

Division of Corporations

**P98000096526**

Florida Department of State  
 Division of Corporations  
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 Fax Number : (850) 922-4000

From: Account Name : MEDICAL INDUSTRIES OF AMERICA, INC.  
 Account Number : I19980000026  
 Phone : (561) 737-2227  
 Fax Number : (561) 265-2869

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**MERGER OR SHARE EXCHANGE****MIOA ACQUISITION COMPANY VII, INC.**

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DIVISION OF CORPORATIONS

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ARTICLES OF MERGER  
Merger Sheet

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MERGING:

AIR RESPONSE, INC., a New York corporation not qualified in the State of  
Florida

INTO

MIOA ACQUISITION COMPANY VII, INC., a Florida corporation,  
P98000096526

File date: April 16, 1999

Corporate Specialist: Darlene Connell

Fax Audit No: H99000008832 0

STATE OF FLORIDA  
ARTICLES OF MERGER  
OF  
AIR RESPONSE, INC.  
a New York corporation,  
INTO

MIOA ACQUISITION COMPANY VII, INC.  
a Florida corporation

To the Secretary of State  
State of Florida

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act (the "Act"), the corporations herein named do hereby adopt the following articles of merger.

1. The Agreement and Plan of Merger effective February 28, 1999 (the "Plan of Merger") by and among MEDICAL INDUSTRIES OF AMERICA, INC., a Florida corporation ("MIOA"), MIOA Acquisition Company I, Inc., a Florida corporation (the "Holding Corp") MIOA ACQUISITION COMPANY VII, INC., a Florida corporation (the "Acquisition Corp"), AIR RESPONSE, INC., a New York corporation (the "Company") and LOUIS R. CAPECE, JR. AND DONALD JONES (hereinafter individually referred to as "Shareholder" and collectively referred to as the "Shareholders"), with Company merging with and into Acquisition Corp, has been adopted by the Board of Directors of Acquisition Corp effective February 28, 1999, by the Board of Directors of Company effective February 28, 1999, by MIOA, as the sole shareholder of Acquisition Corp, effective February 28, 1999, and by the Shareholders of Company effective February 28, 1999. A copy of the relevant portions of the Plan of Merger, as required by the provisions of section 607.1101 of the Act, is attached hereto as Exhibit A and made a part hereof.
2. Acquisition Corp shall continue in existence as the surviving corporation in accordance with its Articles of Incorporation.
3. The merger herein provided for shall be effective on February 28, 1999.

Fax Audit Number: H99000008832 0  
Prepared by: E. Nicholas Davis III  
Medical Industries of America, Inc.  
1903 S. Congress Avenue, Suite 400  
Boynton Beach, FL 33426  
(561) 737-2227

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

APR-15-1999 17:39 MEDICAL INDUSTRIES OF AM.  
Fax Audit No: H99000008832 0

P.04/08

Executed as of the 9<sup>th</sup> day of April, 1999.

MIOA ACQUISITION COMPANY  
VII, INC.

By: Paul C. Pershes  
Paul C. Pershes, President and Director

AIR RESPONSE, INC.

By: Louis R. Capece, Jr.  
Louis R. Capece, Jr.,  
President & Director

Fax Audit Number: H990000088320  
Prepared by: E. Nicholas Davis, III  
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Fax Audit No: H99000008832 0

**EXHIBIT A****AGREEMENT AND PLAN OF MERGER**

This **AGREEMENT AND PLAN OF MERGER** (the "Agreement") is entered into this 9<sup>th</sup> day of April, 1999 by and among **MEDICAL INDUSTRIES OF AMERICA, INC.**, a Florida corporation (the "MIOA"), **MIOA ACQUISITION COMPANY I, INC.**, a Florida corporation (the "Holding Corp"), **MIOA ACQUISITION COMPANY VII, INC.**, a Florida corporation (the "Acquisition Corp"), **AIR RESPONSE, INC.**, a New York corporation (the "Company"), **LOUIS R. CAPECE, JR.** (hereinafter "Capece") and **DONALD JONES** (hereinafter "Jones") (hereinafter Capece and Jones shall collectively be known as the "Shareholders").

