

Division of Corporations

# B98000000335

Florida Department of State  
Division of Corporations  
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DIVISION OF CORPORATIONS

## MERGER OR SHARE EXCHANGE

CNL APF PARTNERS, LP

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FLORIDA DEPARTMENT OF STATE

Glenda E. Hood  
Secretary of State

January 3, 2005

C T CORPORATION SYSTEM

SUBJECT: CNL APF PARTNERS, LP  
REF: W05000000123

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The title of the document must be ARTICLES OF MERGER.,

The plan of merger must be attached/included.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6967.

Michelle Hodges  
Document Specialist

FAX Aud. #: H04000255957  
Letter Number: 805A00000064

**ARTICLES OF MERGER**  
**OF**  
**CNL/MSC INDIANA JOINT VENTURE,**  
**a Florida general partnership**  
  
**with and into**  
  
**CNL APF PARTNERS, LP,**  
**a Delaware limited partnership**

1. The names of each of the constituent parties to the merger are as follows: GP-115  
(a) CNL/MSC INDIANA JOINT VENTURE, a Florida general partnership;  
and  
(b) CNL APF PARTNERS, LP, a Delaware limited partnership. B98-335

2. On the Effective Date (as defined below), CNL/MSC INDIANA JOINT VENTURE, a Florida general partnership (the "Merging Partnership"), shall be merged with and into CNL APF PARTNERS, LP, a Delaware limited partnership (the "Surviving Partnership"), and the Surviving Partnership shall be the surviving partnership of such merger (the "Merger").

3. The street address of the chief executive office of the Surviving Partnership shall be at 450 South Orange Avenue, Orlando, Florida 32801.

4. The Surviving Partnership is a Delaware limited partnership.

5. The Merger shall become effective on December 31, 2004 (the "Effective Date").

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signatures appear on next pages]

FILED  
04 DEC 30 PM 5:01  
TALLAHASSEE, FLORIDA

IN WITNESS WHEREOF, the undersigned have executed this Articles of Merger as of the 30<sup>th</sup> day of December, 2004, and the undersigned hereby affirm that this Articles of Merger is accurate.

**CNL/MSC INDIANA JOINT VENTURE,**  
a Florida general partnership

By: **CNL APF PARTNERS, LP,**  
a Delaware limited partnership, as a partner

By: **CNL APF GP CORP.,** a Delaware corporation,  
as general partner

By:   
Name: **LINDA A. SCARCELLI**  
Title: **ASSISTANT SECRETARY**

By: **CNL RESTAURANT INVESTMENTS, INC.,**  
a Delaware corporation, as a partner

By:   
Name: **ROBERT E. LEWIS**  
Title: **SVP & TREASURER**

**CNL APF PARTNERS, LP,**  
a Delaware limited partnership

By: **CNL APF GP CORP.,** a Delaware corporation,  
as general partner

By:   
Name: **LINDA A. SCARCELLI**  
Title: **ASSISTANT SECRETARY**

**AGREEMENT AND PLAN OF MERGER**

**THIS AGREEMENT AND PLAN OF MERGER** (this "Plan of Merger") is made as of the 30<sup>th</sup> day of December, 2004 by and between **CNL APF PARTNERS, LP**, a Delaware limited partnership (the "Surviving Partnership"), and **CNL/MSI INDIANA JOINT VENTURE**, a Florida general partnership (the "Merging Partnership") (the Merging Partnership and the Surviving Partnership are collectively referred to herein as the "Constituent Partnerships").

**WITNESSETH:**

**WHEREAS**, the Constituent Partnerships desire to effect a merger whereby the Merging Partnership be merged with and into the Surviving Partnership, with the Surviving Partnership being the surviving partnership (the "Merger") in accordance with the applicable provisions of Delaware law and upon the terms and subject to the conditions set forth in this Plan of Merger; and

**WHEREAS**, **CNL Restaurant Investments, Inc.** is the holder of a twenty percent (20%) partnership interest in the Merging Partnership, and the Surviving Partnership, which is an indirect, wholly-owned subsidiary of **CNL Restaurant Investments, Inc.**, is the holder of an eighty-percent (80%) partnership interest in the Merging Partnership; and

**WHEREAS**, **CNL Restaurant Investments, Inc.** and the Surviving Partnership, constituting all of the partners of the Merging Partnership, have determined that it is advisable to effect the Merger; and

**WHEREAS**, **CNL APF GP Corp.**, as general partner of the Surviving Partnership, and each of **CNL APF LP Corp.** and **RAI Restaurants, Inc.**, as the limited partners of the Surviving Partnership, have determined that it is advisable to effect the Merger;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements, covenants, and provisions contained herein, the parties agree as follows:

1. On the Effective Date (as defined below), the Merging Partnership shall be merged with and into the Surviving Partnership pursuant to this Plan of Merger, and the Surviving Partnership shall continue to exist and be governed under the laws of the State of Delaware. The Merger shall become effective as of December 31, 2004. The time when the Merger shall become effective, as defined by this Section 1, is herein called the "Effective Date."

