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Articles of Merger
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER
OF
AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.,
a Florida not for profit corporation,
INTO
AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED
a Florida not for profit corporation

Pursuant to Section 617.1105 of the *Florida Statutes*, the undersigned entities, **AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.**, a Florida not for profit corporation, and **AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED**, a Florida not for profit corporation, adopt the following Articles of Merger for the purposes of merging **AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.**, into **AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED**.

ARTICLE 1

PLAN OF MERGER

1.01 The Plan and Agreement of Reorganization (the "Plan of Merger") setting forth the terms and conditions of the merger of **AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.**, into **AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED**, is attached to these Articles as an exhibit and incorporated herein by reference.

ARTICLE 2

ADOPTION OF PLAN

2.01 The Plan of Merger was approved by the Board of Directors of **AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.** The Plan of Merger was provided in writing to the members of the Board of Directors at least

ten (10) days in advance of the meeting at which the vote was held. The vote of the Board of Directors was in favor of the Plan of Merger. A quorum of the Board of Directors was present at the meeting and a majority of the members of the Board of Directors present and in favor of the merger. *June 14, 2003.*

2.02 The Plan of Merger was approved by the Board of Directors of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED. The Plan of Merger was provided in writing to the members of the Board of Directors at least thirty (30) days in advance of the meeting at which the vote was held. The vote of the Board of Directors was in favor of the Plan of Merger with at least two-thirds ($\frac{2}{3}$) of the members of the Board of Directors present and voting at the meeting in favor of the merger. *June 14, 2003.*

ARTICLE 3

EFFECTIVE DATE

3.01 The Plan of Merger shall be effective upon the filing of these Articles of Merger with the Department of State, State of Florida.

ARTICLE 4

SERVICE OF PROCESS

4.01 AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED agrees that it may be served with process in the State of Florida in any proceeding for the enforcement of any obligation of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.

4.02 The corporate office for the surviving corporation, AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED shall continue to be 5526 Arlington Road, Jacksonville, Florida 32211.

4.03 The registered agent for the surviving corporation shall continue to be SANDRA R. KESSLER, Executive Director. The address of Sandra R. Kessler, Executive Director, is 5526 Arlington Road, Jacksonville, Florida 32211.

ARTICLE 5

AMENDMENTS TO ARTICLES OF INCORPORATION OF AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATION

5.01 **Amendment.** The following Articles of the Articles of Incorporation of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED are amended:

Article I. Notwithstanding anything to the contrary contained in the Articles of Incorporation for AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, the area of the Corporation's activities shall include all counties within the State of Florida.

ARTICLE 6

RATIFICATION

6.01 In all other respects the parties ratify and confirm the provisions of the Articles of Incorporation of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, except as amended by these Articles of Merger.

IN WITNESS WHEREOF, this Agreement was executed the 11 day of June, 2003.

AMERICAN LUNG ASSOCIATION OF
SOUTHEAST FLORIDA, INC., a
Florida not for profit corporation

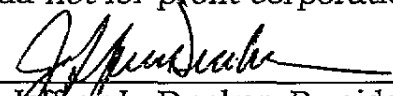
By: Gayle A. Landen

Gayle A. Landen, President

(CORPORATE SEAL)

IN WITNESS WHEREOF, this Agreement was executed the 11th day of June, 2003.

AMERICAN LUNG ASSOCIATION OF
FLORIDA, INCORPORATED, a
Florida not for profit corporation

By: 
Jeffrey L. Ducker, President

(CORPORATE SEAL)

PLAN AND AGREEMENT OF REORGANIZATION

by Merger of
AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.
a Florida not for profit corporation

with and into

AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED
a Florida not for profit corporation

THIS IS A PLAN AND AGREEMENT OF MERGER ("Agreement") between **AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC.**, a Florida not for profit corporation (the "Merging Corporation") and **AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED**, a Florida not for profit corporation (the "Surviving Corporation").

ARTICLE 1 **PLAN OF MERGER**

1.01 **Plan Adopted.** A plan of merger of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., a Florida not for profit corporation, and AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, a Florida not for profit corporation, pursuant to section 617.1101 of the *Florida Statutes* is adopted as follows:

(a) AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., shall be merged with and into AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, to exist and be governed by the laws of the State of Florida. The name of the Surviving Corporation shall be AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED.

(b) When this Agreement shall become effective, the separate corporate existence of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., shall cease, and the Surviving Corporation shall succeed, without other transfer, to all the rights and property of the Merging Corporation in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens on the property of each of the constituent entities shall be preserved unimpaired, limited to the property affected by the liens immediately prior to the merger.

(c) The Surviving Corporation will carry on its non-profit business activity with the assets of AMERICAN LUNG ASSOCIATION OF

SOUTHEAST FLORIDA, INC., as well as the assets of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED.

(d) AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED does not have members. It is governed solely by a Board of Directors and any decision concerning a Plan of Merger requires a vote of the Board of Directors.

1.02 **Effective Date.** The effective date of the merger ("Effective Date") shall be the date when the Articles of Merger are filed with the Secretary of State for the State of Florida.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES OF MERGING ENTITIES

2.01 **Nonsurvivor.** As a material inducement to the Surviving Corporation to execute this Agreement and perform its obligations under this Agreement, AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., represents and warrants to the Surviving Corporation as follows:

(a) AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., is a not for profit corporation duly organized, validly existing and in good standing under the laws of the State of Florida, with corporate power and authority to own property and carry on its business as it is now being conducted.

