

01-06-1999

OMB No. 0651-0011 (exp. 4/94)

TRADEMARK



100939454

prints or copy thereof.

To the Honorable Commissioner of Patents and Trademarks

1. Name of conveying party(ies):

Biodynamics International, Inc.

- Individual(s)
- General Partnership
- Corporation-State
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: April 6, 1998

2. Name and address of receiving party(ies)

Name: Tutogen Medical, Inc.

Internal Address:

Street Address: 1719 Route 10, Suite 314

City: Parsippany State: NJ ZIP: 07054

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Florida
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

75/428,106 filed February 3, 1998; and 75/271,383 filed April 8, 1997

B. Trademark Registration No.(s)

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Sara A. Schifino

Internal Address: Stein, Schifino & Van Der Wall

Street Address: Suite 1000

600 N. Westshore Boulevard

City: Tampa State: FL ZIP: 33609

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 80.00 E

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

19-4127

(Attach duplicate copy of this page if paying by deposit account)

01/06/1999 INGVYEN 00000242 75428106

DO NOT USE THIS SPACE

01 FC:481 40.00 OP  
 02 FC:482 25.00 OP  
 03 FC:990 15.00 OP

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Sara A. Schifino

Name of Person Signing

*Sara A. Schifino*

Signature

December 22, 1998

Date

Total number of pages including cover sheet, attachments, and document: 50

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation, as amended to date, of TUTOGEN MEDICAL, INC., a corporation organized under the laws of the State of Florida, as shown by the records of this office.

The document number of this corporation is S98512.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Thirtieth day of September, 1998



CR2EO22 (2-95)

*Sandra B. Mortham*

Sandra B. Mortham  
Secretary of State

**ARTICLES OF INCORPORATION**

**OF**

**BIODYNAMICS INDUSTRIES, INC.**

FILED  
91 DEC -6 PM 3:15  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned incorporator, by the execution of these Articles of Incorporation, does hereby form a corporation (the "Corporation") under and accept all the rights, privileges, benefits and obligations conferred and imposed by the Florida Business Corporation Act, and does hereby adopt these Articles of Incorporation of and for this Corporation in accordance with the laws of the State of Florida.

**ARTICLE I**

**Corporate Name**

The name of this Corporation is:

Biodynamics Industries, Inc., (the "Corporation")

**ARTICLE II**

**Principal Office**

The principal office of the Corporation as of the time of execution of these Articles of Incorporation is as follows:

One Tampa City Center  
Suite 2700  
Tampa, Florida 336602

**ARTICLE III**

**Capital Stock**

The aggregate number of shares of capital stock authorized to be issued by this Corporation shall be 1,000 shares of Common Stock with a per value of \$.10 per share. The consideration for the issuance of shares of said stock may be paid in any manner permitted by the laws of the State of Florida.

ARTICLE IV

Registered Agent

The name and address of the Corporation's initial registered agent is as follows : Schifino & Fletcher, P. A., Suite 2700, One Tampa City Center, 201 North Franklin Street, Tampa, Florida 33602, and the initial registered agent for this corporation at such office is William J. Schifino, Esq.

ARTICLE V

Incorporator

The address of the incorporator of this Corporation is as follows:


William J. Schifino, Esq.  
201 North Franklin Street  
One Tampa City Center  
Tampa, Florida 33602

ARTICLE VI

Director

- (a) The initial Board of Directors of this Corporation shall consist of one member.
- (b) The number of directors may be increased or decreased from time to time as provided in the By-Laws of the Corporation, but shall never be less than one.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 19<sup>th</sup> day of November, 1991.

  
William J. Schifino,  
Incorporator

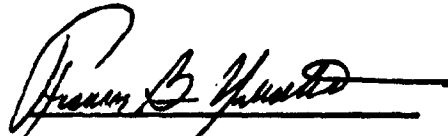
STATE OF FLORIDA

)  
)ss  
)

COUNTY OF HIL/ VOROUGH

BEFORE ME, the undersigned authority, on this 19<sup>th</sup> day of November, 1991, personally appeared William J. Schifino to me known to be the person described in and who signed the foregoing Articles of Incorporation, and acknowledged to me that the same were executed freely and voluntarily, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.



Frances B. Yalsetic

My Commission Expires July 30, 1995

**CERTIFICATE DESIGNATING THE ADDRESS  
AND AN AGENT UPON WHOM PROCESS MAY BE SERVED**

FILED  
91 DEC -6 PM 3:15  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Having been named to accept service of process for Biodynamics of Florida, Inc. the place designated in its Articles of Incorporation, I agree to act in this capacity and to comply with the provisions of Section 607.0505 of the Florida Statutes.

Dated: 11/19 1991

  
William J. Schifano  
Registered Agent

ARTICLES OF MERGER  
OF  
BIODYNAMICS, INC.  
(a Texas corporation)  
AND  
BIODYNAMICS INDUSTRIES, INC.  
(a Florida corporation)

FILED  
APR 15 1992  
TAMPA  
FLORIDA

Biodynamics Industries, Inc. was incorporated on December 6, 1991, pursuant to the Florida Business Corporation Act.

