

**AMENDED AND RESTATED BYLAWS  
OF  
BIOSANTE PHARMACEUTICALS, INC.  
A Delaware Corporation  
(the “Corporation”)**

**ARTICLE I.  
OFFICES**

*Section 1. Registered Office.* The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

*Section 2. Other Offices.* The Corporation may also have offices at such other places both within and without the State of Delaware as the board of directors of the Corporation (“Board of Directors”) may from time to time determine.

**ARTICLE II.  
MEETINGS OF STOCKHOLDERS**

*Section 1. Place of Meetings.* Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof. The Board of Directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a) of the Delaware General Corporation Law.

*Section 2. Annual Meetings.* The annual meetings of stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect directors, and transact such other business as may timely and properly be brought before the meeting.

*Section 3. Special Meetings.* Unless otherwise prescribed by applicable law or by the Certificate of Incorporation, special meetings of stockholders, for any purpose or purposes, may be called by either (a) the Chairman, if there be one, (b) the President and Chief Executive Officer, (c) the Chief Financial Officer, or (d) the Board of Directors. Such request shall state the purpose or purposes of the proposed meeting. At a special meeting no business shall be transacted and no corporate action shall be taken other than that stated in the notice of the meeting.

*Section 4. Notice.* Written or printed notice of every annual or special meeting of the stockholders, stating the place, date, time, the means of remote communication, if any, and, in the case of special meetings, the purpose or purposes, of such meeting, shall be given to each stockholder entitled to vote at such meeting not less than ten (10), nor more than sixty (60), days before the date of the meeting.

**Section 5. Quorum and Adjournment.** Except as otherwise provided by applicable law or by the Certificate of Incorporation, the holders representing one-third (1/3) of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum is not present or represented at any meeting of the stockholders, the Chairman or the stockholders entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting. The stockholders present at a duly called meeting at which a quorum was originally present may continue to transact business until adjourned, notwithstanding the withdrawal of enough stockholders to leave less than a quorum present.

**Section 6. Voting.** Unless otherwise required by applicable law, the Certificate of Incorporation or these Bylaws (including without limitation Article III, Section 1 with respect to the election of directors), any question brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote. Each stockholder represented at a meeting of stockholders shall be entitled to cast one (1) vote for each share of the capital stock entitled to vote held by such stockholder, except as provided in the Certificate of Incorporation or a resolution of the Board of Directors fixing rights and preferences of a class or series established by the Board of Directors. Such votes may be cast in person or by proxy but no proxy shall be voted on or after three (3) years from its date, unless such proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his or her discretion, may require that any votes cast at such meeting shall be cast by written ballot.

**Section 7. Record Date of Stockholders.** The Board of Directors is authorized to fix in advance a date not exceeding sixty (60) days nor less than ten (10) days preceding the date of any meeting of stockholders, or the date for the payment of any dividend, or the date for the allotment of rights, or the date when any change or conversion or exchange of capital stock shall go into effect, or a date in connection with obtaining the consent of stockholders for any purposes, as a record date for the determination of the stockholders entitled to notice of, and to vote at, any such meeting, and any adjournment thereof, or entitled to receive payment of any such dividend, or to any such allotment of rights, or to exercise the rights in respect of any such change, conversion or exchange of capital stock, or to give such consent, and, in such case, such stockholders and only such stockholders as shall be stockholders of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting, and any adjournment thereof, or to receive payment of such dividend, or to receive such allotment of rights, or to exercise such rights, or to give such consent, as the case may be, notwithstanding any transfer of any stock on the books of the Corporation, after such record date fixed as aforesaid.

**Section 8. Consent of Stockholders in Lieu of Meeting.** Unless otherwise provided in the Certificate of Incorporation, any action required or permitted to be taken at any annual or

special meeting of stockholders of the Corporation, may be taken without a meeting, without prior notice and without a vote, if a consent in writing (including by electronic transmission), setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

**Section 9. Voting List.** The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. This list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder of the Corporation who is present.

**Section 10. Stock Ledger.** The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 10 of this Article II or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

**Section 11. Conduct of Meetings.** The Chairman, or, if there be no Chairman or in his or her absence, the Vice Chairman or any other officer designated by the Board of Directors or the Chairman, shall preside at all annual or special meetings of stockholders. To the maximum extent permitted by applicable law, such presiding person shall have the power to determine the order of business and shall have the authority in his or her discretion to regulate all aspects of the conduct of any such meeting, including but not limited to, convening the meeting and adjourning the meeting (whether or not a quorum is present), imposing restrictions on persons other than stockholders of record of the Corporation (or their duly appointed proxies) who may attend such meeting, establishing procedures for the dismissal of business not timely and properly presented, maintaining order at the meeting and safety of those present, restricting entry to the meeting after the time fixed for commencement thereof and limiting the circumstances in which any person may make a statement or ask questions at any meeting of stockholders.

