

CORP DIRECT AGENTS, INC. (formerly CCRS)  
103 N. MERIDIAN STREET, LOWER LEVEL  
TALLAHASSEE, FL 32301  
222-1173

**L010000015115**

FILING COVER SHEET  
ACCT. #FCA-14

CONTACT: CINDY HICKS

DATE: 1-30-02

REF. #: 0151.4701

CORP. NAME: Energy Performance, Inc  
merging into Energy Performance, LLC

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> ARTICLES OF INCORPORATION   | <input type="checkbox"/> ARTICLES OF AMENDMENT  | <input type="checkbox"/> ARTICLES OF DISSOLUTION |
| <input type="checkbox"/> ANNUAL REPORT               | <input type="checkbox"/> TRADEMARK/SERVICE MARK | <input type="checkbox"/> FICTITIOUS NAME         |
| <input type="checkbox"/> FOREIGN QUALIFICATION       | <input type="checkbox"/> LIMITED PARTNERSHIP    | <input type="checkbox"/> LIMITED LIABILITY       |
| <input type="checkbox"/> REINSTATEMENT               | <input checked="" type="checkbox"/> MERGER      | <input type="checkbox"/> WITHDRAWAL              |
| <input type="checkbox"/> CERTIFICATE OF CANCELLATION | <input type="checkbox"/> UCC-1                  | <input type="checkbox"/> UCC-3                   |
| <input type="checkbox"/> OTHER:                      |   |  |

STATE FEES PREPAID WITH CHECK # 501419 FOR \$ 128.75

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED:

000004844520--8  
-01/30/02--01047--008  
\*\*\*\*\*68.75 \*\*\*\*\*65.00

COST LIMIT: \$

PLEASE RETURN:

- ☐ CERTIFIED COPY  
☒ CERTIFICATE OF STATUS  
☐ CERTIFICATE OF GOOD STANDING

☒ PLAIN STAMPED COPY

Examiner's Initials

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

ENERGY PERFORMANCE, INC., A FLORIDA ENTITY 587298

INTO

**ENERGY PERFORMANCE, LLC**, a Florida entity, L01000015115

File date: January 30, 2002

Corporate Specialist: Trevor Brumbley

APPROVED  
AND  
FILED  
JAN 30 2002 PM 1:26  
TALLAHASSEE, FLORIDA  
DIVISION OF CORPORATIONS

**ARTICLES OF MERGER  
OF  
ENERGY PERFORMANCE, INC.  
INTO  
ENERGY PERFORMANCE, LLC**

Under Section 608.4382, Florida Statutes

Pursuant to the provisions of Section 608.4382 of the *Florida Statutes*, the undersigned hereby certify by these Articles of Merger as follows:

**FIRST:** The name of the constituent entities which are parties to the merger are 587298 ENERGY PERFORMANCE, INC., a Florida corporation, and ENERGY PERFORMANCE, LLC, a Florida limited liability company. The surviving entity is ENERGY PERFORMANCE, LLC, and it is to be governed by the laws of the State of Florida. L0100 001515


**SECOND:** The Agreement and Plan of Merger is annexed hereto as Exhibit "A" and incorporated herein by reference in its entirety.

**THIRD:** The Agreement and Plan of Merger was duly adopted by the holders of a majority of the issued and outstanding shares of stock of ENERGY PERFORMANCE, INC. (which vote was sufficient for approval) as of the 11<sup>th</sup> day of October, 2001, in accordance with the applicable provisions of Chapter 607, Florida Statutes, and was duly adopted by the Managers and the sole member of ENERGY PERFORMANCE, LLC as of the 31 day of August, 2001, in accordance with the applicable provisions of Chapter 608, Florida Statutes (which vote was sufficient for approval).

**FOURTH:** The effective date of the merger shall be as of the date of the filing of these Articles of Merger with the Florida Secretary of State.

**IN WITNESS WHEREOF**, each of the constituent entities to the merger has caused these Articles of Merger to be executed on its behalf by its duly authorized representative this 25 day of January, 2001.

Attest:

  
Secretary  
[CORPORATE SEAL]

ENERGY PERFORMANCE, INC.,  
a Florida corporation

By:   
Larry S. Helms, President

ENERGY PERFORMANCE, LLC,  
a Florida corporation

By:   
Larry S. Helms, Manager

Exhibit "A" - Agreement and Plan of Merger

APPROVED  
AND  
FILED

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SECRETARY OF STATE  
ALL AGENCIES, FLORIDA

EXHIBIT

A

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated this 17TH day of September, 2001 is made and entered into by and between ENERGY PERFORMANCE, INC., a Florida corporation (the "CORPORATION") and ENERGY PERFORMANCE, LLC, a Florida limited liability company (the "SURVIVING ENTITY"); the CORPORATION and SURVIVING ENTITY being sometimes referred to herein as the "Constituent Entities".

WITNESSETH:

WHEREAS, the CORPORATION is a corporation duly organized under the laws of the State of Florida, having an authorized capital stock of 10,000,000 shares of common stock, of which as of the date hereof 6,826,195 shares of common stock are validly issued and outstanding,

WHEREAS, the SURVIVING ENTITY is a limited liability company duly organized under the laws of the State of Florida, in which the CORPORATION owns 100% of all of the issued and outstanding membership interests.