Biodynamics, Inc. was incorporated on October 2, 1985, pursuant to the Texas Business Corporation Act.

Pursuant to the provisions of Sections 607.1105 and 607.1107, Florida Statutes, these Articles of Merger provide that:

1. Biodynamics, Inc., a Texas corporation, shall be merged with and into Biodynamics Industries, Inc., a Florida corporation, which shall be the surviving corporation. The shares of Biodynamics, Inc. will be retired and cancelled. The shares of Biodynamics Industries, Inc. will remain outstanding.
2. The merger shall become effective on the day that these Articles of Merger have been filed with the Secretary of States of Florida and Texas (the "Effective Time").
3. The Agreement and Plan of Merger dated March 16, 1992, pursuant to which Biodynamics, Inc. shall be merged with and into Biodynamics Industries, Inc. (the "Merger"), was adopted by the sole director and sole shareholder of Biodynamics, Inc. by written consent dated March 16, 1992 and by the sole director and sole shareholder of Biodynamics Industries, Inc., by written consent dated March 16, 1992.

IN WITNESS WHEREOF, these Articles of Merger have been executed on behalf of the constituent corporations by their authorized officers as of April 15, 1992.

BIODYNAMICS, INC., a Texas corporation

Attested By: Martha S. Brown  
Secretary

By: John V. Hargiss  
John V. Hargiss, President

BIODYNAMICS INDUSTRIES, INC., a  
Florida corporation

Attested By: Martha S. Brown  
Secretary

By: John V. Hargiss  
John V. Hargiss, President

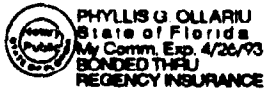
**ACKNOWLEDGEMENT**

STATE OF FLORIDA )  
 ) ss  
COUNTY OF HILLSBOROUGH )

On this 15 day of April   , 1992, before me personally appeared John V. Hargiss, who acknowledged to me that he is the President of Biodynamics, Inc. (the "Corporation"), a Texas corporation, and that he executed the foregoing Articles of Merger of the Corporation as President of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on April 15, 1992.

Phyllis G. Ollariu  
Notary Public



(Seal)

My commission expires: 4/26/93

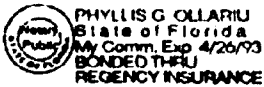
**ACKNOWLEDGEMENT**

STATE OF FLORIDA )  
 ) ss  
COUNTY OF HILLSBOROUGH )

On this 15 day of April, 1992, before me personally appeared John V. Hargiss, who acknowledged to me that he is the President of Biodynamics Industries, Inc. (the "Corporation"), a Florida corporation, and that he executed the foregoing Articles of Merger of the Corporation as President of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on April 15, 1992.

Phyllis G. Ollariu  
Notary Public



(Seal)

My commission expires: 4/26/93



**AGREEMENT AND PLAN OF MERGER  
BETWEEN**

**BIODYNAMICS, INC.**  
(a Texas corporation)  
**AND**  
**BIODYNAMICS INDUSTRIES, INC.**  
(a Florida corporation)

Agreement and Plan of Merger dated March 16, 1992 between Biodynamics, Inc., a Texas corporation and Biodynamics Industries, Inc., a Florida corporation.

**WHEREAS**, Biodynamics, Inc. and Biodynamics Industries, Inc. are wholly owned subsidiaries of American Biodynamics, Inc., a British Columbia corporation, and

**WHEREAS**, since the operations of the American Biodynamics Inc., which were previously carried out by Biodynamics, Inc., in Texas, are now being carried out in Florida, it is deemed prudent change the domicile of the Texas corporation to Florida and, to this end, Biodynamics Industries, Inc. has been incorporated and this Agreement is being entered into by the respective companies, and

**WHEREAS**, the parties hereto intend for the Merger (1) to qualify under the laws of the States of Florida and Texas as a statutory merger, (2) to qualify as a reorganization under Section 368(a)(1)(A) of the Internal Revenue Code, and (3) to meet the judicial doctrines required for tax free treatment.

**NOW THEREFORE**, the parties agree as follows:

**AGREEMENT**

1. In accordance with the provisions of this Agreement, the Texas Business Corporation Act and the Florida Business Corporation Act, at the Effective Time, Biodynamics, Inc. shall be merged with and into Biodynamics Industries, Inc. (the "Merger"), the separate and corporate existence of Biodynamics, Inc. shall cease, and Biodynamics Industries, Inc. shall continue its corporate existence under the laws of Florida (the "Surviving Corporation"). (Biodynamics, Inc. and Biodynamics Industries, Inc. are collectively referred to as the "Constituent Corporations.")

2. The Merger shall become effective on the day that Articles of Merger have been filed with the Secretary of State of Texas by the Secretary of State of Florida (the "Effective Time.")

3. The Surviving Corporation shall possess and retain every interest in all assets and property of every description, wherever located of each of the Constituent Corporations. The rights, privileges, immunities, powers, franchises and authority, of a public as well as private nature, of each of the Constituent Corporations shall be vested in the Surviving Corporation without further act or deed. The title to or any interest in any real estate vested in either of the

TRADEMARK

REEL: 1836 FRAME: 0559

Constituent Corporations shall not revert or in any way be impaired by reason of the Merger. All obligations belonging to or due to each of the Constituent Corporations, shall be vested in the Surviving Corporation without further act or deed. The Surviving Corporation shall be liable for all of the obligations of each of the Constituent Corporations existing as of the Effective Time.

