

ARTICLES OF MERGER
OF

Dpc #41082802
NCL

FRx SOFTWARE CORPORATION
(a Colorado corporation)

AND

NQ
(Allison) FRx SOFTWARE CORPORATION
(a Delaware corporation)

FILED
DONETTA DAVIDSON
REGISTRAR SECRETARY OF STATE

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SECRETARY OF STATE
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The undersigned corporation, pursuant to Section 7-111-105 of the Colorado Business Corporation Act, hereby executes the following Articles of Merger.

ARTICLE ONE

The names of the corporations proposing to merge and the names of the states under the laws of which such corporations are organized, are as follows:

<u>Name of Corporation</u>	<u>State of Incorporation</u>
FRx Software Corporation ("FRx--Colorado")	Colorado
FRx Software Corporation ("FRx--Delaware")	Delaware

ARTICLE TWO

The laws of the state under which such foreign corporation is organized permits such merger.

ARTICLE THREE

The name of the surviving corporation shall be "FRx Software Corporation." The surviving corporation shall be governed by the laws of the State of Delaware having its principal office address at 4700 S. Syracuse Parkway, Denver, Colorado 80237.

ARTICLE FOUR

The Agreement and Plan of Merger is attached hereto as Exhibit A.

ARTICLE FIVE

The Agreement and Plan of Merger has been duly approved by the required vote of shareholders of FRx--Colorado in accordance with the Articles of Incorporation of FRx--Colorado, as amended, and Section 7-111-103 of the Colorado Business Corporation Act. The total number of outstanding shares of the corporation is 10,066,003 (on an as-converted basis). The number of shares voting in favor of the Agreement and Plan of Merger equaled or exceeded the vote required for each voting class. The percentage vote required was more than a majority for each voting class.

ARTICLE SIX

Immediately prior to the merger, FRx--Colorado (the parent corporation) owned at least ninety percent of the outstanding shares of each class of FRx--Delaware (the subsidiary corporation).

ARTICLE SEVEN

All provisions of the law of the State of Delaware and the State of Colorado applicable to the proposed merger have been complied with.

ARTICLE EIGHT

These Articles of Merger shall be effective upon completion of (i) the approval of the Agreement and Plan of Merger by the shareholders of FRx--Colorado, and (ii) the filing of these Articles of Merger with the Secretary of State of the State of Colorado. This effective date complies with Section 7-111-104(5) of the Colorado Business Corporations Act.

[The Remainder of this Page Intentionally Left Blank.]

IN WITNESS WHEREOF, each of the undersigned corporations has caused these Articles of Merger to be executed in its name by its President or Vice President and Secretary or Assistant Secretary, as of the 3rd day of December, 1999.

FRx SOFTWARE CORPORATION
a Colorado corporation

By: 
Michael L. Rohan, President

By: Todd E. Wille
Todd E. Wille, Secretary

FRx SOFTWARE CORPORATION
a Delaware corporation

By: 
Michael L. Rohan, President

By: Todd E. Wille
Todd E. Wille, Secretary

EXHIBIT A

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Merger Agreement") is made as of December 3, 1999, by and between FRX Software Corporation, a Colorado corporation ("FRX--Colorado"), and FRX Software Corporation, a Delaware corporation ("FRX--Delaware") (FRX--Colorado and FRX--Delaware, collectively, the "Constituent Corporations").

The authorized capital stock of FRX--Colorado consists of 75,000,000 shares of Common Stock, \$.01 par value per share, 50,000,000 of which have been designated Class A Voting Common Stock and 25,000,000 of which have been designated Class B Non-Voting Common Stock, and 5,000,000 shares of Preferred Stock, \$.01 par value per share, 1,000,000 of which have been designated as Series A Preferred Stock and 1,100,000 of which have been designated as Series B Preferred Stock. The authorized capital stock of FRX--Delaware, upon effectuation of the transactions set forth in this Merger Agreement, will consist of 30,000,000 shares of Common Stock, \$.01 par value per share, 20,000,000 of which will be designated Class A Voting Common Stock and 10,000,000 of which will be designated Class B Non-Voting Common Stock, and 5,000,000 shares of Preferred Stock, \$.01 par value per share, 1,000,000 of which will be designated as Series A Preferred Stock and 1,100,000 of which will be designated as Series B Preferred Stock.

The directors of the Constituent Corporations deem it advisable and to the advantage of the Constituent Corporations that FRX--Colorado merge with and into FRX--Delaware upon the terms and conditions provided herein.

