

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of report (Date of earliest event reported): **October 14, 2009**

BIOSANTE PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation)

001-31812

(Commission File Number)

58-2301143

(I.R.S. Employer Identification
Number)

**111 Barclay Boulevard
Lincolnshire, Illinois**

(Address of principal executive offices)

60069

(Zip Code)

Registrant's telephone number, including area code: **(847) 478-0500**

N/A

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

On October 14, 2009, BioSante Pharmaceuticals, Inc. ("BioSante") completed its previously announced acquisition of Cell Genesys, Inc. ("Cell Genesys"). Pursuant to the terms of an agreement and plan of merger dated as of June 29, 2009 between BioSante and Cell Genesys (the "Merger Agreement"), Cell Genesys merged with and into BioSante, with BioSante continuing as the surviving company (the "Merger").

In connection with the completion of the Merger, on October 14, 2009, BioSante entered into supplemental indentures to the indentures governing Cell Genesys's 3.125% convertible senior notes due 2011 and 2013, respectively, with U.S. Bank National Association, as trustee. Under the terms of the indentures, as supplemented by the supplemental indentures, the obligations of Cell Genesys under the notes were assumed by BioSante and the notes became unsecured senior indebtedness of BioSante bearing interest at the rate of 3.125% per annum. Interest on the notes is payable semi-annually in arrears on May 1 and November 1 of each year. The maturity date of the 3.125% convertible senior notes due 2011 is November 1, 2011. The maturity date of the 3.125% convertible senior notes due 2013 is May 1, 2013. At maturity, BioSante will be required to repay the outstanding principal of the convertible notes and any accrued and unpaid interest thereon. As of October 14, 2009, the aggregate outstanding principal amount of the 3.125% convertible senior notes due 2011 was \$1.2 million and the aggregate outstanding principal amount of the 3.125% convertible senior notes due 2013 was \$20.8 million.

On and after the effective time of the Merger, these convertible notes were no longer convertible into shares of Cell Genesys common stock but became convertible into shares of BioSante common stock in accordance with the terms of the indentures, based on the final exchange ratio used in the Merger of 0.1828 of a share of BioSante common stock for each share of Cell Genesys common stock. Prior to the Merger, the outstanding 3.125% convertible senior notes due in November 2011 and 3.125% convertible senior notes due in May 2013 were convertible into 135,604 shares of Cell Genesys common stock and into 30,563,235 shares of Cell Genesys common stock, respectively. At the effective time of the Merger, the 3.125% convertible senior notes due in November 2011 and 3.125% convertible senior notes due in May 2013 became convertible into 24,788 shares of BioSante common stock and 5,586,959 shares of BioSante common stock, respectively. Correspondingly, the 3.125% convertible senior notes due in November 2011 and 3.125% convertible senior notes due in May 2013, which were convertible into shares of Cell Genesys common stock at a conversion price of \$9.10 and \$0.68, respectively, immediately prior to the Merger, became convertible into shares of BioSante common stock at a conversion price of \$49.78 and \$3.72, respectively, at the effective time of the Merger.

The foregoing descriptions of the supplemental indentures and the indentures do not purport to be complete and are qualified in their entirety by reference to the supplemental indentures and the indentures, which are filed as Exhibits 4.1, 4.2, 4.3 and 4.4 to this Current Report on Form 8-K, respectively, and are

incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On October 14, 2009, BioSante completed its previously announced acquisition of Cell Genesys. Pursuant to the terms of the Merger Agreement, Cell Genesys merged with and into BioSante, with BioSante continuing as the surviving company. The Merger Agreement and the transactions contemplated thereby, including the Merger, were approved by the board of directors and stockholders of each of BioSante and Cell Genesys. The stockholders of BioSante and Cell Genesys approved the Merger Agreement and the transactions contemplated thereby, including the Merger and, in the case of the BioSante stockholders, the issuance of shares of BioSante common stock in the Merger, at respective

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special meetings of the stockholders held on September 30, 2009, in the case of the BioSante special meeting, and October 14, 2009, in the case of the Cell Genesys special meeting.

Subject to the terms and conditions of the Merger Agreement, at the effective time of and as a result of the Merger, each share of common stock of Cell Genesys issued and outstanding immediately prior to the effective time of the Merger was converted into the right to receive 0.1828 of a share of BioSante common stock (the "Exchange Ratio"). No fractional shares of BioSante common stock were issued in connection with the Merger, and holders of Cell Genesys common stock are entitled to receive cash in lieu thereof.

In addition, under the terms of the Merger Agreement, all options to purchase shares of Cell Genesys common stock, other than certain designated options held by Cell Genesys's current officers (the "Specified Company Stock Options"), became fully vested and exercisable until immediately prior to the effective time of the Merger. Upon the effective time of the Merger, such unexercised options other than the Specified Company Stock Options terminated. The Specified Company Stock Options were assumed by BioSante and will remain outstanding following the Merger, but converted into and became options to purchase shares of BioSante common stock on terms substantially identical to those in effect prior to the Merger, except for adjustments to the underlying number of shares and the exercise price based on the Exchange Ratio. All warrants to purchase shares of Cell Genesys common stock which by their terms survived the Merger were assumed by BioSante, but were converted into and became warrants to purchase shares of BioSante common stock on terms substantially identical to those in effect prior to the Merger, except for adjustments to the underlying number of shares and the exercise price based on the Exchange Ratio. In addition, as described in more detail under Item 1.01 above and Item 2.03 below, as a result of the Merger, BioSante assumed \$1.2 million in principal amount of 3.125% convertible senior notes due in November 2011 and \$20.8 million in principal amount of 3.125% convertible senior notes due in May 2013 issued by Cell Genesys. Such notes became convertible into shares of BioSante common stock as a result of the Merger in accordance with the terms of the indentures governing such notes as supplemented by supplemental indentures entered in to between BioSante and the trustees thereunder, as described in Item 1.01 above.

In the aggregate, BioSante issued approximately 20.2 million shares of its common stock to former Cell Genesys stockholders in connection with the Merger. The issuance of BioSante common stock to the Cell Genesys stockholders in connection with the Merger was registered under the Securities Act of 1933, as amended, pursuant to a registration statement on Form S-4 (File No. 333-161181), initially filed by BioSante with the Securities and Exchange Commission on August 7, 2009 and declared effective on August 21, 2009. BioSante's Form S-4 registration statement, including the joint proxy statement/prospectus included therein, contains additional information about the Merger and the related transactions.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

As described in more detail above under Item 1.01 and Item 2.01 of this Current Report on Form 8-K, which descriptions are incorporated herein by reference, as a result of the Merger, BioSante assumed \$1.2 million in principal amount of 3.125% convertible senior notes due in November 2011 and \$20.8 million in principal amount of 3.125% convertible senior notes due in May 2013. Such notes:

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- mature on November 1, 2011, in the case of the 3.125% convertible senior notes due in November 2011 and mature on May 1, 2013 in the case of 3.125% convertible senior notes due in May 2013;
- accrue interest at the rate of 3.125% per annum, which interest is payable on May 1 and November 1 of each year through maturity;
- are BioSante's general, unsecured obligations, ranking equally with all of BioSante's existing and future unsecured and senior in right of payment to any subordinated indebtedness, but are effectively subordinated to all of BioSante's existing and future secured indebtedness to the extent of the value of the related security, and structurally subordinated to all existing and future liabilities and other indebtedness of BioSante's subsidiaries;
- are convertible, at each holder's option and at any time prior to the close of business on the business day prior to November 1, 2011, in the case of the convertible notes due in 2011, or May 1, 2013, in the case of the convertible notes due in 2013, into BioSante's common stock at an initial conversion price of \$49.78 and \$3.72, respectively;
- are subject to repurchase by BioSante at each holder's option, if a fundamental change (as defined in the indentures), occurs, at a repurchase price equal to 100% of the principal amount of the convertible notes, plus accrued and unpaid interest (and additional amounts, if any) to, but not including, the repurchase date; and
- are subject to redemption for cash by BioSante at any time in the case of the convertible notes due in 2011 and at any time on or after May 1, 2011, in the case of the convertible notes due in 2013, in whole or in part, at a redemption price equal to 100% of the principal amount of such notes if the closing price of BioSante's common stock has exceeded 150% of the conversion price then in effect with respect to such notes for at least 20 trading days in any period of 30 consecutive trading days ending on the trading day prior to the mailing of the notice of redemption.