4. At the Effective Time, by virtue of the Merger and without any action on the part of the parties or otherwise:

(a) Each issued and outstanding share of the capital stock of Biodynamics, Inc. shall be cancelled without payment of any consideration, and without any conversion; and,

(b) Each issued and outstanding share of capital stock of Biodynamics Industries, Inc. shall remain issued and outstanding.

5. The articles of incorporation of Biodynamics Industries, Inc. in effect immediately prior to the Effective Time, shall remain in effect and be the articles of incorporation of the Surviving Corporation.

BIODYNAMICS, INC., a Texas  
corporation

Attested By: Marcus S. Breen

By: John V. Hargiss  
John V. Hargiss, President

BIODYNAMICS INDUSTRIES, INC.,  
a Florida corporation

Attested By: Marcus S. Breen

By: John V. Hargiss  
John V. Hargiss, President

TRADEMARK

REEL: 1836 FRAME: 0560

ARTICLES OF AMENDMENT  
OF  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INDUSTRIES, INC.

FILED  
1992 MAY -5  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

1. The name of the corporation is Biodynamics Industries, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.

2. Article I of the Articles of Incorporation of this Corporation shall be deleted in its entirety, and in its place and stead shall be substituted the following:

ARTICLE I. CORPORATE NAME

The name of this corporation shall be: Biodynamics International, Inc.

3. Article III of the Articles of Incorporation of this Corporation shall be deleted in its entirety, and in its place and stead shall be substituted the following:

ARTICLE III. CAPITAL STOCK

The aggregate number of shares of capital stock authorized to be issued by this Corporation shall be 20,000,000 shares of Common Stock with a par value of \$.01 per share. The consideration for the issuance of shares of said stock may be paid in any manner permitted by the laws of the State of Florida.

4. This Amendment was recommended by the Board of Directors and approved by the sole shareholder on this 29th day of April 1992.

IN WITNESS WHEREOF, Biodynamics Industries, Inc. has caused these Articles of Amendment to be executed on this 29th day of April 1992.

BIODYNAMICS INDUSTRIES, INC.

  
John V. Hargiss, President

BIODYNAMICS INDUSTRIES, INC.  
SOLE DIRECTOR AND SOLE SHAREHOLDER  
CONSENT TO ACTION  
MAY 4, 1992

FILED  
MAY -5 1992  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

We, the undersigned, being the sole director and sole shareholder of Biodynamics Industries, Inc. (hereinafter referred to as the "Corporation"), do hereby consent to and approve the written consent to action set forth below which shall be treated for all purposes as a resolution passed at a meeting of the sole director and sole shareholder of the Corporation:

**RESOLVED**, That the Company amend Article I and Article III of its Articles of Incorporation in their entirety and in their place and stead substitute the following:

**ARTICLE I. CORPORATE NAME**

The name of this corporation shall be: Biodynamics International, Inc.

**ARTICLE III. CAPITAL STOCK**

The aggregate number of shares of capital stock authorized to be issued by this Corporation shall be 20,000,000 shares of Common Stock with a par value of \$.01 per share. The consideration for the issuance of shares of said stock may be paid in any manner permitted by the laws of the State of Florida.

  
\_\_\_\_\_  
John V. Hargiss, Director

AMERICAN BIODYNAMICS INDUSTRIES INC.  
(Sole Shareholder)

By:   
\_\_\_\_\_  
John V. Hargiss, President

ARTICLES OF MERGER AND  
AGREEMENT AND PLAN OF REORGANIZATION  
BETWEEN

AMERICAN BIODYNAMICS INC.  
(a Wyoming corporation)  
AND  
BIODYNAMICS INTERNATIONAL, INC.  
(a Florida corporation)

FILED  
1992 JUN -3 AM 9 56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Agreement and Plan of Reorganization dated May 29, 1992 between American Biodynamics Inc., ("American"), a Wyoming corporation and Biodynamics International, Inc., ("Biodynamics") a Florida corporation and wholly owned subsidiary of American.

WHEREAS, Biodynamics is a wholly owned subsidiary of American, a Wyoming corporation;  
and

WHEREAS, American was initially a British Columbia corporation owning all of the outstanding shares of Common Stock of Biodynamics, a Florida corporation; and

WHEREAS, American, as a British Columbia corporation was desirous of changing its domicile to Florida. Due to the Company Act of British Columbia, American is prohibited from changing its domicile directly to the State of Florida and therefor an intermediate step of continuing the Company into Wyoming was necessary. To this end American has filed an Application for Certificate of Registration and Articles of Continuance with the Secretary of State, State of Wyoming for the purpose of changing the Company's domicile to Wyoming. This was accomplished on May 29, 1992; and

WHEREAS, in order to complete the continuance of domicile to Florida, the parties are desirous of entering into this Agreement and Plan of Reorganization whereby American will merge with and into its wholly owned subsidiary, Biodynamics.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

The Merger

Section. 1.1 The Merger. At the Effective Time (as hereinafter defined), American shall be merged into Biodynamics (the "Merger") upon the terms and subject to the conditions hereinafter set forth and in accordance with the Business Corporation Acts of the States of Wyoming and Florida. Biodynamics shall continue as the surviving corporation (the "Surviving Corporation"), and the separate corporate existence of American shall cease.

