

V60643

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MERGER OR SHARE EXCHANGE

ANDRX CORPORATION

Certificate of Status	0
Certified Copy	1
Page Count	05
Estimated Charge	\$78.75

Merger

ARTICLES OF MERGER
Merger Sheet

MERGING:

ANDRX CORPORATION, a Florida corporation, V60643

INTO

ANDRX CORPORATION. a Delaware entity not qualified in Florida

File date: December 19, 2002

Corporate Specialist: Darlene Connell

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**ARTICLES OF MERGER
OF
ANDRX CORPORATION, A FLORIDA CORPORATION
INTO
ANDRX CORPORATION, A DELAWARE CORPORATION**

Pursuant to the provisions of 607.1101 and 607.1105 of the Florida Business Corporation Act (the "Act"), ANDRX CORPORATION, a Florida corporation ("Company") and ANDRX CORPORATION, a Delaware corporation (the "Survivor") adopt the following Articles of Merger for the purpose of merging the Company with and into the Survivor.


FIRST: The Survivor is the owner of all of the outstanding shares of common stock of the Company.

SECOND: The Plan of Merger is attached hereto as Exhibit A.

THIRD: The Plan of Merger was adopted by the board of directors of each of the Company and the Survivor by unanimous written consent in accordance with the provisions of Section 607.1104 of the Act as of December 17, 2002.

IN WITNESS WHEREOF, these Articles of Merger have been executed on behalf of the parties hereto as of the 18 day of December, 2002.

ANDRX CORPORATION, a Florida corporation

By: 
Print Name: Scott Lodin
Title: Executive Vice President

ANDRX CORPORATION, a Delaware corporation

By: 
Print Name: Scott Lodin
Title: Executive Vice President

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated as of December 18, 2002 (the "Agreement"), is entered into between ANDRX CORPORATION, a Florida corporation ("Andrx-Florida"), and ANDRX CORPORATION, a Delaware corporation ("Andrx-Delaware").

A. Andrx-Florida has an aggregate authorized capital of 100,000,000 shares of common stock, \$0.001 par value (the "Andrx-Florida Common Stock") and 1,000,000 shares of preferred stock, \$0.001 par value (the "Andrx-Florida Preferred Stock").

B. Andrx-Delaware has an aggregate authorized capital of 100,000,000 shares of Andrx Corporation-Andrx Group common stock, \$0.001 par value (the "Andrx-Delaware Common Stock"), 12,500,000 shares of Andrx Corporation-Cybear Group common stock, \$0.001 par value (the "Cybear Common Stock") and 1,000,000 shares of preferred stock, \$0.001 par value (the "Andrx-Delaware Preferred Stock").

C. The respective Boards of Directors of Andrx-Delaware and Andrx-Florida believe that it is in the best interests of Andrx-Delaware and Andrx-Florida and their respective shareholders to merge Andrx-Florida with and into Andrx-Delaware under and pursuant to the provisions of this Agreement and the Florida Business Corporation Act (the "Merger").

D. The parties hereto intend for the Merger to qualify, for federal income tax purposes, as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended.

Agreement

In consideration of the Recitals and of the mutual agreements contained in this Agreement, the parties hereto agree as set forth below.

1. **MERGER.** Andrx-Florida shall be merged with and into Andrx-Delaware.
2. **EFFECTIVE DATE.** The Merger shall become effective immediately upon the filing of articles of merger with the Secretary of State of Florida in accordance with the Florida Business Corporation Act (the "Articles of Merger"); provided, however, that if such articles of merger specify a later time, then the Merger shall become effective upon such specified later time. The time of such effectiveness is hereinafter called the "Effective Date."
3. **SURVIVING CORPORATION.** Andrx-Delaware shall be the surviving corporation of the Merger and shall continue to be governed by the laws of the State of Delaware. On the Effective Date, the separate corporate existence of Andrx-Florida shall cease.
4. **ARTICLES OF INCORPORATION.** The Certificate of Incorporation of Andrx-Delaware as it exists on the Effective Date shall be the Certificate of Incorporation of Andrx-Delaware following the Effective Date, unless and until the same shall thereafter be amended or repealed in accordance with the laws of the State of Delaware.
5. **BYLAWS.** The Bylaws of Andrx-Delaware as they exist on the Effective Date shall be the Bylaws of Andrx-Delaware following the Effective Date, unless and until the same shall be amended or repealed in accordance with the provisions thereof and the laws of the State of Delaware.

