

Division of Corporations

Page 1 of 2

**V39981**

Florida Department of State  
Division of Corporations  
Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

(((H14000301851 3)))



H140003018513ABCX

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To:

Division of Corporations  
Fax Number : (850) 617-6380

From:

Account Name : C T CORPORATION SYSTEM  
Account Number : FCA000000023  
Phone : (850) 222-1092  
Fax Number : (850) 878-5368

**\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\***

Email Address: \_\_\_\_\_

**MERGER OR SHARE EXCHANGE**

**Lodgian, LLC**

|                       |         |
|-----------------------|---------|
| Certificate of Status | 0       |
| Certified Copy        | 0       |
| Page Count            | 09      |
| Estimated Charge      | \$60.00 |

RECEIVED

14 DEC 31 PM 3:22

RECEIVED  
DIVISION OF CORPORATIONS  
12/31/2014

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
14 DEC 31 AM 11:46

Electronic Filing Menu

Corporate Filing Menu

Help

CL  
1-8-15

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

14 DEC 31 AM 11:44

**Articles of Merger  
For  
Florida Profit or Non-Profit Corporation  
Into  
Other Business Entity**

The following Articles of Merger are submitted to merge the following Florida Profit and/or Non-Profit Corporation(s) in accordance with s. 607.1109, 617.0302 or 605.1025, Florida Statutes.

**FIRST:** The exact name, form/entity type, and jurisdiction for each merging party are as follows:

| <u>Name</u>             | <u>Jurisdiction</u> | <u>Form/Entity Type</u>   |
|-------------------------|---------------------|---------------------------|
| V39981<br>Servico, Inc. | Florida             | Corporation               |
| Lodgian, LLC            | Delaware            | Limited Liability Company |
|                         |                     |                           |
|                         |                     |                           |

**SECOND:** The exact name, form/entity type, and jurisdiction of the surviving party are as follows:

| <u>Name</u>  | <u>Jurisdiction</u> | <u>Form/Entity Type</u>   |
|--------------|---------------------|---------------------------|
| Lodgian, LLC | Delaware            | Limited Liability Company |

**THIRD:** The attached plan of merger was approved by each domestic corporation, limited liability company, partnership and/or limited partnership that is a party to the merger in accordance with the applicable provisions of Chapters 607, 605, 617, and/or 620, Florida Statutes.

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

14 DEC 31 AM 11:44

**FOURTH:** The attached plan of merger was approved by each other business entity that is a party to the merger in accordance with the applicable laws of the state, country or jurisdiction under which such other business entity is formed, organized or incorporated.

**FIFTH:** If other than the date of filing, the effective date of the merger, which cannot be prior to no more than 90 days after the date this document is filed by the Florida Department of State:

---

**SIXTH:** If the surviving party is not formed, organized or incorporated under the laws of Florida, the survivor's principal office address in its home state, country or jurisdiction is as follows:

Lodgian, LLC

c/o The Corporation Trust Company, Corporation Trust Center

1209 Orange Street, Wilmington, DE 19801

**SEVENTH:** If the surviving party is an out-of-state entity, the surviving entity:

a.) Appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation that is party to the merger.

b.) Agrees to promptly pay the dissenting shareholders of each domestic corporation that is a party to the merger the amount, if any, to which they are entitled under s. 607.1302, F.S.

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

14 DEC 31 AM 11:44

**EIGHTH:** Signature(s) for Each Party:

| Name of Entity/Organization: | Signature(s):         | Typed or Printed<br>Name of Individual: |
|------------------------------|-----------------------|---|
| Service, Inc. ✓              | <i>Marc L. Lipshy</i> | Marc L. Lipshy                          |
| Lodgian, LLC ✓               | <i>Marc L. Lipshy</i> | Marc L. Lipshy                          |
|                              |                       |   |
|                              |                       |   |

Corporations:

Chairman, Vice Chairman, President or Officer  
(If no directors selected, signature of incorporator.)

General Partnerships:

Signature of a general partner or authorized person

Florida Limited Partnerships:

Signatures of all general partners

Non-Florida Limited Partnerships:

Signature of a general partner

Limited Liability Companies:

Signature of a member or authorized representative

**Fees:**

\$35.00 Per Party

**Certified Copy (optional):**

\$8.75

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

14 DEC 31 AM 11:44

**AGREEMENT AND PLAN OF MERGER  
OF  
SERVICO, INC.  
(a Florida corporation)**

**WITH AND INTO**

**LODGIAN, LLC  
(a Delaware limited liability company)**

---

THIS AGREEMENT AND PLAN OF MERGER, dated as of the 30<sup>th</sup> day of December, 2014 (the "Agreement"), is entered into pursuant to the Delaware Limited Liability Company Act (the "Delaware Act") and the applicable provisions of Chapter 607 of the Florida Statutes (the "Florida Statutes") by and among Servico, Inc., a Florida corporation ("Servico"), and Lodgian, LLC, a Delaware limited liability company ("Lodgian" or the "Surviving Company") (Servico and the Surviving Company hereinafter are sometimes collectively referred to as the "Constituent Entities").