Section 1.2 Effective Time. As soon as practicable after satisfaction or waiver of all

conditions to the Merger, a copy of this Agreement and all other requisite documents shall be filed in accordance with Wyoming and Florida Law. The Merger shall become effective at such time (the "Effective Time") as a copy of this Agreement and all other requisite documents are duly filed with the Secretaries of State of the States of Wyoming and Florida pursuant to their respective laws.

Section 1.3 Certificate of Incorporation. As a result of the Merger the articles of incorporation of Biodynamics in effect immediately prior to the Effective Time, shall be the articles of incorporation of the Surviving Corporation.

Section 1.4 Bylaws. The bylaws of Biodynamics in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation.

Section 1.5 Directors and Officers. From and after the Effective Time, until successors are elected or appointed in accordance with applicable law:

(a) the directors of American immediately prior to the Effective Time shall be the directors of Biodynamics; and

(b) the officers of American immediately prior to the Effective Time shall be the officers of Biodynamics.

## ARTICLE II

### Conversion of Shares

Section 2.1 At the Effective Time:

(a) Each share of common stock, without par value, of American ("American Common Stock") outstanding immediately prior to the Effective Time shall be converted into one share of common stock, \$.01 per value, of Biodynamics ("Biodynamics Common Stock").

(b) Each share of capital stock of Biodynamics outstanding immediately prior to the Effective Time shall be canceled and shall revert to the status of authorized but unissued shares.

Section 2.2 Status of Securities After the Effective Time. No exchange of certificates representing shares of American Common Stock converted shall be required; from and after the Effective Time and until certificates representing such American Common Stock are presented for exchange or registration of transfer, all such certificates shall be deemed for all purposes to represent Biodynamics Common Stock into which they were so converted. After the Effective Time, whenever certificates which formerly represented shares of American Common Stock are presented for exchange or registration of transfer, there shall be issued in respect thereof certificates representing Biodynamics stock into which they were converted. If any certificate representing Biodynamics stock is to be issued in a name other than that of the registered holder of the certificate presented representing American Common Stock, it shall be a condition of issuance that (i) the certificate so surrendered shall be properly endorsed or accompanied by a stock

power and shall otherwise be in proper form for transfer and (ii) the person requesting such issuance shall pay any transfer or other taxes required by reason of the issuance of such certificates in a name other than that of the registered holder of the certificate so presented, or establish that such taxes have been paid or are not applicable.

Section 2.3 Stock Option Plan. At the Effective Time, the American Biodynamics Inc. 1989 Stock Option Plan, (the "Stock Option Plan") shall automatically, by operation of law, be continued as and become the Stock Option Plan of Biodynamics. At the Effective Time each unexercised option theretofore granted under the Stock Option Plan to purchase shares of American Common Stock shall automatically, by operation of law, become an option to purchase the same number of shares of Biodynamics Common Stock in lieu of shares of American Common Stock on the same terms and conditions and at the same option exercise price, and Biodynamics shall assume all of American's obligations with respect to such option. Furthermore, at the Effective Time, each share of restricted stock theretofore granted under the Stock Option Plan shall automatically, by operation of law, become a share of Biodynamics Common Stock, subject to the same restrictions and Biodynamics shall assume all of American's obligations with respect to such shares.

Section 2.4 Other Rights. At the Effective Time, and except as otherwise provided in (d) above, all rights to purchase, sell or receive American Common Stock shall automatically, by operation of law, be converted into and shall become an identical right to purchase, sell or receive Biodynamics Common Stock.

Section 2.5 Convertible Debentures and Notes. At the Effective Time, Biodynamics shall become a joining and several obligor of all debentures and notes convertible into shares of American Common Stock. Such debentures and notes shall become convertible into Biodynamics Common Stock in lieu of shares of American Common Stock on the same terms and conditions and at the same conversion price and Biodynamics shall assume all of American's obligations with respect to such conversion. The Board of Directors and officers of American and Biodynamics shall take all action necessary or appropriate to reflect such changes, including without limitation the execution of supplemental indentures.

Section 2.6 Reservation or Issuance of Common Stock. At the Effective Time, the Board of Directors of Biodynamics shall be deemed to have reserved, or authorized the issuance of, as the case may be, an amount of shares of Biodynamics Common Stock, and such shares shall automatically be so reserved, or so authorized, as the case may be, in respect to the agreements, plans, rights, convertible debentures, notes and options within foregoing paragraphs equal to the amount of shares of American Common Stock that American had reserved, or of which American had authorized the issuance, as the case may be, in respect of such plans, rights, convertible debentures and notes and options.