(b) AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., is governed by a thirty-two (32) member Board of Directors.

(c) Through the Effective Date, all required federal, state and local tax returns of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., have been accurately prepared and duly and timely filed, and all federal, state and local taxes required to be paid with respect to the periods covered by the returns have been paid.

(c) AMERICAN LUNG ASSOCIATION OF SOUTHEAST, INC., has no pending or threatened legal actions as of the Effective Date of this Agreement.

2.02 **Survivor.** As a material inducement for AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., to execute this Agreement and perform its obligations under this Agreement, AMERICAN LUNG ASSOCIATION

OF FLORIDA, INCORPORATED represents and warrants to AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., as follows:

(a) AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED is a Florida not for profit corporation, duly organized, validly existing and in good standing under the laws of the State of Florida with corporate power and authority to own property and carry on its non-profit activities as they are now conducted.

(b) AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, is governed by a Board of Directors consisting of not more than twenty-five (25) individuals.

(c) Through the Effective Date, all required federal, state and local tax returns of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, have been accurately prepared and duly and timely filed, and all federal, state and local taxes required to be paid with respect to the periods covered by the returns have been paid.

(d) The Articles of Incorporation of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, shall be restated as they currently exist, except as amended by the Articles of Merger, and shall be binding upon the Surviving Corporation as of the Effective Date of the merger.

(e) The Bylaws of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED, shall be restated as shown in Exhibit "A" attached hereto and by this reference incorporated herein.

ARTICLE 3
COVENANT, ACTIONS AND OBLIGATIONS
PRIOR TO THE EFFECTIVE DATE

3.01 ***Interim Conduct of Business; Limitation.*** Except as limited in this paragraph 3.01, pending consummation of the merger, each of the constituent entities will carry on its business in substantially the same manner as before and will use its best efforts to maintain its non-profit organization intact, to retain its present employees, to maintain its relations with supporters and other contacts.

3.02 ***Submission to Board of Directors.*** This Agreement shall be submitted to the Board of Directors of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., for approval in the manner provided by the laws of the State of Florida. This Agreement shall also be submitted to the Board of

Directors of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED for approval in the manner provided by the laws of the State of Florida.

ARTICLE 4
MANNER OF CONVERTING BOARD MEMBERSHIP

4.01 **Manner.** The current members of the Board of Directors of AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., shall be entitled to receive the following initial representation on the Board of Directors of AMERICAN LUNG ASSOCIATION OF FLORIDA, INCORPORATED:

<i>American Lung Association of Florida, Incorporated Board of Directors Membership</i>	<i>Number of Members on Surviving Corporation Board</i>
American Lung Association of Gulfcoast Florida	four (4)
American Lung Association of South Florida	four (4)
American Lung Association of Central Florida	three (3)
American Lung Association of Florida, Incorporated	three (3)
American Lung Association of Southeast Florida	two (2)
President or President-Elect of the Florida Thoracic Society	one (1)
Directors-at-Large elected by Board of Directors	eight (8)
Total Directors	twenty-five (25)

As provided in the Bylaws, the allocation of representative directors among the geographical areas of each affiliate shall be apportioned by percentage of population, all as more fully described in the Bylaws attached as Exhibit "A".

ARTICLE 5
INTERPRETATION AND ENFORCEMENT

5.01 **Further Assurances.** AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., agrees that from time to time, as and when requested by the Surviving Corporation or by its successors or assigns, to execute and deliver or cause to be executed and delivered all deeds and other instruments required to complete the merger contemplated under this Agreement. AMERICAN LUNG ASSOCIATION OF SOUTHEAST FLORIDA, INC., further agrees to take or cause to be taken any further or other action as the Surviving Corporation may deem necessary or desirable to vest in, to perfect in,

or to conform the record ownership, or otherwise, of the Surviving Corporation's title to and possession of all property, rights, privileges, powers and franchises referred to in Article 1 of this Agreement, and otherwise to carry out the intent and purpose of this Agreement.

5.02. **Entire Agreement; Counterparts.** This Agreement and the exhibits to this Agreement contain the entire agreement between the parties with respect to the contemplated transaction. This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed one original.

5.03 **Controlling Law.** The validity, interpretation and performance of this Agreement shall be governed by, constructed and enforced in accordance with the laws of the State of Florida.

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IN WITNESS WHEREOF, this Agreement was executed the 11 day of June, 2003.

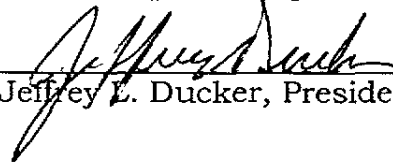
AMERICAN LUNG ASSOCIATION OF
SOUTHEAST FLORIDA, INC., a
Florida not for profit corporation

By: Gayle A. Landen
Gayle A. Landen, President

(CORPORATE SEAL)

IN WITNESS WHEREOF, this Agreement was executed the 11th day of June, 2003.

AMERICAN LUNG ASSOCIATION OF
FLORIDA, INCORPORATED, a
Florida not for profit corporation

By: 
Jeffrey L. Ducker, President

(CORPORATE SEAL)