

fo3000002301

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

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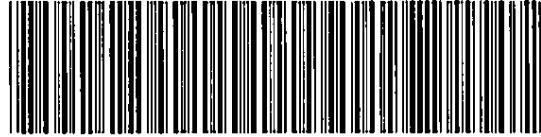
(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

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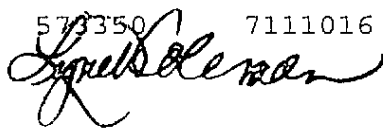
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TALLAHASSEE, FLORIDA

FILE 2ND

CORPORATION SERVICE COMPANY
1201 Hays Street
Tallahassee, FL 32301
Phone: 850-558-1500

ACCOUNT NO. : I20000000195

REFERENCE : 573350 7111016

AUTHORIZATION : 

COST LIMIT : \$ 70.00

ORDER DATE : December 15, 2020

ORDER TIME : 12:40 PM

ORDER NO. : 573350-015

CUSTOMER NO: 7111016

ARTICLES OF MERGER

POWERSECURE SERVICE, INC.

INTO

POWERSECURE, INC.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

____ CERTIFIED COPY
XX _____ PLAIN STAMPED COPY

CONTACT PERSON: Amanda Robinson

EXAMINER'S INITIALS: _____

COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: PowerSecure, Inc.

Name of Surviving Entity

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Shaday Word-Daniels

Contact Person

Southern Company Services, Inc.

Firm/Company

30 Ivan Allen Jr. Blvd. NW, BIN SC803

Address

Atlanta, GA 30308

City/State and Zip Code

SLWORDDA@southernco.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Shaday Word-Daniels

Name of Contact Person

At (404) 506-0595

Area Code & Daytime Telephone Number

☐ Certified copy (optional) \$8.75 (Please send an additional copy of your document if a certified copy is requested)

Mailing Address:

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address:

Amendment Section
Division of Corporations
The Centre of Tallahassee
2415 N. Monroe Street, Suite 810
Tallahassee, FL 32303

IMPORTANT NOTICE: Pursuant to s.607.1622(8), F.S., each party to the merger must be active and current in filing its annual report through December 31 of the calendar year which this articles of merger are being submitted to the Department of State for filing.

ARTICLES OF MERGER

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

FIRST: The name and jurisdiction of the surviving entity:

<u>Name</u>	<u>Jurisdiction</u>	<u>Entity Type</u>	<u>Document Number</u> (If known/ applicable)
PowerSecure, Inc.	Delaware	Corporation	

SECOND: The name and jurisdiction of each merging eligible entity:

<u>Name</u>	<u>Jurisdiction</u>	<u>Entity Type</u>	<u>Document Number</u> (If known/ applicable)
PowerSecure Service, Inc.	Florida	Corporation	P02000020241

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 US DISTRICT COURT
 SOUTHERN DISTRICT OF FLORIDA

THIRD: The merger was approved by each domestic merging corporation in accordance with s.607.1101(1)(b), F.S., and by the organic law governing the other parties to the merger.

FOURTH: Please check one of the boxes that apply to surviving entity:

- ☒ This entity exists before the merger and is a domestic filing entity.
- ☐ This entity exists before the merger and is not authorized to transact business in Florida.
- ☐ This entity exists before the merger and is a domestic filing entity, and its Articles of Incorporation are being amended as attached.
- ☐ This entity is created by the merger and is a domestic corporation, and the Articles of Incorporation are attached.
- ☐ This entity is a domestic eligible entity and is not a domestic corporation and is being amended in connection with this merger as attached.
- ☐ This entity is a domestic eligible entity being created as a result of the merger. The public organic record of the survivor is attached.
- ☐ This entity is created by the merger and is a domestic limited liability partnership or a domestic limited liability partnership, its statement of qualification is attached.

FIFTH: Please check one of the boxes that apply to domestic corporations:

- ☒ The plan of merger was approved by the shareholders and each separate voting group as required.
- ☐ The plan of merger did not require approval by the shareholders.

SIXTH: Please check box below if applicable to foreign corporations

- ☒ The participation of the foreign corporation was duly authorized in accordance with the corporation's organic laws.

SEVENTH: Please check box below if applicable to domestic or foreign non corporation(s).

- ☐ Participation of the domestic or foreign non corporation(s) was duly authorized in accordance with each of such eligible entity's organic law.

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EIGHTH: If other than the date of filing, the delayed effective date of the merger, which cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State:

12/31/2020 at 11:59 pm

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

NINTH: Signature(s) for Each Party:

Name of Entity/Organization:

PowerSecure Service, Inc.

PowerSecure, Inc.

Signature(s):

DocuSigned by:



DocuSigned by:



20E169FDCCB8462

20E169FDCCB8462

Typed or Printed
Name of Individual:

Christine Thom

Christine Thom

Corporations:

General partnerships:

Florida Limited Partnerships:

Non-Florida Limited Partnerships:

Limited Liability Companies:

Chairman, Vice Chairman, President or Officer

(If no directors selected, signature of incorporator.)