### ARTICLE III

#### Conditions Precedent to the Merger; Termination of Agreement

Section 3.1 Conditions to Each Party's Obligation. The obligation of each party to consummate the Merger is subject to the satisfaction at or prior to the Effective Time of the following conditions;

(a) This Agreement shall have been approved by the requisite vote of the shareholders of American and Biodynamics in accordance with Wyoming and Florida Law, respectively.

(b) Any and all approvals or consents from any governmental agency having jurisdiction and other third parties that are required for the lawful consummation of Merger and the issuance and delivery of Biodynamics Common Stock as contemplated by this Agreement shall have been obtained and shall not have been revoked.

Section 3.2 Termination of Agreement. This Agreement may be terminated by action of the Board of Directors of American at any time prior to the Effective Time (notwithstanding any approval of this Agreement by the shareholders of American).

Section 3.3 No Further Liability. In the event of the termination of this Agreement pursuant to this Article III, this Agreement shall be void and of no further force or effect, and there shall be no further liability or obligation of any nature by reason of this Agreement or the termination hereof on the part of any of the parties hereto or their respective directors, officers, employees, agents or shareholders.

### ARTICLE IV

#### Miscellaneous

Section 4.1 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns, provided that this Agreement may not be assigned by any party without the consent of the other parties.

Section 4.2 Waiver. Any of the terms or conditions of this Agreement which may legally be waived may be waived at any time by any party hereto which is, or the shareholders of which are, entitled to the benefit thereof.

Section 4.3 Amendments. This Agreement may be amended, modified or supplemented by written agreement of American and Biodynamics at any time prior to the Effective Time, whether before or after the approval of this Agreement by the shareholders of American, but, after any such vote, no amendment, modification or supplement shall be made if American's Board of Directors shall determine that such amendment, modification or supplement would have a material



adverse effect on the rights of the holders of American Common Stock without the further approval of such shareholders.

Section 4.4 Counterparts. This Agreement may be executed in one or more counterparts all of which shall be considered one and the same instrument.

Section 4.5 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

AMERICAN BIODYNAMICS INC.  
a Wyoming corporation

By John V. Hargiss  
John V. Hargiss, President

By Martha S. Hume  
Secretary

BIODYNAMICS INTERNATIONAL, INC.  
a Florida corporation

By John V. Hargiss  
John V. Hargiss, President

By Martha S. Hume  
Secretary

**ACKNOWLEDGEMENT**

STATE OF FLORIDA )  
 ) ss  
COUNTY OF HILLSBOROUGH )

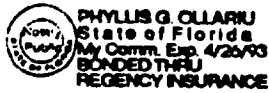
On this 29 day of May, 1992, before me personally appeared John V. Hargiss, who acknowledged to me that he is the President of Biodynamics International, Inc. (the "Corporation"), a Florida corporation, and that he executed the foregoing Agreement and Plan of Reorganization as President of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on May 29 1992.

Phyllis G. Ollariu  
Notary Public

My commission expires: 4/26/93

(Seal)



**ACKNOWLEDGEMENT**

STATE OF FLORIDA )  
 ) ss  
COUNTY OF HILLSBOROUGH )

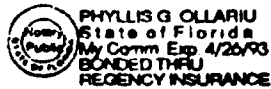
On this 29 day of May, 1992, before me personally appeared John V. Hargiss, who acknowledged to me that he is the President of American Biodynamics Industries Inc. (the "Corporation"), a Wyoming corporation, and that he executed the foregoing Agreement and Plan of Reorganization as President of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on May 29, 1992.

Phyllis G. Ollariu  
Notary Public

My commission expires: 4/26/93

(Seal)



ARTICLES OF MERGER  
OF  
AMERICAN BIODYNAMICS INC.  
(A Wyoming corporation)  
AND  
BIODYNAMICS INTERNATIONAL, INC.  
(a Florida corporation)

FILED  
1992 JUN 15 PM 2:14  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Biodynamics International Inc. was incorporated on December 6, 1991, pursuant to the Florida Business Corporation Act.

The Articles of Incorporation of American Biodynamics Inc. were transferred from British Columbia to the State of Wyoming on May 29, 1992 in accordance with the Wyoming Business Corporation Act.

Pursuant to the provisions of Sections 607.1105 and 607.1107, Florida Statutes and Sections 17-16-1101, 1102, 1103, 1105 and 1006, Wyoming Statutes, these Articles of Merger provide that:

1. American Biodynamics Inc., a Wyoming corporation, shall be merged with and into Biodynamics International, Inc., a Florida corporation, which shall be the surviving corporation. Each share of common stock, without par value, of American Biodynamics Inc. outstanding immediately prior to the Effective Time shall be converted into one share of common stock, \$0.01 par value, of Biodynamics International, Inc. Each share of capital stock of Biodynamics International, Inc. outstanding immediately prior to the Effective Time shall be cancelled and shall revert to the status of authorized but unissued shares.
2. The merger shall become effective on the day that these Articles of Merger have been filed with the Secretary of States of Florida and Wyoming (the "Effective Time").
3. The Agreement and Plan of Merger dated May 29, 1992, pursuant to which American Biodynamics Inc. shall be merged with and into Biodynamics International, Inc. (the "Merger"), was adopted by the sole director and sole shareholder of Biodynamics International, Inc. by written consent dated May 28, 1992. At a shareholders meeting of American Biodynamics Inc. held on May 29, 1992, there was outstanding and entitled to vote at the meeting 7,396,729 shares of Common Stock. Of such number, holders of 3,828,770 shares voted in favor of the Merger and 4,600 voted against. The votes cast in favor of the merger represented 51.76% of the outstanding shares entitled to vote. The votes cast in favor of the merger were sufficient for approval of the Merger.

