

Division of Corporations

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Florida Department of State

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BASIC AMENDMENT

AUTHORGENICS, INC.

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**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
AUTHORGENICS, INC.,
a Florida corporation**

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1007 of the Florida Business Corporation Act ("FBCA"), the undersigned officer of Authorgenics, Inc., a Florida corporation ("Corporation") certifies that:

1. The name of the Corporation is "Authorgenics, Inc."
2. The Corporation's articles of incorporation were filed with the Florida Department of State on December 24, 1990, and were amended on January 9, 1991, amended and restated on May 1, 1997 and subsequently amended on each of the following dates: June 4, 1997, June 24, 1997, August 18, 1997, March 4, 1999 and May 3, 1999 (these articles of incorporation, as amended, the "Articles of Incorporation");
3. These Amended and Restated Articles of Incorporation were duly adopted by the Corporation's shareholders by written consent, consenting in voting groups, on December 5, 2000. The number of shares consenting to these Amended and Restated Articles of Incorporation in each voting group were sufficient for approval by the shareholders.
4. The Articles of Incorporation are amended as follows:

Article II is amended to change the principal office and mailing address of the Corporation.

Article V is amended to combine each ten thousand (10,000) issued and outstanding shares of the Corporation's common stock into one (1) share of common stock, to combine each one (1) share of the Corporation's Series A

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Preferred Stock into Four Tenths (0.4) of a share of preferred stock, and to combine each one (1) share of Series B Preferred Stock into 0.00275 of a share of preferred stock. The designations of rights and preferences of the Series A and Series B Preferred Stock adopted under Article V's authority by the Board of Directors of the Corporation on June 24, 1997, August 18, 1997, March 4, 1999 and May 3, 1999, are amended by deleting those rights and preferences in their entirety and replacing them with new rights and preferences as set forth in the restatement of the Articles of Incorporation, below.

5. There are no discrepancies between the provisions of the Articles of Incorporation and the provisions of these Amended and Restated Articles of Incorporation, other than the inclusion of the foregoing amendments and the omission of matters and terminology of historical interest.

6. The text of the Articles of Incorporation of the Corporation is restated with the amendments described above, effective as of the date of filing of these Amended and Restated Articles of Incorporation with the Florida Department of State, to read as follows:

ARTICLE I NAME

The name of the Corporation is Authorgenics, Inc.

ARTICLE II PRINCIPAL OFFICE

The principal office and mailing address of the Corporation is 1517 Johnson Ferry Road, Suite 275, Marietta, Georgia, 30062.

ARTICLE III PURPOSE

The purpose of the Corporation shall be to engage and transact any and all business permitted under the laws of the United States of America and the State of Florida.

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ARTICLE IV DURATION

The Corporation shall continue as a separate entity, independent of its members, for all purposes, for a period that shall be perpetual or until dissolved in accordance with the provisions of the Florida Business Corporation Act. On dissolution of the Corporation, the corporate property and assets shall, after payment of all debts of the Corporation, be distributed to the shareholders pro rata, subject to any preferential rights thereof, each shareholder to participate in the distribution in direct proportion to the number of shares held by him.

ARTICLE V CAPITAL STOCK

Authorized Shares

The total number of shares of capital stock which the Corporation is authorized to issue is thirty million (30,000,000), of which twenty million (20,000,000) shares are common stock, par value \$.001 per share ("Common Stock"), and ten million (10,000,000) shares are preferred stock, par value \$.01 per share ("Preferred Stock").

Common Stock Split

Upon the filing with the Florida Department of State of these Amended and Restated Articles of Incorporation, each ten thousand (10,000) issued and outstanding shares of Common Stock of the Corporation shall thereby and thereupon be combined into one (1) share of validly issued, fully paid and non-assessable share of Common Stock.

