

# P94000025995

GOODMAN WEISS MILLER LLP  
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TELEPHONE: (216) 696-3366  
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March 24, 2000

FILED  
00 MAR 27 AM 9:56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

## OVERNIGHT COURIER

Florida Department of State  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, FL 32399

Re: Accipiter II, Inc., a Florida corporation  
Accipiter Corporation, an Ohio corporation

Dear Sir/Madam:

Enclosed for filing are Articles of Merger and Agreement of Merger and Plan of Reorganization of the captioned corporations. Also enclosed is our check in the amount of \$35 for the filing fee.

Please return the filed Articles of Merger directly to the undersigned.

Thank you.

Very truly yours,

GOODMAN WEISS MILLER LLP

*G. Heidenreich*  
Gail Heidenreich  
Legal Assistant

*Merger  
4-12-00  
DWS*

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Enclosures

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100 ERIEVIEW PLAZA, 27TH FLOOR  
CLEVELAND, OHIO 44114-1882

TELEPHONE: (216) 696-3366  
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April 5, 2000

Mr. Doug Spitler  
Amendment Section  
Florida Department of State  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, FL 32399

Re: Accipiter II, Inc., a Florida corporation  
Accipiter Corporation, an Ohio corporation

Dear Doug:

As we discussed, enclosed is our check in the amount of \$35 for the additional filing fee required for the merger of the captioned corporations.

Thank you.

Very truly yours,

GOODMAN WEISS MILLER LLP



Gail Heidenreich  
Legal Assistant

gh  
Enclosures

ARTICLES OF MERGER  
Merger Sheet

MERGING: -----

ACCIPITER CORPORATION, a Ohio corporation, P11731

INTO

**ACCIPITER II, INC.**, a Florida entity, P94000025995.

File date: March 27, 2000

Corporate Specialist: Doug Spitler

## ARTICLES OF MERGER

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

**FIRST:** The name and jurisdiction of the surviving corporation is:

Name and Address	Jurisdiction
Accipiter II, Inc. 791 Wye Road Akron, OH 44333-2268	Florida

**SECOND:** The name and jurisdiction of each merging corporation is:

Name and Address	Jurisdiction
Accipiter Corporation 791 Wye Road Akron, OH 44333-2268	Ohio

STATE OF FLORIDA  
TALLAHASSEE, FLORIDA

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**THIRD:** The Plan of Merger is attached.

**FOURTH:** The merger shall become effective as of the date the Articles of Merger are filed with the Florida Department of State.

**FIFTH:** The Plan of Merger was adopted by the sole shareholder of the surviving corporation on MARCH 10, 2000.

**SIXTH:** The Plan of Merger was adopted by the sole shareholder of the merging corporation on MARCH 10, 2000.

**SEVENTH:** Signatures for each corporation:

**ACCIPITER CORPORATION,**  
an Ohio corporation

By: Richard W. Dyer  
Name: RICHARD W. DYER  
Its: PRESIDENT & CEO

**ACCIPITER II, INC.**  
a Florida corporation

By: David W. Meyerson  
Name: David W. Meyerson  
Its: EXECUTIVE V.P. & ASST. SEC.

## AGREEMENT OF MERGER AND PLAN OF REORGANIZATION

Agreement of Merger and Plan of Reorganization dated as of MARCH 10, 2000, by and between Accipiter II, Inc., a Florida corporation (hereinafter called "Florida") and Accipiter Corporation, an Ohio corporation (hereinafter called "Ohio").

The Boards of Directors of Florida and Ohio have resolved that Florida and Ohio be merged pursuant to the Law of Florida and the Law of Ohio into a single corporation existing under the laws of the State of Florida, to wit, Florida, which shall be the surviving corporation (such corporation in its capacity as such surviving corporation being sometimes referred to herein as the "Surviving Corporation") in a transaction qualifying as a reorganization within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code;

1. The authorized capital stock of Florida consists of 1,000 shares of Common Stock with no par (hereinafter called "Florida Common Stock"), of which 100 shares are issued and outstanding;
2. The authorized capital stock of Ohio consists of 750 shares of Common Stock with no par value (hereinafter called the "Ohio Common Stock"), of which 100 shares are issued and outstanding; and
3. The respective Boards of Directors and shareholders of Florida and Ohio have approved the merger upon the terms and conditions hereinafter set forth and have approved this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, provisions, and covenants herein contained, the parties hereto agree, in accordance with the Laws of the States of Florida and Ohio, that Ohio shall be, at the Effective Date (as hereinafter defined), merged (hereinafter called "Merger") into a single corporation existing under the laws of the State of Florida, to wit, Florida, which shall be the Surviving Corporation, and the parties hereto adopt and agree to the following agreements, terms, and conditions relating to the Merger and the mode of carrying the same into effect.