IN WITNESS WHEREOF, these Articles of Merger have been executed on behalf of the constituent by their authorized officers as of May 29, 1992.

AMERICAN BIODYNAMICS INC.,  
a Wyoming corporation

Attested By: Martha S. Bruce  
Martha S. Bruce, Secretary

By: John V. Hargiss  
John V. Hargiss, President

BIODYNAMICS INTERNATIONAL, INC.,  
a Florida Corporation

Attested By: Martha S. Bruce  
Martha S. Bruce, Secretary

By: John V. Hargiss  
John V. Hargiss, President

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED  
94 SEP -7 PM 3:44  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

Pursuant to the provisions of Section 607.181 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned officers do hereby certify individually and on behalf of the undersigned corporation as follows:

1. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.
2. Article III of the Articles of Incorporation of this Corporation shall be deleted in its entirety, and in its place and stead shall be substituted the following:

ARTICLE III - CAPITAL STOCK

Shares Authorized. The aggregate number of shares of stock which this corporation shall have authority to issue shall be twenty-one million (21,000,000) shares of which twenty million (20,000,000) shares shall be of Common Stock (each with a par value of \$.01) and one million (1,000,000) shares of Preferred Stock (each with a par value of \$.01).

A. Preferred Stock. Except as limited elsewhere in this Article III, the rights, preferences and privileges of the shares thereof shall be determined by the Board of Directors who shall have the power to decide on the following terms:

- (a) whether the shares of preferred stock shall be participating;
- (b) the dividend rate or rates, if any, on the shares of preferred stock and the relation which dividends of preferred stock shall bear to the dividends payable on any other class or classes or of any other series of any class or classes of capital stock of the corporation;
- (c) the terms and conditions upon which and the periods in respect to which any such dividends shall be payable;
- (d) whether and upon what conditions any dividends of preferred stock shall be cumulative and, if cumulative the date or dates from which dividends shall accumulate;
- (e) whether the shares shall be limited in dividends, if any or whether they shall participate in dividends over and above the dividend rate, if any, provided for the shares;

(f) whether any such dividends shall be payable in cash, in shares of such series, in shares of any other class or classes or of any other series of any class or classes of capital stock of the corporation, or in other property, or in more than one of the foregoing;

(g) whether the shares of preferred stock shall be redeemable or callable, the limitations and restrictions with respect to such redemption or call, the time or times of redemption, and the price or prices (which may be greater than par value) at which and the manner in which shares shall be redeemable or callable, including the manner of selecting shares for redemption if less than all shares are to be redeemed or called;

(h) whether the shares of preferred stock shall be subject to the operation of a purchase, retirement or sinking fund, and, if so, whether and upon what conditions the purchase, retirement or sinking fund shall be cumulative or non-cumulative, and the extent to which and the manner in which the fund shall be applied to the purchase or redemption of the shares for retirement or to other corporate purposes and the terms and provisions relative to the operation thereof;

(i) the terms on which preferred stock shall be convertible into or exchangeable for shares of any other class or classes of capital stock of the corporation, and the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of such conversion or exchange;

(j) the extent to which holders of preferred stock shall be entitled to vote generally with respect to matters relating to the corporation and the matters on which the holders of preferred stock shall be entitled to vote as a class;

(k) the preferences in respect to the assets of the corporation upon liquidation or winding up of the corporation including the amount (which may be greater than par value) payable to holders of preferred stock before any amount is payable to holders of common stock; and

(l) any other preferences, privileges and powers, and relative, participating, optional or other special rights and qualifications of or limitations or restrictions which the Board of Directors may deem advisable, provided they are not inconsistent with the provisions of these Articles of Incorporation.

Notwithstanding anything herein to the contrary, each share of preferred stock shall stand on a parity with each other share of preferred stock upon the voluntary or involuntary liquidation, dissolution or distribution of assets, or winding up of the corporation.

No dividend shall be paid, declared or set apart for payment on any preferred stock in respect of any period unless accumulated dividends shall be or shall have been paid, or declared and set apart for payment, pro rata on all shares of outstanding preferred stock.

**B. Common Stock**

(a) Whenever cash dividends upon the preferred stock at the time outstanding, to the extent of the preference to which such stock is entitled, shall have been paid in full for all past

dividend periods or declared and set apart for payment, such dividends, payable in cash, stock or otherwise, as may be determined by the Board of Directors, may be declared by the Board of Directors, and paid from time to time to the holders of common stock out of the remaining net profit or surplus of the corporation.

(b) In the event of any liquidation, dissolution or winding up of the affairs of the corporation, whether voluntary or involuntary, all assets and funds of the corporation remaining after the payment to the holders of the preferred stock of the full amounts to which they shall be entitled, as provided by the Board of Directors in the resolution or resolutions by which it authorizes the issuance of such stock, shall be divided and distributed among the holders of the common stock according to their respective shares.