Each person who, as of September 15, 2000, held of record any issued and outstanding shares of Common Stock shall receive upon surrender of such person's certificate(s) for such Common Stock to the Corporation's president, secretary or other authorized agent, a new stock certificate(s) to evidence and represent the number of shares of post-reverse stock split Common Stock to which such person is entitled after this reverse stock split; provided, however, that the Corporation shall not issue fractional shares of post-reverse stock split Common Stock in connection with this reverse stock split, but shall round up each fractional share to the next whole share of post-reverse stock split Common Stock. Unexchanged stock certificates will, after this reverse stock split, represent the number of shares of post-reverse stock split Common Stock into which the pre-reverse stock split Common Stock represented by such certificate was combined. The holders of unexchanged stock certificates will not be entitled to receive

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any dividends or other distributions payable by the Corporation after the date of filing of these Amended and Restated Articles of Incorporation with respect to their shares of post-reverse stock split Common Stock until they surrender their certificates representing pre-reverse stock split Common Stock to the Corporation; and such dividends and distributions, if any, will be accumulated and, at the time of such surrender, all such unpaid dividends and distributions will be paid without interest.

This reverse stock split of the Corporation's Common Stock shall apply only to issued and outstanding shares of Common Stock, and shall not reduce the number of authorized shares of Common Stock.

Subject to the provisions of any applicable law, these Amended and Restated Articles of Incorporation or the Bylaws, or any future amendments thereof, the holders of outstanding shares of post-reverse stock split Common Stock shall exclusively possess the voting power for the election of directors and for all other matters to be approved by the Corporation's shareholders, each holder of record of shares of post-reverse stock split Common Stock being entitled to one vote for each whole share of post-reverse stock split Common Stock standing in his name on the books of the Corporation.

Preferred Stock Authorized

The Board of Directors may issue Preferred Stock from time to time in one or more series or classes with such distinctive designations as may be stated in the resolution or resolutions providing for the issuance of such stock from time to time adopted by the Board of Directors. The resolution or resolutions providing for the issuance of shares of particular series or class shall fix, subject to applicable law, the designations, rights, preferences and limitations of the shares of each such series or class. The authority of the Board of Directors with respect to each series or class shall include, but not be limited to, determination of the following:

- (a) The number of shares constituting such series or class, including the authority to increase or decrease such number, and the distinctive designation of such series or class;
- (b) The dividend rate of the shares of such series or class, whether the dividends shall be cumulative and, if so, the date from which they shall be cumulative, and the relative rights of priority, if any, of payment of dividends on shares of such series or class;
- (c) The right, if any, of the Corporation to redeem shares of such series or class and the terms and conditions of such redemption;

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- (d) The rights of the shares in case of a voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, and the relative rights of priority, if any, of payment of shares of such series or class;
- (e) The voting power, if any, for such series or class and the terms and conditions under which voting power may be exercised;
- (f) The obligation, if any, of the Corporation to retire shares of such series or class pursuant to a retirement or sinking fund or funds of a similar nature or otherwise and the terms and conditions of such obligation;
- (g) The terms and conditions, if any, upon which shares of such series or class shall be convertible into or exchangeable for shares of stock of any other class or classes, including the price or prices or the rate of rates of conversion or exchange and the terms of adjustment, if any, and
- (h) Any other rights, preferences or limitation of the shares of such series or class.

Changes in Series A Preferred Stock and Series B Preferred Stock

Upon the filing with the Florida Department of State of these Amended and Restated Articles of Incorporation:

- (a) Each one (1) issued and outstanding share of Series A Preferred Stock of the Corporation shall thereby and thereupon be combined into four tenths (0.4) of a share of validly issued, fully paid and non-assessable Series A Preferred Stock of the Corporation.
- (b) Each one (1) issued and outstanding shares of Series B Preferred Stock of the Corporation shall thereby and thereupon be combined into Two Hundred Seventy Five Hundred Thousandths (0.00275) of a share of validly issued, fully paid and non-assessable shares of Series B Preferred Stock of the Corporation.
- (c) The designations of rights and preferences, and the amendments thereto, adopted by the Corporation's Board of Directors and previously filed with the

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- (d) Florida Department of State, for the Series A Preferred Stock and the Series B Preferred Stock are hereby deleted in their entirety and replaced with the following designation of rights and preferences; and the Series A Preferred Stock and Series B Preferred Stock shall be renamed and redesignated "Non-Voting Preferred Stock" and shall together be deemed one class and series of stock for all purposes:

Voting. The Non-Voting Preferred Stock shall not have any voting rights, except that the Non-Voting Preferred Stock shall be entitled to vote as a separate class having one vote per share upon any matter as to which the FBCA requires the vote of the Non-Voting Preferred Stock.