**Recitals:**

- A. The Company is the owner and operator of an international air ambulance and charter business (the "Business") with five (5) bases (hereinafter the "Bases") located at:
- |   |  |
|---|--|
| Arapahoe County Airport<br>7241 S. Peoria<br>Englewood, Colorado 80112    | Midwest Aviation<br>200 Hardy Robbers Drive<br>Puducan, Kentucky 42003       |
| Schenectady County Airport<br>130 Saratoga Road<br>Scotia, New York 12302 | Opa Locka Airport<br>14980 NE 44 <sup>th</sup> Court<br>Miami, Florida 33054 |
| Universal Air Services<br>359 N. Crystal Lake Drive<br>Orlando, FL 32803  |  |
- B. The Company's billing and administrative offices are located at 7211 S. Peoria, Suite 200, Englewood, CO 80112.
- C. Shareholders own one hundred twenty-five (125) shares of common stock, no par value per share, of the Company (the "Company Shares"), which shares represent one hundred percent (100%) of the outstanding shares of capital stock of the Company.
- D. The Company will, immediately after the execution of this Agreement, file articles of merger with the Secretary of State of the State of New York and MIOA will file articles of merger with the Secretary of State of the State of Florida thereby statutorily merging the Company into Acquisition Corp, (such merger being referred to herein as the "Merger"). The Merger shall be in accordance with this Agreement, the Articles of Merger, the Florida Business Corporation Act (the "Florida Statute") and the Business Corporation Law of the State of New York (the "New York Statute").
- E. MIOA presently owns and upon consummation of the Merger will own 100% of all issued and outstanding capital stock of the Holding Corp and the Holding Corp presently

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owns and upon consummation of the Merger will own 100% of all issued and outstanding capital stock Global Air Charter, Inc., Global Air Rescue, Inc., (the Global companies are hereinafter collectively called "Global") and of the Acquisition Corp into which the Company will be merged pursuant to this Agreement and the Articles of Merger.

- F. The Shareholders shall receive in exchange for the Company Shares, the Merger Consideration as set forth in Section 2.1 of the Agreement subject the terms and conditions hereof.
- G. The Merger shall constitute a "B" Reorganization structured as a "forward subsidiary merger" pursuant to Section 368(a)(1)(B) of the Internal Revenue Code, as amended.

#### ARTICLE I. THE MERGER

1.1. The Merger. As of the Effective Date (as hereinafter defined) and in accordance with the applicable provisions of the Florida Statute and the New York Statute, the Company shall be merged with and into the Acquisition Corp, in accordance with the terms and conditions of this Agreement and the Articles of Merger, subject to such changes as to form (but not substance) as may be required by the Florida Statute and the New York Statute (hereinafter referred to as the "Articles of Merger"). The Acquisition Corp shall be the surviving corporation of the Merger (the Acquisition Corp, in such capacity, being hereinafter sometimes referred to as the "Surviving Corporation"). Thereupon, the separate existence of the Company shall cease, and the Acquisition Corp, as the Surviving Corporation, shall continue its corporate existence.

1.2. Effectiveness of the Merger. As soon as practicable upon or after the satisfaction or waiver of the conditions precedent set forth in Articles VII and VIII of this Agreement, the Acquisition Corp and the Company will execute the Articles of Merger, and shall file or cause to be filed such Articles of Merger with the Secretary of State of Florida and the Secretary of State of New York; and, the subject Merger shall become effective for purposes of the business arrangement between the parties as of the close of business on February 28, 1999 (the "Effective Date") notwithstanding that the statutory effective date shall be the later of (i) the filing of the Articles of Merger with the Secretary of the State of Florida or (ii) the approval of the Articles of Merger by the Secretary of State of New York.