(c) Except as may otherwise be required by law or by these Articles of Incorporation, each holder of Common Stock shall have one vote in respect of each share of such stock held by him on all matters voted upon by the shareholder.

C. Preemptive Rights

No holder of shares of this corporation of any class now or hereafter authorized shall have any preferential or preemptive right to subscribe for, purchase or receive (i) any shares of stock of this corporation of any class now or hereafter authorized; (ii) any options or warrants for such shares; (iii) any rights to subscribe to or purchase such shares; or (iv) any securities which may at any time or from time to time be issued, sold or offered for sale by this corporation.

3. This Amendment was recommended by the Board of Directors to the Corporation's shareholders on June 6, 1994.
4. On August 31, 1994, the holders of a majority of the outstanding shares of Common Stock of the Corporation, the only class of securities outstanding, adopted this amendment to the Corporation's Articles of Incorporation at a special, duly called and convened meeting of such shareholders. The number of votes cast for the amendment by the shareholders was sufficient for approval.

IN WITNESS WHEREOF, the Company has caused these Articles of Amendment to the Articles of Incorporation to be executed this 6<sup>th</sup> day of September, 1994.

BIODYNAMICS INTERNATIONAL, INC.

By: John V. Hargiss  
John V. Hargiss, President

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED  
90 SEP 12 PM 2:51  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1001 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned director does hereby certify on behalf of the undersigned corporation as follows:

- A. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed with the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.
- B. Article III of the Articles of Incorporation provides that the Board of Directors is authorized to provide for the issuance of Preferred Stock in one or more series and, by filing the appropriate Articles of Amendment with the Secretary of State of the State of Florida, is authorized to establish the number of shares to be included in each series and the preferences, limitations, and relative rights of each series.
- C. Article III of the Articles of Incorporation is hereby amended to adopt the following series of Preferred Stock.
  1. Designation of Series. The series established hereby shall be designated Series A \$.88 Cumulative Convertible Preferred Stock (the "Series A Preferred Stock").
  2. Number of Shares: Par Value. The total number of shares of Series A Preferred Stock available for issuance shall be 350,000 with a par value of \$.01 per share. The consideration for the issuance of shares of Series A Preferred Stock may be paid in cash or, unless otherwise provided by law, in whole or in part, in other property (tangible or intangible) or in labor or services actually performed for the Company, in all cases at a per share sales price and valuation of consideration to be fixed by the Board of Directors.
  3. Dividends. The holders of the Series A Preferred Stock (the "Holders") shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Company legally available therefor and in preference to the holders of the common stock of the Company (the "Common Stock") and any other capital stock of the Company ranking junior to the Series A Preferred Stock as to dividends, cumulative preferential dividends per share of Series A Preferred Stock at the rate of \$.88 per annum and no more. Dividends on the Series A Preferred Stock will be cumulative, will accrue from date of issuance, and will

be paid annually, in shares of Common Stock of the Company, in arrears, on the last day of December, commencing on December 31, 1994 until the date of conversion of the Series A Preferred Stock. For the purpose of the issuance of Common Stock in lieu of a cash dividend, the shares of the Company's Common Stock shall be valued at \$2.00 per share.

Each dividend on the Series A Preferred Stock shall be paid to the holders of record of shares of the Series A Preferred Stock as they appear on the stock register of the Company on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Company.

4. Conversion.

(a) Conversion Rate. The Series A Preferred Stock shall be convertible at any time at the option of the Holder thereof at the rate of 5.5 shares of the Common Stock of the Company, as adjusted pursuant to Section 4(b) and 4(c) hereof, for each share of Series A Preferred Stock (the "Conversion Rate"). Upon such conversion, the Holder of Series A Preferred Stock shall surrender the certificate evidencing such shares and receive, in lieu, and in conversion thereof, a certificate evidencing shares of the Common Stock of the Company. At the time of any such conversion, the Company shall pay all cumulated but unpaid dividends on such shares of Series A Preferred Stock converted in shares of Common Stock which shall be valued for such purpose at the rate of \$2.00 per share.

(b) Recapitalizations, Dividends, Etc. If the Company shall, prior to conversion, effect a reorganization or recapitalization of such character that the shares of Common Stock receivable shall be changed into or become exchangeable for a larger or smaller number of shares of Common Stock, upon the effectuation of such reorganization or recapitalization, and/or, in connection therewith, securities (other than shares of Common Stock) or other property then receivable by the holders of shares of Common Stock, then (i) the number of shares of Common Stock which the Holders shall be entitled to receive upon a conversion shall be increased or decreased, as the case may be, in direct proportion to the increase or decrease in the number of shares of Common Stock resulting from such reorganization or recapitalization, (ii) the Conversion Rate applicable upon a conversion by the Holders for such reorganized or recapitalized shares of Common Stock shall be proportionately increased in the case of an increase in the number of such shares, and shall be proportionately decreased in the case of a decrease in the number of such shares, and (iii) the Holders shall be entitled to receive, upon consummation of a conversion, the other securities and property which they would have received by reason of such reorganization or recapitalization, had the Holders been the record holders, on the record date for determining stockholders entitled to such other securities and property, of the shares then issuable upon such conversion and had the Holders thereafter retained



such shares (unless they would have been given up in connection with the reorganization or recapitalization) and such securities and property. A "reorganization or recapitalization" shall mean a stock or other non-cash dividend or distribution on the shares or a stock split or reverse stock split, or a reclassification of, or other change in, the shares, other than in connection with a transaction referred to in 4 (d) below.