**RECITALS**

WHEREAS, Lodgian is a limited liability company duly organized and existing under the laws of the State of Delaware;

WHEREAS, LSREF Lodging Investments, LLC, a Delaware limited liability company, is the sole member of Lodgian;

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

WHEREAS, Lodgian is the sole shareholder of Servico; and

WHEREAS, the board of directors of Servico and the sole member of Lodgian each deem it advisable and in the best interests of their respective Constituent Entities and sole shareholder or sole member that Servico merge with and into Lodgian as provided herein (the "Merger") and by resolutions duly adopted have approved and adopted the form, terms and provisions of this Agreement.

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 Entities agree to effect the Merger, subject to the terms and conditions herein set forth.

2. Name of the Surviving Company. The name of the Surviving Company shall be "Lodgian, LLC".

3. Directors. At the Effective Time, the directors on the board of directors of Servico immediately prior to the Effective Time shall cease to be directors.

4. Officers. The officers of Servico immediately prior to the Effective Time shall cease to be officers, and the officers of Lodgian shall be the officers of the Surviving Company, and each of them, subject to the limited liability company agreement of the Surviving Company and the laws of the State of Delaware, shall hold office from the Effective Time until his successor is duly elected or appointed and qualified or until the earlier of his death, incapacity, resignation or removal.

5. Surviving Company. At the Effective Time, as defined in Section 9 hereof, the Merger shall be accomplished by merging Servico with and into Lodgian, and the separate existence of Servico shall cease.

6. Certificate of Formation and Limited Liability Company Agreement. At the Effective Time, the certificate of formation and the limited liability company agreement (as then constituted) of Lodgian shall be and remain the certificate of formation and limited liability company agreement of the Surviving Company, until such certificate of formation or limited liability company agreement are amended, altered or repealed as provided by law.

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 Delaware Act and 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 Servico shall vest in the Surviving Company, and all debts, liabilities and duties of Servico shall become the debts, liabilities and duties of the Surviving Company.

8. Conversion of Shares. At the Effective Time, by virtue of the Merger and without any action on the part of each of the Constituent Entities, the holder of any of the shares of capital stock in Servico or the holder of any limited liability company interests in Lodgian, the following will occur:

(a) Any and all shares of capital stock or rights to acquire any shares of capital stock in Servico 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 limited liability company interests in Lodgian issued and outstanding as of the Effective Time shall remain issued and outstanding after the Merger as limited liability company interests in the Surviving Company, without any change by the Merger.

(c) At the Effective Time, all of the share transfer books of Servico shall be closed and there shall be no further registration of transfers of shares of capital stock

thereafter on the records of Servico. From and after the Effective Time, the holders of certificates representing shares of capital stock in Servico outstanding immediately prior to the Effective Time shall cease to have any rights with respect to such shares.

9. Effective Time. The Constituent Entities shall cause the Merger to be consummated by filing the Delaware form of Certificate of Merger with the Secretary of State of the State of Delaware (the "Delaware Certificate of Merger"), by filing the Florida form of Articles of Merger with the Florida Department of State (the "Florida Articles of Merger") and by making all other filings or recordings required under the Delaware Act, 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 Delaware Act, the Florida Statutes and such other Applicable Laws. The Merger shall become effective at such time as the Delaware Certificate of Merger and Florida Articles of Merger are duly filed, or at such other time as the Constituent Entities agree and as shall be specified in the Delaware Certificate of Merger and Florida 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 Company 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 or member of any respective Constituent Entity, notwithstanding approval of this Agreement by the sole shareholder or member of all or any of the Constituent Entities, at any time prior to the filing of the Delaware Certificate of Merger and Florida 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, shareholders or members 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 Delaware Certificate of Merger and Florida Articles of Merger by a written instrument that is executed by all of the Constituent Entities and approved by the applicable board of directors of Servico and the sole member of Lodgian.

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 Lodgian title to and possession of any assets of Servico 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, directors and members of the parties hereto are fully authorized in the name of their respective Constituent Entities 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 Entities hereunder may not be transferred, assigned, pledged or hypothecated by any Constituent Entity without the prior written consent of the other Constituent Entities. This Agreement shall be binding upon and shall inure to the benefit of the Constituent Entities and their respective successors and permitted assigns.

19. Governing Law. Except to the extent the laws of the State of Florida are required to be applied in respect to the Merger and the approval thereof by actions of Servico and its sole shareholder, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, 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.]



12/31/2014 14:26:00 From: To: 8506176380

( 9/9 )

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

14 DEC 31 AM 11:44

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

SERVICO, INC.

By: Marc L. Lipsky  
Name: Marc L. Lipsky  
Title: President

LODGIAN, LLC

By: Marc L. Lipsky  
Name: Marc L. Lipsky  
Title: President