The indentures do not contain any financial covenants and do not restrict BioSante or its subsidiaries from paying dividends, incurring additional debt or issuing or repurchasing BioSante's other securities. In addition, the indentures do not protect the note holders in the event of a highly leveraged transaction or a fundamental change of BioSante except in certain circumstances specified in the indentures.

No sinking fund is provided for the convertible notes. The convertible notes are not subject to defeasance. The convertible notes are issued only in registered form in denominations of \$1,000 and any integral multiple of \$1,000 above that amount. No service charge will be made for any registration of transfer or exchange of convertible notes, but BioSante may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

BioSante will not issue fractional shares of common stock upon conversion of the convertible notes. Instead, BioSante will pay cash to the holders in an amount equal to the market value of that fractional share based upon the closing sale price of BioSante's common stock on the trading day immediately preceding the conversion date. The holders may convert their convertible notes only in denominations of \$1,000 and integral multiples of \$1,000. The issuance and delivery of any shares of BioSante common stock upon the conversion of the notes by a holder of the convertible notes due in 2013

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will be limited so that such holder would not become a beneficial owner of more than 19.9% of the shares of BioSante common stock outstanding at the time, subject to certain exceptions.

If there is an event of default (as defined in the indentures) with respect to the convertible notes due in 2011 and the convertible notes due in 2013, respectively, the principal of and premium, if any, on such convertible notes and the interest accrued thereon may be declared immediately due and payable, subject to certain conditions set forth in each of the indentures. Each of the following is an event of default under the indenture with respect to the convertible notes subject thereto:

- BioSante's failure to pay when due the principal of any of the convertible notes at maturity, upon redemption or exercise of a repurchase right or otherwise;
- BioSante's failure to pay an installment of interest (including additional amounts, if any) on any of the convertible notes for 30 days after the date when due;
- BioSante's failure to perform or observe any other term, covenant or agreement contained in the convertible notes or the indentures for a period of 60 days after written notice of such failure, requiring BioSante to remedy the same, shall have been given to BioSante by the trustee or to BioSante and the trustee by the holders of at least 25% in aggregate principal amount of the convertible notes then outstanding;
- a default under any indebtedness for money borrowed by BioSante or any of its subsidiaries that is a "significant subsidiary" (as defined in Rule 405 of the Securities Act of 1933, as amended) the aggregate outstanding principal amount of which is in an amount in excess of \$10.0 million, for a period of 30 days after written notice to BioSante by the trustee or to BioSante and the trustee by holders of at least 25% in aggregate principal amount of the convertible notes then outstanding, which default (a) is caused by a failure to pay principal or interest when due on such indebtedness by the end of the applicable grace period, if any, unless such indebtedness is discharged; or (b) results in the acceleration of such indebtedness, unless such acceleration is waived, cured, rescinded or annulled or such indebtedness is discharged; and
- certain events of bankruptcy, insolvency or reorganization with respect to BioSante or any of its subsidiaries that is a significant subsidiary.

The foregoing descriptions of the supplemental indentures and the indentures do not purport to be complete and are qualified in their entirety by reference to the supplemental indentures and the indentures, which are filed as Exhibits 4.1, 4.2, 4.3 and 4.4 to this Current Report on Form 8-K, respectively, and are incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(d) Pursuant to the terms of the Merger Agreement and as a result of and by virtue of the Merger, Stephen A. Sherwin, M.D. and John T. Potts, Jr., M.D., both former directors of Cell Genesys, joined the Board of Directors of BioSante at the effective time of the Merger. Neither Dr. Sherwin nor Dr. Potts serves on any of BioSante's board committees.

Dr. Sherwin joined Cell Genesys in March 1990. Dr. Sherwin served as chief executive officer since Cell Genesys's inception, and in March 1994 he was elected to the additional position of chairman of the board of directors. From 1983 to 1990, Dr. Sherwin held various positions at Genentech, Inc., a

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biotechnology company, most recently as vice president of clinical research. Prior to 1983, Dr. Sherwin was on the staff of the National Cancer Institute. Dr. Sherwin currently serves as the chairman of the board of Ceregene, Inc., a former subsidiary of Cell Genesys, which he co-founded in 2001. Dr. Sherwin was also a co-founder of Abgenix, Inc, another former subsidiary of Cell Genesys, which was acquired by Amgen in 2006. He is also a director of Neurocrine Biosciences, Inc. and Rigel Pharmaceuticals, Inc. Dr. Sherwin, who also serves as a board member and vice chair for health care of the Biotechnology Industry Organization, holds a B.A. in biology from Yale University, an M.D. from Harvard Medical School and is board-certified in internal medicine and medical oncology.

Dr. Potts served as a director of Cell Genesys since May 1997. His career spans more than 40 years of service in science and medicine. Dr. Potts is currently the Jackson Distinguished Professor of Clinical Medicine at Harvard Medical School. After medical training at the University of Pennsylvania, he did his internship and residency at Massachusetts General Hospital (MGH) from 1957 to 1959, then went to the National Institutes of Health (NIH) to work with Nobel laureate Christian Anfinsen in protein chemistry. Dr. Potts remained at the NIH from 1959 to 1968, when he returned to the MGH as chief of endocrinology. He served as chairman of the Department of Medicine and physician-in-chief from 1981 to 1996. In his role as director of research from 1995 to 2004, Dr. Potts was responsible for developing policies and strategies for preserving and strengthening the extensive scientific research effort at MGH, an endeavor which he continues to the present. The author or co-author of more than 500 scientific publications, he is a member of the National Academy of Sciences, the Institute of Medicine, and the American Academy of Arts and Sciences. Dr. Potts is a director of ReceptorBase, Inc. and Zeltiq Aesthetics, a founder of Radius Health, Inc., and a member of the Scientific Advisory Boards of MPM Capital and HealthCare Ventures, as well as the Medical Advisory Board of Cell Genesys.

As non-employee directors, each of Dr. Sherwin and Dr. Potts will be paid an annual cash retainer of \$18,000, paid on a quarterly basis. BioSante also pays each of its non-employee directors an additional cash fee of \$1,800 for each board meeting attended in person and \$900 for each board meeting attended via

telephone and each board committee meeting attended in person or via telephone. From time to time, BioSante grants options to purchase shares of BioSante common stock to its non-employee directors. Effective upon completion of the Merger, Dr. Sherwin and Dr. Potts each were granted an option to purchase 15,000 shares of BioSante common stock, each such option to vest or become exercisable (on a cumulative basis) in four equal (or as nearly equal as possible) yearly installments, with the first installment becoming exercisable on the one-year anniversary of the grant date, assuming Dr. Sherwin and Dr. Potts remain as directors of BioSante as of such dates.

BioSante enters into agreements with all of its directors under which it is required to indemnify them against expenses, judgments, penalties, fines, settlements and other amounts actually and reasonably incurred, including expenses of a derivative action, in connection with an actual or threatened proceeding if any of them may be made a party because he or she is or was one of BioSante's directors. BioSante will be obligated to pay these amounts only if the director acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to BioSante's best interests. With respect to any criminal proceeding, BioSante will be obligated to pay these amounts only if the director had no reasonable cause to believe his or her conduct was unlawful. The indemnification agreements also set forth procedures that will apply in the event of a claim for indemnification.

Other than pursuant to the terms of the Merger Agreement, which was previously reported and described in BioSante's registration statement on Form S-4 (File No. 333-161181), which became effective on August 21, 2009, there is no arrangement or understanding between Dr. Sherwin or Dr. Potts and any other persons pursuant to which such individual was selected as a director of BioSante. Other than as previously reported and described in BioSante's Form S-4 registration statement, there has been no transaction, or proposed transaction, since January 1, 2009 to which Dr. Sherwin or Dr. Potts or any

member of his immediate family had or is to have a direct or indirect material interest or any other related transaction with BioSante within the meaning of Item 404(a) of Regulation S-K under the Securities Exchange Act of 1934. In addition, there is no family relationship between Dr. Sherwin or Dr. Potts, on the one hand, and any of BioSante's other directors, executive officers or persons nominated or chosen by BioSante to become directors or executive officers, on the other hand.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

On October 14, 2009, BioSante's certificate of incorporation was amended to increase the total number of shares of BioSante common stock that BioSante is authorized to issue from 100 million to 200 million and to increase the total number of shares of BioSante capital stock that BioSante is authorized to issue by 100 million, to reflect the increase in the authorized BioSante common stock. The charter amendment was previously approved by BioSante's board of directors on June 29, 2009 and by BioSante's stockholders at a special meeting of stockholders held on September 30, 2009. Immediately after the filing of the charter amendment, BioSante's certificate was restated in its entirety to reflect such amendment and all previous amendments. A copy of BioSante's restated certificate of incorporation is attached as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On October 14, 2009, BioSante issued a news release announcing the completion of the Merger. A copy of the news release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information contained in this Item 7.01 and Exhibit 99.1 to this report shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any filings made by BioSante under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except as may be expressly set forth by specific reference in such filing.