### 1. Shareholders' Meetings; Filings; Effects of Merger

1.1 Action by Ohio and Florida's Sole Shareholders. The sole shareholders of Ohio and Florida shall adopt this Agreement in accordance with the Laws of the States of Ohio and Florida.

1.2 Filing of Certificate of Merger; Effective Date. If (a) this Agreement is adopted by the sole shareholders of Ohio and Florida in accordance with the Laws of Ohio and Florida, and (b) this Agreement is not thereafter, and has not theretofore been, terminated or abandoned as permitted by the provisions hereof, then a Certificate of Merger shall be filed and recorded in accordance with the Law of Ohio and Articles of Merger shall be filed in accordance with the Law

of Florida. Such filings shall be made on the same day. The Merger shall be effective as of the date of filing.

1.3 Certain Effects of Merger. On the Effective Date, the separate existence of Ohio shall cease, and Ohio shall be merged into Florida which, as the Surviving Corporation, shall possess all the rights, privileges, disabilities, and duties of Ohio; and all and singular, the rights, privileges, powers, and franchises of Ohio, and all property, real, personal, and mixed, and all debts due to Ohio on whatever account, as well as for stock subscriptions and all other things in action or belonging to Ohio shall be vested in the Surviving Corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of Ohio, and the title to any real estate vested by deed or otherwise, under the laws of Florida or Ohio or any other jurisdiction, in Ohio, shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of Ohio shall be preserved unimpaired, and all debts, liabilities, and duties of Ohio shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it. At any time, or from time to time, after the Effective Date, the last acting officers of Ohio or the corresponding officers of the Surviving Corporation, may, in the name of Ohio, execute and deliver all such proper deeds, assignments, and other instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest, perfect, or confirm in the Surviving Corporation title to and possession of all Ohio's property, rights, privileges, powers, franchises, immunities, and interests and otherwise carry out the purposes of this Agreement.

## 2. Name of Surviving Corporation; Certificate of Incorporation; By-Laws

2.1 Name of Surviving Corporation. The name of the Surviving Corporation from and after the Effective Date shall be Accipiter II, Inc.

2.2 Certificate of Incorporation. The Articles of Incorporation of Florida as in effect on the date hereof shall and after the Effective Date be, and continue to be, the Articles of Incorporation of the Surviving Corporation until changed or amended as provided by law.

2.3 Code of Regulations. The Code of Regulations of Florida, as in effect immediately before the Effective Date, shall from and after the Effective Date be, and continue to be, the Code of Regulations of the Surviving Corporation until amended as provided therein.

## 3. Status and Conversion of Securities

The manner and basis of converting the shares of the capital stock of Ohio and the nature and amount of the securities of Florida Common Stock are to receive in exchange for such shares are as follows:

3.1 Ohio Common Stock. Each one share of Ohio Common Stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one fully paid share of Florida Common Stock, and outstanding certificates representing shares of Ohio Common Stock shall thereafter represent shares of Florida Common Stock. Such certificates may, but need not be, exchanged by the holders thereof after the merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

3.2 Florida Common Stock. All issued and outstanding shares of Florida Common Stock immediately before the Effective Date shall continue to be issued and outstanding shares of the Surviving Corporation after the Merger.

4. Miscellaneous

4.1 This Agreement of Merger may be terminated and the proposed Merger abandoned at any time before the Effective Date of the Merger, and whether before or after approval of this Agreement of Merger by the shareholders of Ohio and Florida, if the Board of Directors of Florida or of the Surviving Corporation duly adopt a resolution abandoning this Agreement of Merger.

4.2 For the convenience of the parties hereto and to facilitate the filing of this Agreement of Merger, any number of counterparts hereof may be executed; and each such counterpart shall be deemed to be an original instrument.

IN WITNESS WHEREOF, this Agreement has been executed by Florida and Ohio all on the date first above written.

ATTEST:

Secretary ELIZABETH S. MURPHY

ACCIPITER CORPORATION (Ohio)

By:

Name:

Title:

Richard W. Dyer  
RICHARD W. DYER  
PRESIDENT & CEO

ATTEST:

Secretary ELIZABETH S. MURPHY

ACCIPITER II, INC. (Florida)

By:

Name:

Title:

David W. Meyerson  
DAVID W. MEYERSON  
EXEC. V.P. & ASST. SEC.