of the Merging Corporations shall cease.
6. Articles of Incorporation and Bylaws of Surviving Corporation. At the Effective Time, the Articles of Incorporation of Servico shall be and remain the Articles of Incorporation of the Surviving Corporation, until altered, amended or repealed. At the Effective Time, the Bylaws of Servico shall be and remain the Bylaws of the Surviving Corporation, until altered, amended or repealed.
7. Properties and Liabilities. At the Effective Time, the effect of the Merger shall be as provided in this Agreement and the applicable provisions of the Florida Statutes. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all of the property, rights, privileges, powers and franchises of the Merging Corporations shall vest in the Surviving

Corporation, and all debts, liabilities and duties of the Merging Corporations shall become the debts, liabilities and duties of the Surviving Corporation.

8. Conversion of Shares. At the Effective Time, by virtue of the Merger and without any action on the part of each of the Merging Corporations, Servico or the holder of any of the shares of capital stock in each of the Merging Corporations or Servico, the following will occur:

(a) Any and all shares of capital stock or rights to acquire any shares of capital stock in each of the Merging Corporations issued and outstanding immediately prior to the Effective Time shall be canceled without any conversion thereof by virtue of the Merger and without any action on the part of the holder thereof, and no payment or distribution shall be made with respect thereto.

(b) All shares of capital stock in Servico issued and outstanding as of the Effective Time shall remain issued and outstanding after the Merger as shares of capital stock in the Surviving Corporation, without any change by the Merger.

(c) At the Effective Time, the share transfer books of the Merging Corporations shall be closed, and there shall be no further registration of transfers of shares of capital stock thereafter on the records of the Merging Corporations. From and after the Effective Time, the holders of certificates representing shares of capital stock in the Merging Corporations outstanding immediately prior to the Effective Time shall cease to have any rights with respect to such shares, except as otherwise provided in this Agreement or by the Florida Statutes.

9. Effective Time. The Constituent Corporations shall cause the Merger to be consummated by filing the Articles of Merger (the "Articles of Merger") with the Florida Department of State and by making all other filings or recordings required under the Florida Statutes and any other applicable federal, state, local or foreign statute, law, ordinance, regulation, code or rule of any jurisdiction ("Applicable Laws") in connection with the Merger, in such formats as required by, and executed in accordance with the relevant provisions of, the Florida Statutes and such other Applicable Laws. The Merger shall become effective at such time as the Articles of Merger are duly filed with the Florida Department of State, or at such other time as the Constituent Corporations agree and as shall be specified in the Articles of Merger as the effective time of the Merger (the date and time the Merger becomes effective, the "Effective Time").

10. Address of Surviving Corporation. The address of the principal place of business of the Surviving Corporation is c/o Hudson Advisors, LLC, 2711 North Haskell Avenue, Suite 1800, Dallas, TX 75204.

11. Termination. This Agreement may be terminated and abandoned by decision of the Board of Directors of any Constituent Corporation, notwithstanding approval of this Agreement by the shareholders of all or any of the Constituent Corporations, at any time prior to the filing of the Articles of Merger in accordance herewith. In the event of the termination and abandonment of this Agreement, this Agreement shall become void and have no effect, without any liability on the part of

the party or parties electing so to terminate, or their respective directors, officers or shareholders in respect of this Agreement, except for liability of the parties for their respective expenses.

12. Amendment or Modification. This Agreement may be amended or modified at any time prior to the filing of the Articles of Merger by a written instrument that is executed by all of the Constituent Corporations and approved by the Board of Directors of each of the Constituent Corporations.

13. Sole Agreement of Parties. This Agreement and the documents referred to herein constitute the full understanding of the parties and a complete and exclusive statement of the terms and conditions of their agreement relating to the subject matter hereof and supersede any and all prior agreements, whether written or oral, that may exist between the parties with respect thereto.

14. Further Assurances. Each party hereto agrees from time to time, as and when requested by the other party hereto, or by its successors or assigns, to 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 acts, either before or after the Effective Time, as may be deemed necessary or desirable in order to vest in and confirm to Servico title to and possession of any assets of the Merging Corporations acquired or to be acquired by reason of or as a result of the Merger and otherwise to carry out the intent and purposes hereof, and the officers and directors of the parties hereto are fully authorized in the name of their respective Constituent Corporations to take any and all such actions.

15. Headings. Descriptive headings as to the contents of any particular sections of this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

16. Gender; Plurals. Each use herein of the masculine, neuter or feminine gender shall be deemed to include the other genders and each use herein of the plural shall include the singular and vice versa, in each case as the context requires or as is otherwise appropriate.

17. Severability. In the event that any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, then (i) such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof; (ii) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement; and (iii) there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable.

18. Assignment. This Agreement and the rights and obligations of the Constituent Corporations hereunder may not be transferred, assigned, pledged or hypothecated by any Constituent Corporation without the prior written consent of the other Constituent Corporations. This Agreement shall be binding upon and shall inure to the benefit of the Constituent Corporations and their respective successors and permitted assigns.

19. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

20. Multiple Counterparts. For the convenience of the parties hereto and to facilitate the filing and recording of this Agreement, this Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all counterparts hereof so executed by the parties hereto, whether or not such counterpart shall bear the execution of each of the parties hereto, shall be deemed to be, and shall be construed as, one and the same Agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first written above.

SERVICO HOTELS II, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO HOTELS III, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO HOTELS IV, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO WORCESTER, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO OPERATIONS CORPORATION

By: Marc L. Lipshy
Marc L. Lipshy, President

SERVICO, INC.

By: Marc L. Lipshy
Marc L. Lipshy, President