Item 9.01 Financial Statements and Exhibits.

(a) *Financial Statements of Businesses Acquired.* The financial statements required by Rule 3-05 of Regulation S-X were previously reported in BioSante's registration statement on Form S-4 (File No. 333-161181), which became effective on August 21, 2009, and pursuant to General Instruction B.3 of Form 8-K are not additionally reported herein.

(b) *Pro Forma Financial Information.* The pro forma financial statements required by Article 11 of Regulation S-X were previously reported in BioSante's registration statement on Form S-4 (File No. 333-161181), which became effective on August 21, 2009, and pursuant to General Instruction B.3 of Form 8-K are not additionally reported herein.

(c) *Shell Company Transactions.* Not applicable.

(d) *Exhibits.*

Exhibit No.	Description	Method of Filing
2.1	Agreement and Plan of Merger dated as of June 29, 2009 by and between BioSante Pharmaceuticals, Inc. and Cell Genesys, Inc.*	Incorporated by reference to Exhibit 2.1 to BioSante's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 30, 2009
3.1	Restated Certificate of Incorporation of BioSante Pharmaceuticals, Inc.	Filed herewith
4.1	Supplemental Indenture dated as of October 14, 2009 to Indenture dated as of October 20, 2004, by and between BioSante Pharmaceuticals, Inc. and U.S. Bank National Association, Relating to Cell Genesys, Inc. 3.125% Convertible Senior Subordinated Notes due 2011	Filed herewith
4.2	Supplemental Indenture dated as of October 14, 2009 to Indenture dated as of June 24, 2009, by and between BioSante Pharmaceuticals, Inc. and U.S. Bank National Association, Relating to Cell Genesys, Inc. 3.125% Convertible Senior Subordinated Notes due 2013	Filed herewith
4.3	Indenture, dated as of June 24, 2009, between Cell Genesys, Inc. and U.S. Bank National Association, as trustee	Incorporated by reference to Exhibit 4.1 to Cell Genesys's Current Report on Form 8-K filed

- 4.4 Indenture, dated as of October 20, 2004, between Cell Genesys, Inc. and U.S. Bank National Association, as trustee
- 99.1 News release issued by BioSante Pharmaceuticals, Inc. on October 14, 2009

with the Securities and Exchange Commission on June 29, 2009
 Incorporated by reference to Exhibit 4.1 to Cell Genesys's Registration Statement on Form S-3 filed with the Securities and Exchange Commission on December 29, 2004
 Furnished herewith

* All exhibits and schedules to this exhibit have been omitted pursuant to Item 601(b)(2) of Regulation S-K. BioSante will furnish the omitted exhibits and schedules to the Securities and Exchange Commission upon request by the Securities and Exchange Commission.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BIOSANTE PHARMACEUTICALS, INC.

By: /s/ Phillip B. Donenberg
 Phillip B. Donenberg
Chief Financial Officer, Treasurer and Secretary

Dated: October 14, 2009

BIOSANTE PHARMACEUTICALS, INC.

CURRENT REPORT ON FORM 8-K

Exhibit Index

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4.2	Supplemental Indenture dated as of October 14, 2009 to Indenture dated as of June 24, 2009, by and between BioSante Pharmaceuticals, Inc. and U.S. Bank National Association, Relating to Cell Genesys, Inc. 3.125% Convertible Senior Subordinated Notes due 2013	Filed herewith
4.3	Indenture, dated as of June 24, 2009, between Cell Genesys, Inc. and U.S. Bank National Association, as trustee	Incorporated by reference to Exhibit 4.1 to Cell Genesys's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 29, 2009
4.4	Indenture, dated as of October 20, 2004, between Cell Genesys, Inc. and U.S. Bank National Association, as trustee	Incorporated by reference to Exhibit 4.1 to Cell Genesys's Registration Statement on Form S-3 filed with the Securities and Exchange Commission on December 29, 2004
99.1	News release issued by BioSante Pharmaceuticals, Inc. on October 14, 2009	Furnished herewith

* All exhibits and schedules to this exhibit have been omitted pursuant to Item 601(b)(2) of Regulation S-K. BioSante will furnish the omitted exhibits and schedules to the Securities and Exchange Commission upon request by the Securities and Exchange Commission.

**RESTATED CERTIFICATE OF INCORPORATION
OF
BIOSANTE PHARMACEUTICALS, INC.**

(Pursuant to Section 245 of the General Corporation Law of the State of Delaware)

BioSante Pharmaceuticals, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "General Corporation Law"),

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is BioSante Pharmaceuticals, Inc. (the "Corporation") and that the Corporation was originally incorporated pursuant to the General Corporation Law on April 11, 2001.

SECOND: That the Corporation's Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Corporation's Certificate of Incorporation as theretofore amended or supplemented, and there is no discrepancy between those provisions in the Corporation's Certificate of Incorporation, as theretofore amended or supplemented, and the provisions of the Corporation's Restated Certificate of Incorporation.

THIRD: That the Board of Directors duly adopted resolutions approving the restatement and integration of the Corporation's Certificate of Incorporation, as theretofore amended or supplemented, pursuant to Section 245 of the General Corporation Law, declaring said restatement and integration to be advisable and in the best interests of the Corporation and its stockholders, which resolution setting forth the proposed restatement and integration is as follows:

RESOLVED, that the Certificate of Incorporation of the Corporation be restated and integrated in its entirety as follows:

ARTICLE I

The name of the Corporation is BioSante Pharmaceuticals, Inc.

ARTICLE II

The address of its registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington, 19801, County of New Castle. The name of its registered agent is The Corporation Trust Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation law of Delaware (the "DGCL").

ARTICLE IV

The aggregate number of shares of stock which the Corporation shall have authority to issue is Two Hundred Fourteen Million Six Hundred Eighty-Seven Thousand Six Hundred Eighty-Four (214,687,684) shares, consisting of Two Hundred Million (200,000,000) shares of common stock, \$0.0001 par value (the "Common Stock"), Four Million Six Hundred Eighty-Seven Thousand Six Hundred Eighty-Four (4,687,684) shares of class C special stock, \$0.0001 par value (the "Class C Special Stock"), and Ten Million (10,000,000) shares of preferred stock, \$0.0001 par value (the "Preferred Stock"). Shares of Preferred Stock of the Corporation may be issued from time to time in one or more series, each of which series shall have such distinctive designation or title and such number of shares as shall be fixed by the Board of Directors prior to the issuance of any shares thereof. Each such series of Preferred Stock shall have such voting powers, full or limited, or no voting powers, and such preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions providing for the issue of such series of Preferred Stock as may be adopted from time to time by the Board of Directors prior to the issuance of any shares thereof pursuant to the authority hereby expressly vested in it. The Board of Directors is further authorized to increase or decrease (but not below the number of shares then outstanding) the number of shares of any series of Preferred Stock subsequent to the issuance of shares of that series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status of which they had prior to the adoption of the resolution originally fixing the number of shares of such series. Except as provided in the resolution or resolutions of the Board of Directors creating any series of Preferred Stock and in Section 2 of this Article IV, the shares of Common Stock shall have the exclusive right to vote for the election and removal of directors and for all other purposes.