WHEREAS, the Managers of the SURVIVING ENTITY and the Board of Directors of the CORPORATION deem it advisable for the general welfare of such Constituent Entities and the Shareholders of the CORPORATION that the CORPORATION be merged with and into the SURVIVING ENTITY which shall survive the merger and that the name of the SURVIVING ENTITY remain ENERGY PERFORMANCE, LLC.

WHEREAS, the Shareholders of the CORPORATION will receive in exchange for their stock in the CORPORATION, membership units in the SURVIVING ENTITY to reflect their ownership interest, as fully described in Article V hereinafter.

NOW, THEREFORE, the Constituent Entities hereby agree that the CORPORATION shall be merged with and into the SURVIVING ENTITY in accordance with applicable laws of the State of Florida and the terms and conditions of the following Agreement and Plan of Merger:

ARTICLE I  
The Constituent Entities

The names of the Constituent Entities to the merger are ENERGY PERFORMANCE, INC. (Florida Charter No. 587298) and ENERGY PERFORMANCE, LLC (Florida Charter No. 101000015115).

ARTICLE II  
The Merger

On the Effective Date (as hereinafter defined) the CORPORATION shall be merged with and into the SURVIVING ENTITY (the "Merger"), upon the terms and subject to the conditions

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CLERK OF THE COURT  
JUDICIAL DEPARTMENT  
TALLAHASSEE, FLORIDA

hereinafter set forth as permitted by and in accordance with the provisions of Chapters 607 and 608 of the *Florida Statutes* (the "Florida Law").

### **ARTICLE III**

#### **Effect of Merger**

From and after the filing of the Articles of Merger in accordance with Article IX hereof, the Constituent Entities shall be a single entity which shall be the SURVIVING ENTITY. From and after such filing, the separate existence of the CORPORATION shall cease, while the corporate existence of the SURVIVING ENTITY shall continue unaffected and unimpaired. The SURVIVING ENTITY shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a limited liability company organized under the Florida Law. The SURVIVING ENTITY shall thereupon and thereafter possess all the rights, privileges, immunities and franchises of a public, as well as a private, nature of each of the Constituent Entities. All property, real, personal and mixed, and all debts due on whatever account, all other choses in action, and all and every other interest of or belonging to or due to each of the Constituent Entities shall be taken and deemed to be transferred to and vested in the SURVIVING ENTITY without further act or deed. The title to any real estate, or any interest therein vested in either of the Constituent Entities, shall not revert or be in any way impaired by reason of such Merger. The SURVIVING ENTITY shall thenceforth be responsible and liable for all the liabilities and obligations of each of the Constituent Entities, including, but not limited to, the CORPORATION's obligations under that certain Nonqualified Performance Unit Plan dated January 1, 1996 (as such plan may be amended by the Managers of the SURVIVING ENTITY), and any claim existing or action or proceeding pending by or against any of the Constituent Entities may be prosecuted as if such Merger had not taken place, or the SURVIVING ENTITY may be substituted in its place. Neither the rights of creditors nor any liens upon the property of either of the Constituent Corporations shall be impaired by such Merger.

### **ARTICLE IV**

#### **Articles of Organization and Operating Agreement; Officers and Managers**

The Articles of Organization of the SURVIVING ENTITY as in effect on the Effective Date shall survive the Merger, until the same shall thereafter be further amended or repealed as provided therein and by applicable law. The Amended and Restated Operating Agreement of the SURVIVING ENTITY (the "Amended and Restated Operating Agreement"), which by its terms and the terms of the current Operating Agreement becomes the governing Operating Agreement of the SURVIVING ENTITY effective upon the filing of the Articles of Merger with the Florida Secretary of State, shall upon the filing of the Articles of Merger become and shall thereafter remain the governing Operating Agreement of the SURVIVING ENTITY until the same shall thereafter be further amended or repealed as provided therein and by applicable law.

Persons who shall serve as the Managers of the SURVIVING ENTITY shall be:

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CLERK OF STATE  
TALLAHASSEE, FLORIDA

Name	Address
Larry S. Helms	60 Second Street S.E., Winter Haven, FL 33880
Maurice McCarthy	60 Second Street S.E., Winter Haven, FL 33880
Harry W. Hazelwood	60 Second Street S.E., Winter Haven, FL 33880

Persons who shall serve as officers of the SURVIVING ENTITY, and the offices in which they shall serve shall be as follows:

Name	Office
Larry S. Helms	President and Secretary
Harry W. Hazelwood	Treasurer

#### ARTICLE V Treatment of Shares of Constituent Entities

By virtue of the Merger and without any action on the part of the holders thereof, upon the Effective Date pursuant to this Plan of Merger, the shares of common stock of the CORPORATION currently held by the Shareholders of the CORPORATION shall be exchanged for membership units of the SURVIVING ENTITY in the following manner, and the shares of stock of the CORPORATION and the membership interests of the SURVIVING ENTITY prior to the Merger shall be canceled by the respective Constituent Entities:

5.1 The membership interests in the SURVIVING ENTITY owned by the CORPORATION immediately prior to the filing of the Articles of Merger in accordance with Article VIII hereof, shall, without any action on the part of the holder thereof, cease to exist and be canceled by the SURVIVING ENTITY.