2. The terms and conditions of the Merger shall be as follows:

(a) The manner and basis of converting the partnership interests in the Merging Partnership into partnership interests in the Surviving Partnership, cash, other consideration, or a combination thereof, is as follows:

(i) The Surviving Partnership owns an eighty percent (80%) percentage interest in the Merging Partnership. As a result, the interests of the Surviving Partnership will not be converted into additional interests in the

Surviving Partnership, cash or other consideration, but will rather cease to exist at and after the Effective Date.

(ii) CNL Restaurant Investments, Inc. owns a twenty percent (20%) percentage interest in the Merging Partnership. As the indirect parent of the Surviving Partnership, CNL Restaurant Investments, Inc. will cause its interest in the Merging Partnership to be contributed to the Surviving Partnership. As a result, the interests of CNL Restaurant Investments, Inc., will not be converted into additional interests in the Surviving Partnership, cash or other consideration, but will rather cease to exist at and after the Effective Date.

(b) Except as may otherwise be set forth in this Plan of Merger, the Surviving Partnership will continue in existence and shall possess all the rights, privileges, licenses, immunities and franchises, of a public as well as a private nature, of each of the parties to the Merger, and all property, real, personal or mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest of or belonging to or due to each of the parties to the Merger shall be taken and deemed to be transferred to and vested in the Surviving Partnership without further act or deed; and the title to any real estate, or any interest therein, vested in any party to the Merger shall not revert or be in any way impaired by reason of such Merger, and the Surviving Partnership shall thenceforth be responsible and liable for all of the liabilities and obligations of each party to the Merger, and any claim existing or action or proceeding by or against any party to the Merger may be continued as if such Merger had not occurred, or the Surviving Partnership may be substituted in its place, and neither the rights of creditors nor any liens upon the property of any party shall be impaired by the Merger.

3. The Surviving Partnership is a limited partnership formed under the laws of the State of Delaware. The street address of the chief executive office of the Surviving Partnership shall be at 450 South Orange Avenue, Orlando, Florida 32801.

4. If at any time the Surviving Partnership shall consider or be advised that any further assignment or assurances in law are necessary or desirable to vest, perfect, confirm or record in the Surviving Partnership the title to any property or rights of any of the Merging Partnerships or to otherwise carry out the provisions hereof, the Partners, as of the Effective Date, shall execute and deliver any and all proper deeds, assignments and assurances in law, and do all things necessary or proper to vest, perfect, or confirm title to such property or rights in the Surviving Partnership.

5. Subject to applicable law, this Plan of Merger may be amended, modified or supplemented only by written agreement of the parties hereto at any time before the Effective Date. This Plan of Merger may be terminated at any time prior to the Effective Date by mutual agreement of the parties hereto, and upon any such termination this Plan of Merger shall be void and of no further effect.

[remainder of page intentionally left blank;  
signatures appear on next pages]

IN WITNESS WHEREOF, the undersigned have executed this Plan of Merger as of the date first written above.

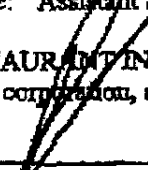
**CNL/MSI INDIANA JOINT VENTURE,**  
a Florida general partnership

By: **CNL APF PARTNERS, LP,**  
a Delaware limited partnership, as a partner

By: **CNL APF GP CORP.,** a Delaware corporation,  
as general partner

By:   
Name: Linda A. Scarcelli  
Title: Assistant Secretary

By: **CNL RESTAURANT INVESTMENTS, INC.,**  
a Delaware corporation, as a partner

By:   
Name: Robert E. Lawless  
Title: Senior Vice President  
& Treasurer

**CNL APF PARTNERS, LP,**  
a Delaware limited partnership

By: **CNL APF GP CORP.,** a Delaware corporation,  
as general partner

By:   
Name: Linda A. Scarcelli  
Title: Assistant Secretary