Effective upon the later of (i) the filing with the Secretary of State of the State of Delaware of this Certificate of Amendment or (ii) 6:00 p.m., Eastern Daylight Savings Time, on May 31, 2002 (the "Effective Date"), each ten (10) shares of common stock, par value \$0.0001 per share, of the Corporation issued and outstanding immediately prior to the Effective Date, shall automatically be reclassified, without any action on the part of the holder thereof, into one fully paid and nonassessable share of common stock, par value \$0.0001 per share, and each ten (10) shares of class C special stock, par value \$0.0001 per share, of the Corporation issued and outstanding immediately prior to the Effective Date, shall automatically be reclassified, without any action on the part of the holder thereof, into one fully paid and nonassessable share of class C special stock, par value \$0.0001 per share (the "Reverse Split"). The Corporation shall not issue fractional shares to the stockholders entitled to a fractional interest in a share of common stock or class C special stock issued pursuant to the Reverse Split. In lieu of any fractional share of common stock to which a stockholder would otherwise be entitled as a result of the Reverse Split, the Corporation shall pay a cash amount equal to the fair value of the fractional share of common stock as of the Effective Date of the Reverse Split which shall be equal to a proportionate interest of the value of a whole share based on the closing sale price of the common stock on the Over-the-Counter Bulletin Board on the Effective Date. In lieu of any fractional share of class C special stock to which a stockholder would otherwise be entitled as a result of the Reverse Split, the Corporation shall pay a cash amount equal to the fair value of the fractional share of class C special stock as of the Effective Date of the Reverse Split which shall be equal to a proportionate interest of the value of a whole share based on the closing sale price

The relative rights, preferences and privileges of the Common Stock and the Class C Special Stock shall be as follows:

1. Dividend Rights

(a) Dividend Rights of Common Stock

The holders of the Common Stock, shall be entitled to receive dividends as and when declared by the directors from time to time out of moneys of the Corporation properly applicable to the payment of dividends and the amount per share of each such dividend shall be determined by the directors of the Corporation at the time of declaration.

(b) Dividend Rights of Class C Special Stock

The holders of the Class C Special Stock shall not be entitled to receive any dividends.

2. Voting Rights

(a) Voting of Common Stock

Subject to the provisions of the DGCL, the holders of the Common Stock shall be entitled to receive notice of and to attend all meetings of the stockholders of the Corporation and shall be entitled to vote at all meetings of stockholders, except meetings at which only holders of another class of shares are entitled to vote. Each share of Common Stock shall entitle the holder thereof to one vote.

(b) Voting of Class C Special Stock

Subject to the provisions of the DGCL, the holders of the Class C Special Stock shall be entitled to receive notice of and to attend all meetings of the stockholders of the Corporation and shall be entitled to vote at all meetings of stockholders, except meetings at which only holders of another class of shares are entitled to vote. Each Class C share shall entitle the holder thereof to one vote.

3. Purchase Rights

(a) Common Stock Purchase Rights of Class C Special Stock

A holder of Class C Special Stock shall be entitled, in accordance with the provisions hereof, to acquire Common Stock of the Corporation as the same may then be constituted by tendering any of the Class C Special

Stock held and registered in such holder's name together with \$2.50 per share as a result of the Reverse Split (the "Common Stock Purchase Price") on the basis of one Common Stock for each share of Class C Special Stock and \$2.50 as a result of the Reverse Split. The purchase right herein provided shall be exercised by notice in writing given to the Corporation which notice shall specify the number of shares of Class C Special Stock that the holder desires to have applied to the purchase price of Common Stock. If any shares of Class C Special Stock are applied to the purchase of Common Stock pursuant to this paragraph, the holder of such shares of Class C Special Stock shall surrender the certificate or certificates representing the shares of Class C Special Stock so applied to the registered office of the Corporation, or to the transfer agent of the Corporation at the time of purchase together with cash or a certified cheque in the amount of \$2.50 per share of Common Stock being acquired, and the Corporation shall thereupon issue to such holder certificates representing the number of shares of Common Stock to which the holder became entitled upon such purchase.

4. Adjustment of Purchase Rights and Conversion Rights

(a) In case of any reclassification or redesignation of the Common Stock (hereinafter referred to in this subsection 4(a) as the "Shares") or change of the Shares into other shares, or in case of the consolidation, amalgamation or merger of the Corporation with or into any other body corporate (other than a consolidation, amalgamation or merger which does not result in any reclassification or redesignation of the outstanding Shares or a change of the Shares into other shares), or in the case of any transfer of the undertaking or assets of the Corporation as an entirety or substantially as an entirety to another corporation, the holder of any shares of Class C Special Stock who thereafter shall exercise such holder's right to purchase Shares pursuant to Section 3 hereof shall be entitled to receive, and shall accept, in lieu of the number of Shares to which such holder was theretofore entitled upon such exercise of such right to purchase or convert, as the case may be, the kind and amount of Shares which such holder would have been entitled to receive as a result of such reclassification, redesignation, change, consolidation, amalgamation, merger or transfer if, on the effective date thereof, such holder had been the registered holder of the number of Shares to which such holder was theretofore entitled upon exercising such holder's right to purchase or convert, as the case may be. The subdivision or consolidation of Shares at anytime outstanding into a greater or lesser number of Shares shall be deemed not to be a reclassification of the capital of the Corporation for the purposes of this paragraph 4(a).

(b) If and whenever the Shares shall be subdivided into a greater or consolidated into a lesser number of Shares, or the Corporation shall issue Shares (or securities exchangeable for or convertible into Shares) to the

holders of all or substantially all of the outstanding Shares by way of a dividend or other distribution of Shares (or securities exchangeable for or convertible into Shares), any holder of shares of Class C Special Stock who has not exercised such holder's right of purchase pursuant to Section 3 hereof on or prior to the effective date or record date, as the case may be of such subdivision, consolidation, dividend or other distribution, upon the exercise of such right thereafter, shall be entitled to receive, and shall accept, in lieu of the number of Shares to which such holder was theretofore entitled upon such exercise of such right to purchase or convert (and,

in the case of a purchase of Shares pursuant to Section 3 hereto, at the Common Stock Purchase Price adjusted in accordance with subsection 5(a) hereof), the aggregate number of Shares that such holder would have been entitled to receive as a result of such subdivision, consolidation, dividend or other distribution as if, on such record date or effective date, as the case may be, such holder had been the registered holder of the number of Shares to which such holder was theretofore entitled upon such exercise of such right to purchase or convert, as the case may be.

5. Adjustment of Purchase Price

If the Corporation shall:

- (a) subdivide its outstanding Common Stock (hereinafter referred to in this paragraph 5 as the “Shares”) into a greater number of shares,
- (b) consolidate the outstanding Shares into a lesser number of shares, or
- (c) issue Shares or securities exchangeable for or convertible into Shares (“convertible securities”) to the holders of all or substantially all of the outstanding Shares by way of a dividend or distribution of Shares or securities convertible into Shares (other than the issue of Shares or convertible securities as dividends paid in the ordinary course),

the Common Stock Purchase Price shall, on the effective date of such subdivision or consolidation or on the record date of such dividend or other distribution, as the case may be, be adjusted by multiplying the Common Stock Purchase Price in effect immediately prior to such subdivision, consolidation, dividend or other distribution by a fraction, the numerator of which is the number of outstanding Shares before giving effect to such subdivision, consolidation or stock dividend and the denominator of which is the number of outstanding Shares after giving effect to such subdivision, consolidation, dividend or other distribution (including in the case where convertible securities are distributed, the number of Shares that would have been outstanding had such securities been exchanged for or converted into Shares on such record date). Such

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adjustment shall be made successively whenever any event referred to in this Section 5 shall occur.

6. Distribution Rights on Liquidation

If the Corporation is liquidated, dissolved or wound-up or its assets are otherwise distributed among the stockholders by way of repayment of capital, whether voluntary or involuntary and subject to the rights, privileges, and conditions attaching to any series of preference shares of the Corporation:

- (a) the holders of the Common Stock shall be entitled to share, equally share for share, in the distribution of the remaining assets of the Corporation; and
- (b) the holders of the Class C Special Stock shall not be entitled to share in the remaining assets of the Corporation.

ARTICLE V

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the Corporation, subject to the voting rights of any series of Preferred Stock.

ARTICLE VI

The Corporation shall indemnify, to the fullest extent authorized or permitted by law, as the same exists or may hereafter be amended, any person who was or is made or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that such person is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of any other company, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise; provided, however, that the Corporation shall not indemnify any director or officer in connection with any action by such director or officer against the Corporation unless the Corporation shall have consented to such action. The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification to employees and agents of the Corporation similar to those conferred in this Article VI to directors and officers of the Corporation. No amendment or repeal of this Article VI shall apply to or have any effect on any right to indemnification provided hereunder with respect to any acts or omission occurring prior to such amendment or repeal.