NOW, THEREFORE, the parties do hereby adopt the plan of reorganization encompassed by this Merger Agreement and do hereby agree that FRX--Colorado shall merge with and into FRX--Delaware on the following terms, conditions and other provisions:

I. Terms And Conditions

1. **Merger.** FRX--Colorado shall be merged with and into FRX--Delaware (the "Merger") and FRX--Delaware shall be the surviving corporation (the "Surviving Corporation"). to be effective upon (i) the satisfaction of the conditions in Article III, Section 3 herein, (ii) the filing of the Certificate of Ownership and Merger with the Secretary of State of the State of Delaware, and (iii) the filing of the Articles of Merger with the Secretary of State of the State of Colorado (the "Effective Date").

2. **Succession.** On the Effective Date, FRX--Delaware shall continue its corporate existence under the laws of the State of Delaware and the separate existence and corporate organization of FRX--Colorado, except insofar as it may be continued by operation of law, shall terminate and cease.

3. **Transfer of Assets and Liabilities.** On the Effective Date, the rights, privileges, powers and franchises, both of a public as well as of a private nature, of each of the Constituent Corporations shall be vested in and possessed by the Surviving Corporation, subject to all of the disabilities, duties and restrictions of or upon each of the Constituent Corporations; and all and singular rights, privileges, powers and franchises of each of the Constituent

Corporations, and all property, real, personal and mixed, of each of the Constituent Corporations, and all debts due to each of the Constituent Corporations on whatever account, and all things in action or belonging to each of the Constituent Corporations shall be transferred to and become vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest thereafter shall be the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise in either of the Constituent Corporations shall not revert or be in any way impaired by reason of the Merger; provided, however, that the liabilities of the Constituent Corporations and of their stockholders, directors and officers shall not be affected and all rights of creditors and all liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted to judgment as if the Merger had not been consummated, except as they may be modified with the consent of such creditors, and all debts, liabilities and duties of or upon each of the Constituent Corporations shall attach to the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

4. **Capital Stock of FRx--Colorado and FRx--Delaware.** On the Effective Date, by virtue of the Merger and without any further action on the part of the Constituent Corporations or their respective stockholders, (i) each share of (A) Class A Voting Common Stock, (B) Class B Non-Voting Common Stock, (C) Series A Preferred Stock and (D) Series B Preferred Stock issued and outstanding immediately prior thereto shall be combined, changed and converted into one share of (A) Class A Voting Common Stock, (B) Class B Non-Voting Common Stock, (C) Series A Preferred Stock and (D) Series B Preferred Stock of FRx--Delaware, respectively, in each case fully paid and nonassessable, and (ii) each share of Common Stock of FRx--Delaware issued and outstanding immediately prior thereto shall be canceled.

5. **Stock Certificates.** On and after the Effective Date, all of the outstanding certificates that, prior to that time, represented shares of Class A Voting Common Stock, Class B Non-Voting Common Stock, Series A Preferred Stock and Series B Preferred Stock shall be deemed for all purposes to evidence ownership of and to represent the shares of FRx--Delaware into which the shares of FRx--Colorado represented by such certificates have been converted as herein provided and shall be so registered on the books and records of the Surviving Corporation or its transfer agents. The registered owner of any such outstanding stock certificate shall be, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Corporation or its transfer agent, entitled to exercise any voting and other rights with respect to and to receive any dividend and other distribution upon the shares of FRx--Delaware evidenced by such outstanding certificate as above provided.

6. **Options and Warrants.** On the Effective Date, if any options or warrants or rights granted under any stock option/stock issuance plan of FRx--Colorado remain outstanding, then the Surviving Corporation will assume the outstanding and unexercised portions of such options or warrants and such options or warrants shall be changed and converted into options or warrants to purchase the Common Stock of FRx--Delaware, such that an option or warrant to purchase one share of Class B Non-Voting Common Stock of FRx--Colorado shall be converted into an option or warrant to purchase one (1) share of Class B Non-Voting Common Stock of

FRx-Delaware. No other changes in the terms and conditions of such options or warrants will occur and any rights or restrictions under any option in effect as of the Effective Date shall continue with respect to FRx-Delaware after the Merger.

7. **Employee Benefit Plans.** On the Effective Date, the Surviving Corporation shall assume all obligations of FRx-Colorado under any and all employee benefit plans in effect as of such date with respect to which employee rights or accrued benefits are outstanding as of such date. On the Effective Date, the Surviving Corporation shall adopt and continue in effect all such employee benefit plans upon the same terms and conditions as were in effect immediately prior to the Merger.

II. Charter Documents, Directors And Officers

1. **Certificate of Incorporation and Bylaws.** From and after the Effective Date, the Certificate of Incorporation of FRx-Delaware shall read in its entirety as set forth in full in Exhibit A, attached hereto and made a part hereof, without change or amendment until further amended in accordance with the provisions thereof and applicable law. The Bylaws of FRx-Delaware in effect on the Effective Date shall continue to be the Bylaws of the Surviving Corporation without change or amendment until further amended in accordance with the provisions thereof and applicable law.