Dividends. Subject to the rights of the Non-Voting Preferred Stock set forth below, the Non-Voting Preferred Stock shall not participate in dividends or distributions made by the Corporation, unless such dividend or distribution is declared by the Corporation's Board of Directors specifically upon the Non-Voting Preferred Stock. The rights of holders of shares of Non-Voting Preferred Stock to participate any dividend or distribution declared by the Board upon the Non-Voting Preferred Stock shall be on such basis as may be set by the Board by resolution.

Conversion, Redemption and Other Rights upon Certain Corporate Events.

Preferential Rights Upon an Initial Public Offering

In the event the Corporation conducts an initial public offering of its Common Stock (an "IPO"), and subject to the consent of the underwriter of the IPO, which the underwriter may withhold if it reasonably determines any of the following would adversely impact the IPO: (i) each holder of Non-Voting Preferred Stock will have the right to convert each share of Non-Voting Preferred Stock held by him into one thousand dollars (\$1,000) worth of Common Stock, the Common stock to be valued at the IPO offering price for purposes of such conversion; and (ii) each holder of Non-Voting Preferred Stock may, in lieu of converting his shares into Common Stock, cause the Corporation to redeem some or all of his shares of Non-Voting Preferred Stock at a per share redemption price of one thousand dollars (\$1,000).

So that the holders of Non-Voting Preferred Stock may exercise their rights upon any IPO, the Corporation shall, no later than thirty (30) days

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after filing any IPO registration statement with the U.S. Securities and Exchange Commission, notify all then record holders of Non-Voting Preferred Stock in writing that it filed an IPO registration statement. The Board of Directors of the Corporation shall have the authority to establish the procedures that the holders of Non-Voting Preferred Stock shall follow in exercising their IPO conversion or redemption rights and shall notify the holders of Non-Voting Preferred Stock of such procedures in writing. The Board's procedural notice may, but is not required to be, combined with the notice that an IPO registration statement was filed. The procedures established by the Board shall permit holders of Non-Voting Preferred Stock at least twenty five (25) days from the date of mailing of the Board's procedural notice by which to elect to cause the Corporation to convert or redeem their shares of Non-Voting Preferred Stock.

Those holders of Non-Voting Preferred Stock who wish to cause the Corporation to convert or redeem some or all of their shares of Non-Voting Preferred Stock shall, in accordance with the procedures set forth in the Board's procedural notice, notify the Corporation of the number of shares they wish to convert or have redeemed. If the underwriter of the IPO determines to limit the number of shares proposed to be converted or redeemed, then each holder of Non-Voting Preferred Stock shall be entitled to convert or have redeemed, as the case may be, up to that number of shares of Non-Voting Preferred Stock which equals the product of: (i) the number of shares of Non-Voting Preferred Stock permitted by the IPO underwriter to be converted or redeemed, multiplied by (ii) the quotient of (A) the Face Value of the Non-Voting Preferred Stock held of record by such holder, divided by (B) the Face Value of all then outstanding shares of Non-Voting Preferred Stock. "Face Value" shall mean one thousand dollars (\$1,000) multiplied by the number of shares of Non-Voting Preferred Stock owned by the person or group for which Face Value is calculated.

Preferential Rights Upon a Sale of Substantially all of the Assets of, or Liquidation or Winding Up of, the Corporation

If the Corporation shall conduct a transaction that is, for purposes of the FBCA Section 607.1202 (or any successor thereto), a disposition of all or substantially all of the Corporation's property or assets otherwise than in the usual and regular course of business, or if the Corporation shall voluntarily or involuntarily liquidate, dissolve or wind up (in any such

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case, a "Sale or Liquidation"), then the holders of Non-Voting Preferred Stock who so wish may cause the Corporation to redeem their shares of Non-Voting Preferred Stock, at a redemption price of one thousand dollars (\$1,000) per share, subject to the limitations and restrictions set forth in the following paragraphs.