ARTICLE VII

No director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty by such a director as a director, except to the extent provided by applicable law (i) for any breach of the director’s duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174

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of the General Corporation Law of Delaware, or (iv) for any transaction from which such director derived an improper personal benefit. If the General Corporation Law of Delaware is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of Delaware as so amended. No amendment to or repeal of this Article VII shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

ARTICLE VIII

The Corporation reserves the right to amend, alter, change, or repeal any provisions contained in this Certificate of Incorporation in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE IX

Elections of directors need not be by written ballot unless the bylaws of the Corporation shall so provide.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been executed by a duly authorized officer of this Corporation on this 14th day of October, 2009.

BIOSANTE PHARMACEUTICALS, INC.

By: /s/ Stephen M. Simes

Stephen M. Simes

Its: President and Chief Executive Officer

BIOSANTE PHARMACEUTICALS, INC.,

and

U.S. BANK NATIONAL ASSOCIATION,
Trustee

SUPPLEMENTAL INDENTURE

Dated as of October 14, 2009

To

INDENTURE

Dated as of October 20, 2004

Relating to

Cell Genesys, Inc.

3.125% Convertible Senior Subordinated Notes due 2011

SUPPLEMENTAL INDENTURE

This SUPPLEMENTAL INDENTURE, dated as of the 14th day of October, 2009, is by and between BIOSANTE PHARMACEUTICALS, INC., a Delaware corporation ("BioSante") and U.S. BANK NATIONAL ASSOCIATION, as trustee under the Indenture referred to below (the "Trustee").

WITNESSETH:

WHEREAS, Cell Genesys, Inc., a Delaware corporation (the "Company") and the Trustee are parties to that certain Indenture dated as of October 20, 2004 (as amended, modified and supplemented from time to time, the "Indenture"), pursuant to which the Company issued its 3.125% Convertible Senior Notes due 2011 (the "Securities");

WHEREAS, BioSante and the Company have entered into an Agreement and Plan of Merger dated as of June 29, 2009 (the "Merger Agreement"), pursuant to which the Company will merge with and into BioSante and BioSante will continue as the surviving corporation (the "Merger");

WHEREAS, pursuant to the Merger Agreement, each share of the Company's common stock outstanding immediately prior to the effective time of the consummation of the Merger (the effective time of the consummation of the Merger, herein the "Effective Time") will be converted into the right to receive 0.1828 of a share of common stock of BioSante;

WHEREAS, Section 5.1 of the Indenture provides that the Company shall not merge with another corporation unless certain conditions specified therein are satisfied, including, inter alia, that any resulting successor corporation be organized under the laws of the United States or any State thereof and shall expressly assume, by an indenture supplemental to the Indenture, all of the obligations of the Company under the Securities and the Indenture;

WHEREAS, Section 9.4 of the Indenture provides, inter alia, that if there occurs a merger of the Company with another person, as a result of which holders of the Company's common stock shall receive stock or other property in exchange for such Company common stock, then the Company, or the successor corporation, and the Trustee shall execute a supplemental indenture providing that the Securities shall be convertible into the kind and amount of shares of stock or other property which the Holder of such Securities would have been entitled to receive upon such merger had such Securities been converted into common stock of the Company immediately prior to such merger;

WHEREAS, Sections 8.1(c),(d) and (h) of the Indenture authorizes the Company and the Trustee without the consent of the Holders to: (i) provide for conversion rights of Holders of Securities if, inter alia, any merger occurs; (ii) provide for the assumption of the Company's obligations to the Holders of Securities in the case, inter alia, of a merger pursuant to Article V of the Indenture; and (iii) add or modify any other provisions of the Indenture with respect to matters or questions arising thereunder which the Company and the Trustee may deem necessary or desirable and that will not, in the good faith opinion of the Board of Directors of BioSante (as evidenced by a Board Resolution), adversely affect the interests of the Holders of Securities;

WHEREAS, BioSante and the Trustee desire to execute a supplemental indenture that complies with Section 8.1 of the Indenture and implements the provisions of Sections 5.1 and 9.4 referenced above;

WHEREAS, all acts and things necessary to make this Supplemental Indenture a valid and binding agreement for the purposes and objects herein expressed have been duly done and performed, and the execution of this Supplemental Indenture has been in all respects, duly authorized; and

WHEREAS, capitalized terms not otherwise specifically defined herein are defined as provided in the Indenture;

NOW, THEREFORE, in consideration of the foregoing premises and of other good and valuable consideration, the receipt and validity of which are hereby acknowledged, BioSante hereby covenants and agrees with the Trustee, for the equal and proportionate benefit of the respective Holders from time to time of the

Securities, as follows:

ARTICLE I

AMENDMENTS TO THE INDENTURE

On the terms and subject to the conditions set forth herein, the Indenture is amended as follows:

(a) Section 11.2 of the Indenture is hereby amended by replacing the provision relating to the address, telephone, facsimile and e-mail for notice to the Company and its counsel, to provide as follows:

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“If to the Company:

BioSante Pharmaceuticals, Inc.
111 Barclay Boulevard
Lincolnshire, Illinois 60069
Attention : Stephen M. Simes - Vice Chairman, President and Chief Executive Officer
Telephone : (847) 478-0500
Facsimile: (847) 478-9260
E-mail: ssimes@biosantepharma.com

With a copy to:

Oppenheimer Wolff & Donnelly LLP
Plaza VII, 45 South Seventh Street
Suite 3300
Minneapolis, MN 55402-1609
Attention: Amy Culbert
Telephone: (612) 607-7287
Facsimile: (612) 607-7100
E-mail: aculbert@oppenheimer.com”

(b) Based on the final exchange ratio in the Merger of 0.1828 shares of common stock of BioSante for each share of common stock of the Company, the table set forth in Section 9.1(b) of the Indenture and all of the provisions of such Section 9.1(b) following such table are hereby replaced in their entirety to provide as follows:

Stock Price	\$ 38.29	\$ 46.50	\$ 54.70	\$ 62.91	\$ 71.16	\$ 79.32	\$ 87.53	\$ 95.73	\$ 103.94	\$ 112.14	\$ 120.35	\$ 128.56
Effective Date												
November 1, 2008	5.83	3.54	2.16	1.36	0.88	0.60	0.40	0.29	0.22	0.17	0.14	0.00
November 1, 2009	5.90	3.31	1.79	0.82	0.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00
November 1, 2010	5.84	2.97	1.46	0.63	0.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00
November 1, 2011	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

If the Stock Price and Effective Date are not set forth on the table above and the Stock Price is:

(A) between two Stock Prices on the table or the Effective Date is between two dates on the table, the number of shares of Additional Common Stock will be determined by straight-line interpolation between the number of shares of Additional Common Stock set forth for the higher and lower Stock Price and the two Effective Dates, as applicable, based on a 360-day year;

(B) in excess of \$128.56 per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion; or

(C) less than \$38.29 per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion exceed 25.92 per \$1,000 of aggregate principal amount of Securities, subject to adjustments in the same manner as the Conversion Price in Section 9.3.

(c) Section 9.3(m) of the Indenture is hereby amended by replacing the reference to “\$7.00” with “\$38.29”.

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ARTICLE II

ASSUMPTION OF INDENTURE AND SECURITIES

As of the Effective Time, concurrently with the Merger, BioSante does hereby assume the due and punctual payment of all amounts payable on the Securities, according to their terms, and subject to Article III below, the due and punctual performance and observance of all of the covenants and conditions of the Securities and the Indenture to be performed by the Company. As of the Effective Time, concurrently with the Merger, BioSante shall succeed to, and be substituted for and may exercise rights and powers of, the Company under the Indenture with the same effect as if BioSante had been initially named as the Company therein.

ARTICLE III

CONVERSION RIGHTS

Subject to and in accordance with Section 9.4 of the Indenture, the Holder of any Securities outstanding as of the Effective Time shall have the right to convert such Securities into the number of shares of common stock, \$0.0001 par value per share, of BioSante which such Holder would have been entitled to receive upon the Merger had such Securities been converted into common stock of the Company immediately prior to the Merger (which, for the avoidance of doubt, shall equal 20.0884 shares of common stock of BioSante per \$1,000 aggregate principal amount of Securities at a Conversion Price of \$49.78.)