2. **Directors.** The directors of FRx-Colorado immediately preceding the Effective Date shall become the directors of the Surviving Corporation on and after the Effective Date to serve until the expiration of their terms and until their successors are elected and qualified.

3. **Officers.** The officers of FRx-Colorado immediately preceding the Effective Date shall become the officers of the Surviving Corporation on and after the Effective Date to serve at the pleasure of its Board of Directors.

III. Miscellaneous

1. **Further Assurances.** From time to time, and when required by the Surviving Corporation or by its successors and assigns, FRx-Colorado shall execute and deliver, or cause to be executed and delivered, such deeds and other instruments and shall take or cause to be taken such further and other action as shall be appropriate or necessary in order to vest or perfect in or to conform of record in the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of FRx-Colorado and to carry out the purposes of this Merger Agreement, and the officers and directors of the Surviving Corporation are authorized to take any and all such action and to execute and deliver any and all such deeds and other instruments to carry out the purposes of this Merger Agreement.

2. **Amendment.** At any time before or after approval by the shareholders of FRx-Colorado, this Merger Agreement may be amended in any manner (except that, after the approval of the Merger Agreement by the shareholders of FRx-Colorado, the principal terms

may not be amended without the further approval of the shareholders of FRx--Colorado) as may be determined in the judgment of the respective Board of Directors of FRx--Delaware and FRx--Colorado to be necessary, desirable, or expedient in order to clarify the intention of the parties hereto or to effect or facilitate the purpose and intent of this Merger Agreement.

3. Conditions to Merger. The obligation of the Constituent Corporations to effect the transactions contemplated hereby is subject to satisfaction of the following conditions (any or all of which may be waived by either of the Constituent Corporations in its sole discretion to the extent permitted by law):

(a) the Merger shall have been approved by the shareholders of FRx--Colorado in accordance with applicable provisions of the Colorado Business Corporation Act;

(b) FRx--Colorado, as sole stockholder of FRx--Delaware, shall have approved the Merger in accordance with the Delaware General Corporation Law; and

(c) any and all consents, permits, authorizations, approvals, and orders deemed in the sole discretion of FRx--Colorado to be material to the consummation of the Merger shall have been obtained.

4. Abandonment or Deferral. Notwithstanding the approval of this Merger Agreement by the shareholders of FRx--Colorado or by the sole stockholder of FRx--Delaware, at any time before the Effective Date, (a) this Merger Agreement may be terminated and the Merger may be abandoned by the Board of Directors of either FRx--Colorado or FRx--Delaware or both, including by reason of a determination, in the sole discretion of either Board of Directors, that holders of an unacceptable number of shares intend to exercise their statutory appraisal rights pursuant to Sections 7-113-101 through 7-113-302 of the Colorado Business Corporation Act, or (b) the consummation of the Merger may be deferred for a reasonable period of time if, in the opinion of the Boards of Directors of FRx--Colorado and FRx--Delaware, such action would be in the best interests of such corporations. In the event of termination of this Merger Agreement, this Merger Agreement shall become void and of no effect and there shall be no liability on the part of either Constituent Corporation or their respective Board of Directors or stockholders with respect thereto, except that FRx--Colorado shall pay all expenses incurred in connection with the Merger or in respect of this Merger Agreement or relating thereto.

5. Counterparts. In order to facilitate the filing and recording of this Merger Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, this Merger Agreement, having first been duly approved by the Board of Directors of FRx-Colorado and FRx-Delaware, is hereby executed on behalf of each such corporations and attested by their respective officers thereunto duly authorized.

FRx Software Corporation,
a Colorado Corporation

By: Michael L. Rohan
Michael L. Rohan
President

ATTEST:

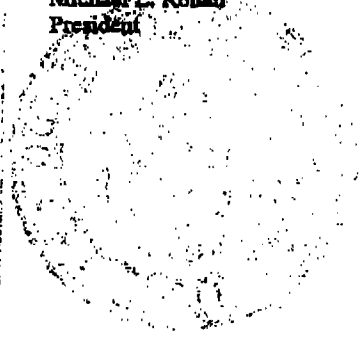
Todd E. Wille
Todd E. Wille, Secretary

FRx Software Corporation
a Delaware Corporation

By: Michael L. Rohan
Michael L. Rohan
President

ATTEST:

Todd E. Wille
Todd E. Wille, Secretary





STATE OF COLORADO
DEPARTMENT OF STATE

I hereby certify that this is a true and complete copy of the document filed in this office and admitted to record in

File 1997226712

DATED August 23, 2000

Donetta Davidson
Secretary of State

By James David