Signature of a general partner or authorized person

Signatures of all general partners

Signature of a general partner

Signature of an authorized person

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AGREEMENT AND PLAN OF MERGER

OF

POWERSECURE SERVICE, INC.

AND

POWERSECURE, INC.

2020 DEC 15 AM 8:33

FILED

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement of Merger"), effective as of December 31, 2020, is made by and between PowerSecure Service, Inc., a Florida corporation (the "Merged Entity"), and PowerSecure, Inc., a Delaware corporation (the "Surviving Company" and, together with the Merged Entity, the "Constituent Entities").

WHEREAS, the Constituent Entities have agreed to the merger of the Merged Entity with and into the Surviving Company (the "Merger");

WHEREAS, the Board of Directors and the sole stockholder or the Board of Directors of each Constituent Entity, as applicable, have each approved the Merger in accordance with the Delaware General Corporation Law (the "DGCL") or the Florida Business Corporation Act (the "FBCA" and, together with the DGCL, the "Code"), as applicable; and

WHEREAS, the Constituent Entities have agreed to execute this Agreement of Merger as provided under the Code.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Constituent Entities hereby agree as follows:

1. **The Merger.** Effective as of the time specified on the Articles of Merger filed with the Secretary of State of Florida and the Certificate of Merger filed with the Secretary of State of Delaware (the "Effective Time") in accordance with this Agreement of Merger and the Code, the Merged Entity shall be merged with and into the Surviving Company, the separate existence of the Merged Entity shall cease, and the Surviving Company shall continue as the surviving entity (the "Surviving Entity").

2. **Effect of the Merger.** When the Merger has been effected, the Surviving Entity shall thereupon and thereafter 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 and duties of each of the Constituent Entities; and all the rights, privileges, powers and franchises of each of the Constituent Entities and all property, real, personal and mixed, including, without limitation, all tax attributes of the Constituent Entities, and all debts due to any of the Constituent Entities on whatever account, as well as stock subscriptions and all other things in action or belonging to any of such entities shall be vested in the Surviving Entity; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Entity as they were of the Constituent Entities, and the title to any real estate vested by deed or otherwise, in any of such Constituent Entities, shall not revert or be in any way impaired by reason of the Merger; but all rights of creditors and all liens upon any property of any of said Constituent Entities shall be preserved unimpaired, and all debts, liabilities and duties of the respective Constituent Entities shall thereafter attach to the Surviving Entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

3. **Consummation of the Merger.** The parties hereto will cause the Merger to be consummated by filing an Articles of Merger with the Secretary of State of Florida and a Certificate of Merger with the Secretary of State of Delaware in such form as required by, and executed in accordance with, the relevant provisions of the Code.

4. **Articles of Incorporation.** The Articles of Incorporation of the Surviving Company as in effect immediately prior to the Effective Time shall be the Articles of Incorporation (the "Charter") of the Surviving Entity.

5. **Bylaws.** The Bylaws of the Surviving Company as in effect immediately prior to the Effective Time shall be the Bylaws (the "Bylaws") of the Surviving Entity.

6. **Directors and Officers.** The directors and officers of the Surviving Company immediately prior to the Effective Time shall be the directors and officers of the Surviving Entity, and such persons shall serve in such offices for the terms provided by law or in the Charter or the Bylaws of the Surviving Entity, or until their respective successors are elected and qualified.

7. **Treatment of Interests.** At the Effective Time, by virtue of the Merger and without any action on the part of the Constituent Entities or the holders of any of the shares of capital stock of the Constituent Entities:

(b) Each share of each class or series of capital stock of the Merged Entity issued and outstanding, or held in treasury, immediately prior to the Effective Time will be canceled and no consideration shall be issued in respect thereof.

(a) Each share of each class or series of capital stock of the Surviving Company issued and outstanding, or held in treasury, immediately prior to the Effective Time will remain an identical issued and outstanding, or treasury, share of the Surviving Entity, unaffected by the Merger and held by the person or entity who was the holder of such capital stock immediately prior to the Effective Time.

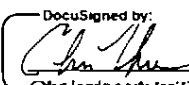
8. **Taking of Necessary Action.** Each of the Constituent Entities shall use all reasonable efforts to take all such actions as may be necessary or appropriate in order to effectuate the Merger under the Code or any other applicable laws. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement of Merger and to vest the Surviving Entity with full right, title and possession to all assets, property, rights, privileges, powers and franchises of any of the Constituent Entities, the officers and directors of the Surviving Entity are fully authorized in the name of any of the Constituent Entities to take all such lawful and necessary actions.

[SIGNATURE PAGE FOLLOWS]

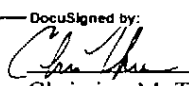
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IN WITNESS WHEREOF, the Constituent Entities have caused this Agreement of Merger to be executed as of the date first above written.

PowerSecure Service, Inc.

By: 
Name: Christine M. Thom
Title: SVP and CFO

PowerSecure, Inc.

By: 
Name: Christine M. Thom
Title: SVP and CFO

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