ARTICLE IV

CONDITIONS TO EFFECTIVENESS

This Supplemental Indenture shall become effective concurrently with the consummation of the Merger and delivery to the Trustee by BioSante of an Officer's Certificate and Opinion of Counsel as required by Section 5.1(c) of the Indenture. This Supplemental Indenture shall be automatically null and void if and in the event that the Merger shall not have been consummated on or before November 30, 2009. BioSante will promptly notify the Trustee of the consummation of the Merger and the effectiveness of this Supplemental Indenture.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1 Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK

Section 5.2 Definitions. The terms specifically defined in this Supplemental Indenture shall have the respective meanings so specified for all purposes of this Supplemental Indenture. All other terms used in this Supplemental Indenture which are defined in the Indenture, the Trust Indenture Act, or which are by reference therein defined in the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires) shall have the meanings assigned to such terms in the Indenture, the Trust Indenture Act, and in said Securities Act, as in force at the date of the execution of this Supplemental Indenture. The words "herein," "hereof" and "hereunder," and words of similar import

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refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other Subsection. The terms specifically defined in this Supplemental Indenture include the plural as well as the singular.

Section 5.3 No Third Party Beneficiaries. Nothing in this Supplemental Indenture, expressed or implied, shall give or be construed to give any person, firm or corporation, other than the parties hereto and their successors hereunder, and the holders of the Securities, any legal or equitable right, remedy or claim under or in respect to this Supplemental Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and their successors hereunder and the Holders of the Securities.

Section 5.4 Acceptance by Trustee. The Trustee accepts the amendment of the Indenture effected by this Supplemental Indenture and agrees to execute the trust created by the Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee, which terms and provisions shall in like manner define and limit its liabilities and responsibilities in the performance of the trust created by the Indenture as hereby amended.

Section 5.5 Legend on Securities. After the consummation of the Merger, any Securities authenticated and delivered in substitution for, or in lieu of, Securities then outstanding and all Securities presented or delivered to the Trustee on and after the Effective Time for such purpose shall be either restated to give the effect to the Supplemental Indenture or, in lieu thereof, shall bear a legend substantially as follows:

The consideration received upon conversion of the principal amount of this Security shall be determined with reference to shares of the common stock, \$0.0001 par value per share, of BioSante Pharmaceuticals, Inc., a Delaware corporation, at a Conversion Price per share of \$49.78 as of the consummation of the Merger, such Conversion Price being subject to certain adjustments as set forth in the Indenture. Reference herein to "Common Stock of the Company" or the "Company's Common Stock" shall be deemed to be to the Common Stock of BioSante Pharmaceuticals, Inc. The Indenture, dated as of October 20, 2004, referred to in this Security has been amended by a Supplemental Indenture dated as of October 14, 2009 to provide for such convertibility. Reference is hereby made to the Supplemental Indenture, copies of which are on file with BioSante Pharmaceuticals, Inc. for a statement of the amendments therein made.

Nothing contained in this Supplemental Indenture shall require the holder of any Securities to submit or exchange such Security prior to the consummation of the Merger in order to obtain the benefits of any provisions hereunder.

BioSante hereby agrees to provide for the reproduction of the above legend on the Securities without materially obscuring the text of the Securities.

Anything herein contained to the contrary notwithstanding, the Trustee shall not at any time be under any responsibility to acquire or cause any Security now or hereafter outstanding to be presented or delivered to it for any purpose provided for in this Section 5.5.

Section 5.6 Effect on Indenture and Securities. Except as expressly supplemented by this Supplemental Indenture, the Indenture and the Securities issued thereunder and the obligations created thereby are in all respects ratified and confirmed and except as expressly supplemented by this Supplemental Indenture, all of the rights, remedies, terms, conditions, covenants and agreements of the Indenture and the Securities issued thereunder shall remain in full force and effect.

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Section 5.7 Trust Indenture Act. If any provision of this Supplemental Indenture limits, qualifies or conflicts with (a) another provision of this Supplemental Indenture, or (b) any provision of the Indenture, which in each case is required to be included by any of the provisions of Section 310 to 317, inclusive, of the Trust Indenture Act, such required provision shall control.

Section 5.8 Recitals. The recitals contained in this Supplemental Indenture shall be taken as statements of the BioSante, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Supplemental Indenture.

Section 5.9 Counterparts. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

[Signatures on next page]

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

BIOSANTE PHARMACEUTICALS, INC.

By: /s/ Phillip B. Donenberg

Name: Phillip B. Donenberg

Title: Chief Financial Officer, Treasurer and Secretary

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Paula Oswald

Name: Paula Oswald

Title: Vice President

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BIOSANTE PHARMACEUTICALS, INC.,

and

U.S. BANK NATIONAL ASSOCIATION,
Trustee

SUPPLEMENTAL INDENTURE

Dated as of October 14, 2009

To

INDENTURE

Dated as of June 24, 2009

Relating to

Cell Genesys, Inc.

3.125% Convertible Senior Subordinated Notes due 2013

SUPPLEMENTAL INDENTURE

This SUPPLEMENTAL INDENTURE, dated as of the 14th day of October, 2009, is by and between BIOSANTE PHARMACEUTICALS, INC., a Delaware corporation ("BioSante") and U.S. BANK NATIONAL ASSOCIATION, as trustee under the Indenture referred to below (the "Trustee").

WITNESSETH:

WHEREAS, Cell Genesys, Inc., a Delaware corporation (the "Company") and the Trustee are parties to that certain Indenture dated as of June 24, 2009 (as amended, modified and supplemented from time to time, the "Indenture"), pursuant to which the Company issued its 3.125% Convertible Senior Notes due 2013 (the "Securities");

WHEREAS, BioSante and the Company have entered into an Agreement and Plan of Merger dated as of June 29, 2009 (the "Merger Agreement"), pursuant to which the Company will merge with and into BioSante and BioSante will continue as the surviving corporation (the "Merger");

WHEREAS, pursuant to the Merger Agreement, each share of the Company's common stock outstanding immediately prior to the effective time of the consummation of the Merger (the effective time of the consummation of the Merger, herein the "Effective Time") will be converted into the right to receive 0.1828 of a share of common stock of BioSante;

WHEREAS, Section 5.1 of the Indenture provides that the Company shall not merge with another corporation unless certain conditions specified therein are satisfied, including, inter alia, that any resulting successor corporation be organized under the laws of the United States or any State thereof and shall expressly assume, by an indenture supplemental to the Indenture, all of the obligations of the Company under the Securities and the Indenture;

WHEREAS, Section 9.4 of the Indenture provides, inter alia, that if there occurs a merger of the Company with another person, as a result of which holders of the Company's common stock shall receive stock or other property in exchange for such Company common stock, then the Company, or the successor corporation, and the Trustee shall execute a supplemental indenture providing that the Securities shall be convertible into the kind and amount of shares of stock or other property which the Holder of such Securities would have been entitled to receive upon such merger had such Securities been converted into common stock of the Company immediately prior to such merger;

WHEREAS, Sections 8.1(c),(d) and (h) of the Indenture authorizes the Company and the Trustee without the consent of the Holders to: (i) provide for conversion rights of Holders of Securities if, inter alia, any merger occurs; (ii) provide for the assumption of the Company's obligations to the Holders of Securities in the case, inter alia, of a merger pursuant to Article V of the Indenture; and (iii) add or modify any other provisions of the Indenture with respect to matters or questions arising thereunder which the Company and the Trustee may deem necessary or desirable and that will not, in the good faith opinion of the Board of Directors of BioSante (as evidenced by a Board Resolution), adversely affect the interests of the Holders of Securities;

WHEREAS, BioSante and the Trustee desire to execute a supplemental indenture that complies with Section 8.1 of the Indenture and implements the provisions of Sections 5.1 and 9.4 referenced above;

WHEREAS, all acts and things necessary to make this Supplemental Indenture a valid and binding agreement for the purposes and objects herein expressed have been duly done and performed, and the execution of this Supplemental Indenture has been in all respects, duly authorized; and

WHEREAS, capitalized terms not otherwise specifically defined herein are defined as provided in the Indenture;

NOW, THEREFORE, in consideration of the foregoing premises and of other good and valuable consideration, the receipt and validity of which are hereby acknowledged, BioSante hereby covenants and agrees with the Trustee, for the equal and proportionate benefit of the respective Holders from time to time of the

Securities, as follows:

ARTICLE I

AMENDMENTS TO THE INDENTURE

On the terms and subject to the conditions set forth herein, the Indenture is amended as follows:

(a) Section 11.2 of the Indenture is hereby amended by replacing the provision relating to the address, telephone, facsimile and e-mail for notice to the Company and its counsel, to provide as follows:

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“If to the Company:

BioSante Pharmaceuticals, Inc.
111 Barclay Boulevard
Lincolnshire, Illinois 60069
Attention : Stephen M. Simes - Vice Chairman, President and Chief Executive Officer
Telephone : (847) 478-0500
Facsimile: (847) 478-9260
E-mail: ssimes@biosantepharma.com

With a copy to:

Oppenheimer Wolff & Donnelly LLP
Plaza VII, 45 South Seventh Street
Suite 3300
Minneapolis, MN 55402-1609
Attention: Amy Culbert
Telephone: (612) 607-7287
Facsimile: (612) 607-7100
E-mail: aculbert@oppenheimer.com”

(b) Based on the final exchange ratio in the Merger of 0.1828 shares of common stock of BioSante for each share of common stock of the Company, the table set forth in Section 9.1(b) of the Indenture and all of the provisions of such Section 9.1(b) following such table are hereby replaced in their entirety to provide as follows:

“STOCK PRICE	3.23	3.77	4.38	4.92	5.53	6.13	6.67	7.28	7.88	8.42	9.03	9.63
Effective Date												
May 1, 2009	43.36	30.83	23.03	17.82	14.17	11.50	9.47	7.97	6.77	5.79	5.00	0
May 1, 2010	31.26	22.48	16.91	13.15	10.49	7.56	6.24	5.26	4.48	3.83	3.31	0
May 1, 2011	20.06	14.58	11.04	8.63	6.90	3.73	3.08	2.60	2.22	1.90	1.65	0
May 1, 2012	9.67	7.10	5.41	4.24	3.41	0	0	0	0	0	0	0
May 1, 2013	0	0	0	0	0	0	0	0	0	0	0	0

If the Stock Price and Effective Date are not set forth on the table above and the Stock Price is:

(A) between two Stock Prices on the table or the Effective Date is between two dates on the table, the number of shares of Additional Common Stock will be determined by straight-line interpolation between the number of shares of Additional Common Stock set forth for the higher and lower Stock Price and the two Effective Dates, as applicable, based on a 360-day year;

(B) in excess of \$9.63 per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion; or

(C) less than \$3.23 per share (subject to adjustment), no shares of Additional Common Stock will be issued upon conversion.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion exceed 312.18 per \$1,000 of aggregate principal amount of Securities, subject to adjustments in the same manner as the Conversion Price in Section 9.3.”

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(c) Section 9.3(m) of the Indenture is hereby amended by replacing the reference to “\$0.59” with “\$3.23”.

ARTICLE II

ASSUMPTION OF INDENTURE AND SECURITIES

As of the Effective Time, concurrently with the Merger, BioSante does hereby assume the due and punctual payment of all amounts payable on the Securities, according to their terms, and subject to Article III below, the due and punctual performance and observance of all of the covenants and conditions of the Securities and the Indenture to be performed by the Company. As of the Effective Time, concurrently with the Merger, BioSante shall succeed to, and be substituted for and may exercise rights and powers of, the Company under the Indenture with the same effect as if BioSante had been initially named as the Company therein.

ARTICLE III

CONVERSION RIGHTS

Subject to and in accordance with Section 9.4 of the Indenture, the Holder of any Securities outstanding as of the Effective Time shall have the right to convert such Securities into the number of shares of common stock, \$0.0001 par value per share, of BioSante which such Holder would have been entitled to receive upon the Merger had such Securities been converted into common stock of the Company immediately prior to the Merger (which, for the avoidance of doubt, shall equal 268.8172 shares of common stock of BioSante per \$1,000 aggregate principal amount of Securities at a Conversion Price of \$3.72).

ARTICLE IV

CONDITIONS TO EFFECTIVENESS

This Supplemental Indenture shall become effective concurrently with the consummation of the Merger and delivery to the Trustee by BioSante of an Officer's Certificate and Opinion of Counsel as required by Section 5.1(c) of the Indenture. This Supplemental Indenture shall be automatically null and void if and in the event that the Merger shall not have been consummated on or before November 30, 2009. BioSante will promptly notify the Trustee of the consummation of the Merger and the effectiveness of this Supplemental Indenture.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1 Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK

Section 5.2 Definitions. The terms specifically defined in this Supplemental Indenture shall have the respective meanings so specified for all purposes of this Supplemental Indenture. All other terms used in this Supplemental Indenture which are defined in the Indenture, the Trust Indenture Act, or which are by reference therein defined in the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires) shall have the meanings assigned to such terms in the Indenture, the Trust Indenture Act, and in said Securities Act, as in force at the date of the execution of this Supplemental Indenture. The words "herein," "hereof" and "hereunder," and words of similar import

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refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other Subsection. The terms specifically defined in this Supplemental Indenture include the plural as well as the singular.

Section 5.3 No Third Party Beneficiaries. Nothing in this Supplemental Indenture, expressed or implied, shall give or be construed to give any person, firm or corporation, other than the parties hereto and their successors hereunder, and the holders of the Securities, any legal or equitable right, remedy or claim under or in respect to this Supplemental Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and their successors hereunder and the Holders of the Securities.

Section 5.4 Acceptance by Trustee. The Trustee accepts the amendment of the Indenture effected by this Supplemental Indenture and agrees to execute the trust created by the Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee, which terms and provisions shall in like manner define and limit its liabilities and responsibilities in the performance of the trust created by the Indenture as hereby amended.

Section 5.5 Legend on Securities. After the consummation of the Merger, any Securities authenticated and delivered in substitution for, or in lieu of, Securities then outstanding and all Securities presented or delivered to the Trustee on and after the Effective Time for such purpose shall be either restated to give the effect to the Supplemental Indenture or, in lieu thereof, shall bear a legend substantially as follows:

The consideration received upon conversion of the principal amount of this Security shall be determined with reference to shares of the common stock, \$0.0001 par value per share, of BioSante Pharmaceuticals, Inc., a Delaware corporation, at a Conversion Price per share of \$3.72 as of the consummation of the Merger, such Conversion Price being subject to certain adjustments as set forth in the Indenture. Reference herein to "Common Stock of the Company" or the "Company's Common Stock" shall be deemed to be to the Common Stock of BioSante Pharmaceuticals, Inc. The Indenture, dated as of June 24, 2009, referred to in this Security has been amended by a Supplemental Indenture dated as of October 14, 2009 to provide for such convertibility. Reference is hereby made to the Supplemental Indenture, copies of which are on file with BioSante Pharmaceuticals, Inc. for a statement of the amendments therein made.

Nothing contained in this Supplemental Indenture shall require the holder of any Securities to submit or exchange such Security prior to the consummation of the Merger in order to obtain the benefits of any provisions hereunder.

BioSante hereby agrees to provide for the reproduction of the above legend on the Securities without materially obscuring the text of the Securities.

Anything herein contained to the contrary notwithstanding, the Trustee shall not at any time be under any responsibility to acquire or cause any Security now or hereafter outstanding to be presented or delivered to it for any purpose provided for in this Section 5.5.

Section 5.6 Effect on Indenture and Securities. Except as expressly supplemented by this Supplemental Indenture, the Indenture and the Securities issued thereunder and the obligations created thereby are in all respects ratified and confirmed and except as expressly supplemented by this Supplemental Indenture, all of the rights, remedies, terms, conditions, covenants and agreements of the Indenture and the Securities issued thereunder shall remain in full force and effect.

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Section 5.7 Trust Indenture Act. If any provision of this Supplemental Indenture limits, qualifies or conflicts with (a) another provision of this Supplemental Indenture, or (b) any provision of the Indenture, which in each case is required to be included by any of the provisions of Section 310 to 317, inclusive, of the Trust Indenture Act, such required provision shall control.

Section 5.8 Recitals. The recitals contained in this Supplemental Indenture shall be taken as statements of the BioSante, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Supplemental Indenture.

Section 5.9 Counterparts. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

[Signatures on next page]

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

BIOSANTE PHARMACEUTICALS, INC.