1.3 Effect of the Merger. Upon the effectiveness of the Merger, (a) the Surviving Corporation shall own and possess all assets and property of every kind and description, and every interest therein, wherever located, and all rights, privileges, immunities, powers, franchises and authority of a public as well as of a private nature, of the Acquisition Corp and the Company (the "Constituent Corporations"), and all obligations owed to, belonging to or due to each of the Constituent Corporations, all of which shall be vested in the Surviving Corporation pursuant to the Florida Statute and the New York Statute without further act or deed, and (b) the Surviving Corporation shall be liable for all claims, liabilities and obligations of the Constituent Corporations, all of which shall become and remain the obligations of the Surviving Corporation pursuant to the Florida Statute and the New York Statute without further act or deed. Until such time as the Merger is approved under the Florida Statute and the New York Statute, the conduct of the parties will be such that the Company could be returned to the Shareholders in

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the same condition as it was at the Closing subject only to operations of the Business in the ordinary course.

**1.4. Surviving Corporation.** Upon the effectiveness of the Merger, the Articles of Incorporation and Bylaws of the Surviving Corporation shall be identical to those of Acquisition Corp. The directors of the Surviving Corporation shall be Donald Jones, Louis R. Capece, Jr., Paul C. Pershes, E. Nicholas Davis, III and Arthur Kobrin each of whom shall continue to be the directors of the Surviving Corporation, subject to the Articles of Incorporation, the Bylaws and their respective employment agreements.

**1.5 Holding Corp.** Upon the effectiveness of the Merger, the directors of the Holding Corp shall be six (6) MIOA appointees who shall be Michael Morrell, Paul C. Pershes, Arthur Kobrin, E. Nicholas Davis, III, Christopher Doscher and Blaise "Skip" Sciarra together with Louis R Capece, Jr., and Donald Jones both of whom shall continue to be the directors of the Holding Corp, subject to the Holding Corp's articles of incorporation, bylaws, and their respective employment agreements.

**1.6. Subsequent Actions.** If at any time after the Effective Date, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurance or any other actions or things are necessary or desirable to (i) vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either Acquisition Corp or the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or (ii) otherwise to carry out this Agreement, then the officers and directors of the Surviving Corporation shall be authorized to (x) execute and deliver, in the name and on behalf of either the Acquisition Corp or the Company, as the case may be, all such deeds, bills of sale, assignments and assurances and (y) to take and do, in the name of and on behalf of each corporation or otherwise, all such actions and things as may be necessary or desirable, to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

**1.7. Status and Conversion of Shares.** Upon the Effective Date of the Merger:

(a) Each share certificate representing each outstanding share of capital stock of Acquisition Corp shall continue to be a share of issued and outstanding capital stock of the Surviving Corporation and shall be retained by the Holding Corp (the "Acquisition Corp Stock").

(b) The share certificates representing all the outstanding shares of capital stock of the Company (i.e., the Company Shares) issued and outstanding immediately prior to the effectiveness of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be deemed canceled and extinguished. In exchange for the merger of the Company into the Acquisition Corp, the Shareholders shall receive the Merger Consideration set forth and defined in Section 2.1 below (the "Merger Consideration").

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1.8. **Books and Records.** On the Closing Date (as hereinafter defined), the Company shall deliver to MIOA all of the stock books, records and minute books of the Company. All financial and accounting books and records of the Company, all tax returns and records of the Company, and all supplier, client, customer, sales and other business records of the Company shall be maintained in the offices of the Company in Englewood, CO.

## ARTICLE II MERGER CONSIDERATION

2.1. **Shareholders Merger Consideration.** In exchange for merging the Company into the Acquisition Corp and canceling and extinguishing the Company Shares in accordance with this Merger Agreement, the Shareholders shall receive the following Merger Consideration:

(a) **Purchase Price.** MIOA agrees, subject to the provisions of this Agreement, to pay to the Shareholders an amount up to, but not exceeding, Five Million Eight Hundred Thousand Dollars (\$5,800,000.00) as set forth below (hereinafter the "Purchase Price"). The Purchase Price has been initially calculated and its full payment is conditioned upon the Holding Corp realizing the Formula Profits.