The Board of Directors shall, in good faith, determine the net proceeds that would be available from any such Sale or Liquidation after making allowance for payment of the Corporation's liabilities and for distributions upon any securities senior to the Non-Voting Preferred Stock that may hereafter be created, but prior to any distribution of proceeds or assets on the Corporation's Common Stock. This determination of the Board of Directors shall be conclusive absent manifest error. If those net proceeds as determined by the Board (i) are ten million dollars (\$10,000,000) or less, then ten percent (10%) of the net proceeds (*i.e.*, up to one million dollars (\$1,000,000)) will be allocated to redeem shares of Non-Voting Preferred Stock, or (ii) exceed ten million dollars (\$10,000,000) but do not exceed twenty million dollars (\$20,000,000), then one million dollars (\$1,000,000) plus twenty percent (20%) of the net proceeds in excess of ten million dollars (\$10,000,000) (*i.e.*, up to three million dollars (\$3,000,000)) will be allocated to redeem shares of Non-Voting Preferred Stock, or (iii) exceed twenty million dollars (\$20,000,000), then three million dollars (\$3,000,000) plus thirty percent (30%) of the net proceeds in excess of twenty million dollars (\$20,000,000) will be allocated to redeem shares of Non-Voting Preferred Stock.

As soon as possible, but in any event no later than ninety (90) days after the closing date of any Sale or Liquidation, the Board of Directors shall have determined the net proceeds that are or will be available from such Sale or Liquidation for redemption of Non-Voting Preferred Stock and shall have approved a procedure by which holders of Non-Voting Preferred Stock may elect to cause the Corporation to redeem their shares of Non-Voting Preferred Stock, and shall have sent written notice of such procedure to all then holders of Non-Voting Preferred Stock. The procedure established by the Board of Directors shall permit holders of Non-Voting Preferred Stock at least twenty five (25) days from the date of mailing of the Board's procedural notice by which to elect to cause the Corporation to redeem their shares of Non-Voting Preferred Stock.

Those holders of Non-Voting Preferred Stock who wish to cause the Corporation to redeem some or all of their shares of Non-Voting Preferred

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Stock shall respond to the Board's notice in accordance with the procedures set forth in the Board's notice, and shall in their response indicate the number of shares they wish to have redeemed. Each holder of Non-Voting Preferred Stock shall be entitled to have redeemed up to that number of shares of Non-Voting Preferred Stock which equals the product of: (i) the amount allocated for redemption of Non-Voting Preferred Stock, determined as provided above, multiplied by (ii) the quotient of (A) the Face Value of the Non-Voting Preferred Stock held of record by such holder, divided by (B) the Face Value of all then outstanding shares of Non-Voting Preferred Stock.

If the Corporation is to be liquidated, then all Sale or Liquidation net proceeds that are not used to redeem Non-Voting Preferred Stock and all remaining assets, if any, of the Corporation available for distribution to its shareholders, shall, after distribution to any class of stock senior in liquidation priority to the Non-Voting Preferred Stock, be distributed pro rata, on the basis of the number of shares held by each, among all shareholders of the Corporation.

Other. Except as expressly provided herein or as required by the Florida Business Corporation Act, the Non-Voting Preferred Stock shall not have any other rights or preferences.

The Non-Voting Preferred Stock shall rank senior to the Corporation's Common Stock with respect to the rights and preferences designated in these Amended and Restated Articles of Incorporation. The Corporation's Board of Directors may, from time to time and at any time, designate additional classes or series of stock with rights and preferences senior to that of the Non-Voting Preferred Stock, provided that no such stock shall have rights or preferences senior to the Non-Voting Preferred Stock's redemption rights upon sale or liquidation of the Corporation set forth above.

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**ARTICLE VIII
AFFILIATED TRANSACTIONS**

The Corporation elects not to be governed by Section 607.0901 of the
Florida Business Corporation Act.

**ARTICLE IX
REGISTERED AGENT**

The Registered Agent of this Corporation is corporation Service
Company, whose street address in the State of Florida is c/o Corporation Service
Company, 1201 Hayes Street, Tallahassee, Florida 32301.

The written acceptance of said registered agent, as required in Section
607.0501(3) of the Florida Business Corporation Act, was filed with the Florida
Secretary of State by the Corporation May 1, 1997.

IN WITNESS WHEREOF, the Corporation has caused these Amended and
Restated Articles to be filed this 29 day of JANUARY, 2001.

AUTHORGENICS, INC.

By 

Kenneth Sawyer
President

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