By: /s/ Phillip B. Donenberg
Name: Phillip B. Donenberg
Title: Chief Financial Officer, Treasurer and Secretary

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Paula Oswald
Name: Paula Oswald
Title: Vice President

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FOR IMMEDIATE RELEASE

BioSante Pharmaceuticals and Cell Genesys Announce Completion of Merger

Merged Company Will Focus on LibiGel® in Phase III Clinical Studies for Female Sexual Dysfunction and Seek Future Opportunities for GVAX Immunotherapies

LINCOLNSHIRE, Illinois and SOUTH SAN FRANCISCO, California (October 14, 2009) — BioSante Pharmaceuticals, Inc. (NASDAQ: BPAX) and Cell Genesys, Inc. (NASDAQ: CEGE), today announced the successful completion of their previously announced merger of Cell Genesys with and into BioSante, with BioSante as the surviving company, under which BioSante now has acquired all of the outstanding shares of Cell Genesys common stock.

BioSante intends to focus primarily on LibiGel, BioSante's testosterone gel in Phase III clinical development under a U.S. Food and Drug Administration (FDA) agreed Special Protocol Assessment (SPA) for the treatment of female sexual dysfunction (FSD). BioSante also intends to seek future development opportunities for GVAX Immunotherapies including combinations with BioVant™, BioSante's vaccine adjuvant, and possible external collaborations, and also will seek to outlicense other former Cell Genesys technologies. In addition, BioSante now owns a 16 percent equity ownership position in Ceregene, Inc., a former subsidiary of Cell Genesys which is developing gene therapies for neurodegenerative disorders.

"Closing the merger today is a very exciting development for BioSante. We now have accomplished our objective of having enough cash on hand to complete the LibiGel clinical development program to and through submission of a new drug application (NDA) in the first half of 2011," said Stephen M. Simes, president and CEO of BioSante. "The merger follows our successful registered direct financing closed on August 13, 2009 and our recent announcement of continued safety of LibiGel in our Phase III clinical studies. We now will accelerate completion of the LibiGel clinical development program to be in a position to submit the NDA in a timely fashion. We also will work to maximize the value of our newly acquired GVAX immunotherapies."

"The successful closing of our merger with BioSante provides an impressive array of opportunities to create value from the assets of the combined company," said Stephen A. Sherwin, M.D., the former chairman and CEO of Cell Genesys, and as a result of the merger, a new director of BioSante. "I am very pleased to have the opportunity to serve as a director of BioSante and look forward to working with the BioSante team."

The combined company's ownership composition consists of approximately 62% from BioSante stockholders and 38% from the former Cell Genesys stockholders. BioSante stockholders approved the merger on September 30, 2009, and the former Cell Genesys stockholders approved the merger agreement and the transactions contemplated thereby at a special meeting of stockholders held today. Well over 90 percent of shares voted were voted in favor of the merger. Effective at the close of business today, trading in Cell Genesys common stock will be discontinued. All remaining Cell Genesys employees and management were terminated effective today.

In addition to Dr. Sherwin, John T. Potts, Jr., M.D., a former Cell Genesys director, also now serves as a director of BioSante as a result of the merger. Stephen M. Simes, president and CEO of BioSante, and Phillip B. Donenberg, CFO of BioSante, continue to serve in those positions, and Dr. Louis W. Sullivan, chairman of the board of BioSante, continues in that position.

Pursuant to the merger, the payment obligations of Cell Genesys under its 3.125% convertible senior notes due 2011 and 2013, respectively, were assumed by BioSante. Prior to the merger, the 2011 and 2013 notes were convertible into common stock of Cell Genesys at a conversion price of \$9.10 and \$0.68, respectively, and upon the merger, pursuant to the indentures governing those notes, the 2011 and 2013 notes became convertible into common stock of BioSante at a conversion price of \$49.78 and \$3.72, respectively.

About LibiGel®

LibiGel is a gel formulation of testosterone designed to be quickly absorbed through the skin after application of a pea-sized dose of gel on the upper arm, delivering testosterone to the bloodstream evenly over time and in a non-invasive and painless manner. Though generally characterized as a male hormone, testosterone also is present in women and its deficiency has been found to decrease libido or sex drive. In addition, studies have shown that testosterone therapy can increase bone density, raise energy levels and improve mood, in addition to boosting sexual desire and activity. According to a study published in the Journal of the American Medical Association, 43 percent of American women (about 40 million) experience some degree of impaired sexual function. Among the more than 1,400 women surveyed, 32 percent lacked interest in sex. According to IMS data, 2.0 million testosterone prescriptions were written off-label for women by U.S. physicians in 2007. The majority of women with FSD are postmenopausal, experiencing FSD due to hormonal changes following menopause, whether natural or surgical.

About GVAX Immunotherapies

GVAX cancer immunotherapies are non patient-specific therapies comprised of whole tumor cells that have been modified to secrete GM-CSF (granulocyte-macrophage colony-stimulating factor), an immune stimulatory cytokine, and then irradiated for safety. GVAX is administered via intradermal injections on an outpatient basis. To date, over 1000 patients have been treated in clinical trials with different GVAX cancer immunotherapies for various types of cancer. Although phase III trials in prostate cancer were discontinued in 2008, phase II trials under physician investigator sponsored-INDs are ongoing at the Sidney Kimmel Cancer Center at Johns Hopkins Hospital in pancreatic cancer, leukemia and breast cancer.

About BioSante Pharmaceuticals, Inc.

BioSante is a specialty pharmaceutical company focused on developing products for female sexual health, menopause, contraception and male hypogonadism. BioSante's lead products include LibiGel® (transdermal testosterone gel) in Phase III clinical development by BioSante under a U.S. Food and Drug Administration (FDA) SPA (Special Protocol Assessment) for the treatment of female sexual dysfunction (FSD), and Elestrin™ (estradiol gel) developed through

FDA approval by BioSante, indicated for the treatment of moderate-to-severe vasomotor symptoms associated with menopause, currently marketed in the U.S. Also in development are Bio-T-Gel™, a

testosterone gel for male hypogonadism, and an oral contraceptive in Phase II clinical development using BioSante patented technology. The current market in the U.S. for estrogen and testosterone products is approximately \$2.5 billion and for oral contraceptives approximately \$3 billion. The company also is developing its calcium phosphate technology (CaP) for aesthetic medicine (BioLook™), as a vaccine adjuvant, including for an H1N1 (swine flu) vaccine, and drug delivery. In addition, BioSante will seek opportunities for its GVAX cancer immunotherapies, which BioSante acquired from Cell Genesys, Inc. and are non patient-specific therapies comprised of whole tumor cells that have been modified to secrete GM-CSF (granulocyte-macrophage colony-stimulating factor), an immune stimulatory cytokine, and then irradiated for safety and are administered via intradermal injections on an outpatient basis. Additional information is available online at: www.biosantepharma.com.

Forward-Looking Statements

This news release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements include, but are not limited to, statements about BioSante's plans, objectives, expectations and intentions with respect to future operations and products, the timing of regulatory submissions, the availability of sufficient financing through the submission of an NDA for LibiGel and other statements that are not historical in nature, particularly those that utilize terminology such as "will," "potential," "could," "can," "believe," "intends," "continue," "plans," "expects," "estimates" or comparable terminology. Forward-looking statements are based on current expectations and assumptions, and entail various known and unknown risks and uncertainties that could cause actual results to differ materially from those expressed in such forward-looking statements. Important factors known to BioSante that could cause actual results to differ materially from those expressed in such forward-looking statements include general business and economic conditions; the failure to realize the anticipated benefits from the recently completed merger with Cell Genesys; the businesses of BioSante and Cell Genesys may not be combined successfully, or such combination may take longer, be more difficult, time-consuming or costly to accomplish than expected; operating costs and business disruption following the merger; BioSante's need for and ability to obtain additional financing; the difficulty of developing pharmaceutical products, obtaining regulatory and other approvals and achieving market acceptance; the marketing success of BioSante's licensees or sublicensees and the success of clinical testing. Additional factors that could cause BioSante's results to differ materially from those described in the forward-looking statements can be found in BioSante's recent registration statement on Form S-4 and BioSante's most recent annual report on Form 10-K and subsequent quarterly reports on Form 10-Q and other filings with the Securities and Exchange Commission, which are filed with the SEC and available at the SEC's web site at www.sec.gov and which discussions also are incorporated herein by reference. The information set forth herein speaks only as of the date hereof, and BioSante disclaims any intention and does not assume any obligation to update or revise any forward looking statement, whether as a result of new information, future events or otherwise.

For more information about BioSante, please contact:

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