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6. **BOARD OF DIRECTORS AND OFFICERS.** The members of the Board of Directors and the officers of Andrx-Delaware immediately prior to the Effective Date shall be the members of the Board of Directors and the officers of Andrx-Delaware following the Effective Date, and such persons shall serve in such offices for the terms provided by law or in Andrx-Delaware's Certificate of Incorporation and Bylaws, or until their respective successors are elected and qualified.

7. **MERGER CONSIDERATION.** As of the Effective Time:

(a) All shares of Andrx-Florida Common Stock owned by Andrx-Florida shall, by virtue of the Merger and without any action on the part of any stockholder, officer or director of Andrx-Florida, be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(b) Each issued and outstanding share of Andrx-Florida Common Stock owned by Andrx-Florida stockholder shall, by virtue of the Merger and without any action on the part of any stockholder, officer or director of Andrx-Florida, be canceled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(c) Each issued and outstanding share of common stock of Andrx-Delaware Common Stock, Cybear Common Stock, and Andrx-Delaware Preferred Stock shall, by virtue of the Merger and without any action on the part of any stockholder, officer or director of Andrx-Delaware, remain outstanding as one fully paid and nonassessable share of common stock of the Surviving Corporation.

(d) Each issued and outstanding share of common stock of Cybear Common Stock, shall, by virtue of the Merger and without any action on the part of any stockholder, officer or director of Andrx-Delaware, remain outstanding as one fully paid and nonassessable share of Cybear common stock of the Surviving Corporation.

(e) Each issued and outstanding share of common stock of Andrx-Delaware Preferred Stock shall, by virtue of the Merger and without any action on the part of any stockholder, officer or director of Andrx-Delaware, remain outstanding as one fully paid and nonassessable share of preferred stock of the Surviving Corporation.

8. **NO FURTHER RIGHTS.** From and after the Effective Time, holders of certificates theretofore evidencing Andrx-Florida Common Stock shall cease to have any rights as stockholders of Andrx-Florida, except as provided herein or by applicable law.

9. **TERMINATION.** This Agreement may be terminated and abandoned by action of the respective Board of Directors of Andrx-Florida and Andrx-Delaware at any time prior to the Effective Date, whether before or after approval by the shareholders of either or both of the parties hereto.

10. **AMENDMENT.** The Boards of Directors of the parties hereto may amend this Agreement at any time prior to the Effective Date; provided, that an amendment made subsequent to the approval of this Agreement by the shareholders of either of the parties hereto shall not: (a) change the amount or kind of shares, securities, cash, property or rights to be received in exchange for or on conversion of all or any of the shares of the parties hereto, (b) change any term of the Certificate of Incorporation of Andrx-Delaware or (c) change any other terms or conditions of this Agreement if such change would adversely affect the holders of any capital stock of either party hereto.

11. **CONSTRUCTION.** Headings are for convenience of reference only. Section references are, unless otherwise indicated, the provisions hereof. "Hereof" or similar expressions shall,

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unless the context otherwise requires, refer to this Agreement as a whole. "Including" shall be construed inclusively and not by way of limitation.

12. **GOVERNING LAW.** This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Florida.

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IN WITNESS WHEREOF, each of the parties hereto has caused this Plan of Merger to be executed on its behalf by its officers duly authorized, all as of the date first above written.

Andrx Corporation, a Florida corporation

By: 

Name: Scott Lodin

Title: Executive Vice President

Andrx Corporation, a Delaware corporation

By: 

Name: Scott Lodin

Title: Executive Vice President

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