**Section 12. Business to be Conducted.**

(a) At any annual meeting of stockholders, only such business shall be conducted, and only such proposals shall be acted on, as are properly brought before the meeting. In order for business to be properly brought before the meeting, the business must be either (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly

brought before the meeting by any stockholder of record of the Corporation who (1) was a stockholder of record at the time of the giving of the notice provided for in this Section 12 of Article II and at the time of the annual meeting, (2) is entitled to vote at such meeting and (3) has complied with the procedures set forth in this Section 12 of Article II as to such business. Except for proposals properly made pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and included in the Corporation's notice of meeting, the foregoing clause (iii) shall be the exclusive means for a stockholder to propose business to be considered by the stockholders at an annual meeting of stockholders. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is not held within thirty (30) days before or after such anniversary date, to be timely, notice by the stockholder must be received not later than the close of business on the tenth (10th) day following the date on which the first public announcement of the date of the annual meeting was made. In no event shall the adjournment or postponement of an annual meeting or the public announcement of any adjournment or postponement commence a new time period for the giving of a stockholder's notice as described above.

(b) To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting, (ii) the text of any resolution or amendment proposed to be adopted at the meeting, (iii) the reasons for conducting such business at the annual meeting and (iv) as to the stockholder giving the notice and any Stockholder Associated Person (as defined below) (1) the name and record address of such person, (2) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such person, (3) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any derivative or short positions, profit interests, options or borrowed or loaned shares) has been made, the effect or intent of which is to mitigate loss to or manage risk or benefit of share price changes for, or to increase or decrease the voting power of, such person with respect to any share of stock of the Corporation, (4) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the proposal of other business on the date of such stockholder's notice, (5) a description of all arrangements or understandings between or among such persons (including their names) in connection with the proposal of such business by such stockholder and any material interest in such business and (6) a representation that the stockholder giving the notice intends to appear in person or by proxy at the annual meeting to bring such business before the meeting. Any ownership information shall be supplemented by the stockholder giving the notice not later than ten (10) days after the record date for the meeting as of the record date.

(c) Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedures set forth in this Section 12 of Article II; provided, however, that nothing in this Section 12 of Article II shall be deemed to preclude discussion by any stockholder of any business properly brought before the annual meeting.

(d) The Chairman of the annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Section 12 of Article II, and if the Chairman should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(e) For purposes of Sections 12 and 13 of Article II of these Bylaws, (i) “public announcement” shall mean disclosure (1) in a press release released by the Corporation, provided such press release is released by the Corporation following its customary procedures, is reported by the Dow Jones News Service, Associated Press or comparable national news service, or is generally available on internet news sites, or (2) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder and (ii) “Stockholder Associated Person” of any stockholder shall mean (1) any person acting in concert, directly or indirectly, with such stockholder and (2) any person controlling, controlled by or under common control with such stockholder or any Stockholder Associated Person.

(f) At any special meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting by or at the direction of the Board of Directors.

(g) Notwithstanding the foregoing provisions of this Section 12 of Article II, (i) stockholder nominations of persons for election to the Board of Directors shall be governed by Section 13 of Article II of these Bylaws; (ii) a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 12 of Article II; provided, however, that any reference in this Section 12 of Article II to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to proposals of business to be considered pursuant to Section 12(a)(iii) of Article II and nothing in this Section 12 of Article II shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

***Section 13. Stockholder Nomination of Directors.***

(a) Any stockholder who intends to make a nomination of one or more persons for election to the Board of Directors of the Corporation must comply with this Section 13 of Article II. Nominations of persons for election to the Board of Directors to be made at any annual meeting of stockholders or any special meeting of stockholders at which

directors are to be elected pursuant to the Corporation's notice of meeting must be made (i) by or at the direction of the Board of Directors or (ii) provided that the Board of Directors has determined that directors shall be elected at such meeting, as indicated in the notice, by any stockholder of the Corporation who (1) is a stockholder of record at the time of giving the notice provided for in this Section 13 of Article II and at the time of the meeting, (2) is entitled to vote for the election of directors at the meeting and (3) complies with the procedures set forth in this Section 13 of Article II as to such nominations. Except for proposals made pursuant to Rule 14a-8 under the Exchange Act, and included in the Corporation's notice of meeting, the foregoing clause (ii) shall be the exclusive means for a stockholder to make nominations of persons for election to the Board of Directors at an annual meeting of stockholders or a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting. Any such nominations (other than those made by or at the direction of the Board of Directors) must be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary in the case of a special meeting of stockholders called for the purpose of electing directors, must be delivered to or mailed and received at the principal executive offices of the Corporation not less than the close of business on the tenth (10<sup>th</sup>) day following the date on which the first public announcement of the date of the special meeting was made, and, in the case of any annual meeting, must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary of the date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is not held within thirty (30) days before or after such anniversary date, to be timely, notice by the stockholder must be received not later than the close of business on the tenth (10<sup>th</sup>) day following the date on which the first public announcement of the date of the annual meeting was made. In no event shall the adjournment or postponement of an annual or special meeting or the public announcement of any adjournment or postponement commence a new time period for the giving of a stockholder's notice as described above.

(b) Such stockholder's notice to the Secretary shall set forth as to each nominee whom the stockholder proposes to nominate for election or reelection as a director and as to the stockholder giving the notice and any Stockholder Associated Person (as defined in Section 12 of Article II), (i) the name, age, business address, residence address and record address of such person, (ii) the principal occupation or employment of such person, (iii) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such person, (iv) any information concerning such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder, (v) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, any other agreement, arrangement or understanding (including any derivative or short positions, profit interests, options or borrowed or loaned shares) has been made, the effect or intent of which is to mitigate loss to or manage risk or benefit of share price changes