5.2 Each one share of the common stock of the CORPORATION issued and outstanding immediately prior to the filing of the Articles of Merger, in accordance with Article VIII, shall by virtue of the Merger and without any action on the part of the holder thereof, cease to exist, and be canceled and the Shareholders shall receive one membership unit (or fraction thereof) in the SURVIVING ENTITY for each one share (or fraction thereof) of common stock of the CORPORATION owned by such Shareholder immediately prior to the filing of the Articles of Merger. Any Shareholder receiving membership units in the SURVIVING ENTITY takes such membership units subject to the terms and conditions of the Amended and Restated Operating Agreement and such Shareholder shall be obligated to comply with all of the terms and conditions set forth therein.

APPROVED  
AND  
FILED

**ARTICLE VI**  
**Surrender of Certificates**

Each record holder of an outstanding certificate or certificates which represent shares of the CORPORATION's common stock shall surrender such certificate or certificates as a condition to receiving membership units in the SURVIVING ENTITY pursuant to this Agreement and Plan of Merger.

**ARTICLE VII**  
**Further Assurance**

If at any time after the Effective Date the SURVIVING ENTITY shall consider or be advised that any further assignments or assurances are necessary or desirable to vest in the SURVIVING ENTITY, according to the terms hereof, the title to any property or rights of the CORPORATION, the last acting officers and directors of the CORPORATION, or the corresponding officers or directors of the SURVIVING ENTITY, shall and will execute and make all such proper assignments or assurances and all things necessary or proper to vest title in such property or rights in the SURVIVING ENTITY, and otherwise to carry out the purposes of this Agreement and Plan of Merger.

**ARTICLE VIII**  
**Approval by Shareholders**

This Plan of Merger shall be approved by the Managers and sole Member of the SURVIVING ENTITY and by the Board of Directors of the CORPORATION and submitted to the Shareholders of the CORPORATION for approval as provided by Florida Law on or before the 15th day of December, 2001. If duly adopted by the Managers and sole Member of the SURVIVING ENTITY and by the requisite vote of the Shareholders, Articles of Merger, meeting the requirements of Florida Law, shall be filed immediately in the appropriate office in Florida, subject to Article XII hereinbelow.

**ARTICLE IX**  
**Effective Date**

The merger of the CORPORATION into the SURVIVING ENTITY shall become effective as of the date of the filing of the Articles of Merger with the Florida Secretary of State in accordance with Florida Law. The date on which such merger shall become effective is herein called the "Effective Date".

**ARTICLE X**  
**Covenants of the CORPORATION**

The CORPORATION covenants and agrees that (a) it will not further amend its Articles of Incorporation prior to the Effective Date; and (b) it will not issue any shares of its capital stock or any rights to acquire any such shares prior to the Effective Date.

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SECRETARY OF STATE  
TREASURY OF FLORIDA  
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**ARTICLE XI**  
**Covenants of the SURVIVING ENTITY**

The SURVIVING ENTITY covenants and agrees that (a) it will not further amend its Articles of Organization prior to the Effective Date; and (b) it will not issue any new membership interests or any rights to acquire any membership interests prior to the Effective Date.

**ARTICLE XII**  
**Termination**

Anything to the contrary herein or elsewhere notwithstanding, this Agreement and Plan of Merger may be terminated and abandoned by the Managers of the SURVIVING ENTITY or by the Board of Directors of the CORPORATION at any time prior to the filing of the Articles of Merger for any reason or for no reason.

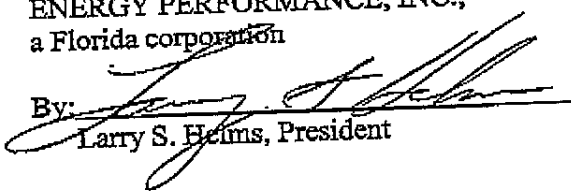
**ARTICLE XIII**  
**Counterparts**

This Agreement and Plan of Merger may be executed in any number of counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

**IN WITNESS WHEREOF**, each of the parties to this Agreement and Plan of Merger has caused this Agreement and Plan of Merger to be executed by its duly authorized representative on the day and year above written.

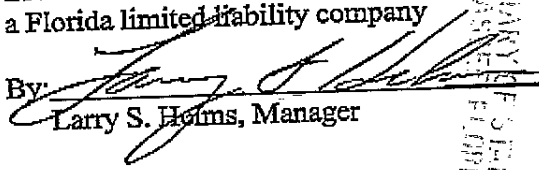
**THE CORPORATION:**

ENERGY PERFORMANCE, INC.,  
a Florida corporation

By:   
Larry S. Helms, President

**THE SURVIVING ENTITY:**

ENERGY PERFORMANCE, LLC,  
a Florida limited liability company

By:   
Larry S. Helms, Manager

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SECRETARY OF STATE  
TALLAHASSEE  
FLORIDA

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