(c) Certain Issuances. In the event that the Company shall issue any shares of Common Stock for a price less than \$2.00 per share of Common Stock, or a Common Stock Equivalent (as hereinafter defined) which is convertible into Common Stock at a price less than \$2.00 per share (each, an "Issuance"), then in each such event the Conversion Rate shall be increased, but not reduced as follows:

where:

- S1 = the number of fully diluted shares of Common Stock outstanding immediately prior to such Issuance.
- C = the consideration, if any, received by the Company upon such Issuance.
- S2 = the number of fully diluted shares of Common Stock outstanding immediately after such Issuance.
- R1 = \$11.00 divided by the Conversion Rate immediately prior to such Issuance

New Conversion

$$\text{Rate} = \frac{\$11.00 \times S2}{(S1 \times R1) + C}$$

Each such adjustment of a Conversion Rate shall result in a Conversion Rate per share which will be calculated to the nearest whole share. No fractional shares shall be issued, but any such fraction shall be carried forward and shall be given effect in connection with the next subsequent adjustment.

In the event the Corporation issues or sells: (i) warrants to subscribe for Common Stock ("Warrants"), or (ii) securities convertible into Common Stock ("Convertible Securities"), or (iii) options to purchase Common Stock ("Options") other than Qualified Options (as hereinafter defined), then, for the purposes of the foregoing adjustment, the Corporation shall be deemed to have issued, on the date of issuance of said Warrants, Options and Convertible Securities, the Common Stock issuable pursuant to such Warrants, Options, and Convertible Securities for the consideration received or receivable by the Corporation for the issuance of shares of Common Stock pursuant to such Warrants, Options or Convertible Securities. The term "Qualified Options" shall mean options granted by the Corporation which is an "incentive stock option" as defined in Section 422A(b) of the Internal Revenue Code of 1986, as amended. The term "Common Stock

Equivalent' shall mean Options, Warrants and Convertible Securities, but shall not include Qualified Options.

(d) Mergers, Consolidations, Etc. In the event of any consolidation of the Company with, or merger of the Company with or into, any other entity, or in the event of any sale or conveyance of all or substantially all of the assets of the Company in connection with a plan of complete liquidation of the Company, as a condition precedent thereto, the Company shall arrange for provision to be made (which shall be reasonably satisfactory to the Holders) whereby the Holders shall thereafter have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore issuable upon the exercise of the conversion rights hereunder, such shares of stock or securities or other property which the Holders would have received in connection with such consolidation, merger or sale or conveyance with respect to or in exchange for the number of shares of Common Stock immediately theretofore receivable upon the exercise of the conversion rights hereunder, as if such conversion had already taken place at the time of such consolidation, merger, sale or conveyance.

5. Liquidation Preferences and Relative Preferences of Classes of Securities of the Company.

(a) Preference. Upon the liquidation, dissolution, or winding up of the affairs of the Company, whether voluntary or involuntary, Holders shall be entitled to receive, before any distribution, payment, or declaration and setting apart for payment to the holders of Common Stock or any other security of the Company subordinate to the Series A Preferred Stock as to liquidation, a liquidation preference, in cash or property, of \$11.00 per share; provided, however, prior to such liquidation, dissolution or winding up of affairs the Company shall provide each Holder of shares of Series A Preferred Stock advance notice of such action on the earliest date that any holder of any security of the Company is provided such notice. After all shares of Series A Preferred Stock then outstanding receive the above described liquidation preference, such shares shall have no right or claim whatsoever to any of the remaining assets of the Company.

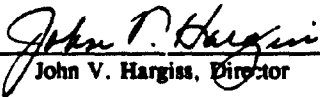
(b) Payment. If the assets of the Company are insufficient to pay in full the liquidation preference required by paragraph 5(a), the available assets shall be distributed pro rata among the shares of Series A Preferred Stock and the shares of any other class of security of the Company ranking on a parity with the Series A Preferred Stock as to liquidation preference.

(c) Merger, Etc. A consolidation, merger, or other similar reorganization of the Company, or sale, lease or conveyance of all or substantially all of the Company's property or business with or to any other entity or entities, shall not be deemed to be a liquidation, dissolution or winding up of affairs of the Company for purpose of this paragraph 5.

6. **No Sinking Fund.** No sinking fund or other similar provision for the purchase or redemption of Series A Preferred Stock shall be established.
7. **No Preemptive Rights.** The Holders shall not be entitled to preemptive rights with respect to their shares or any other shares of the capital stock or securities of the Company.
8. **Voting.** The Holders shall not be entitled to any voting rights with respect to the shares of Series A Preferred Stock.
9. **Reservation of Common Shares.** The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock the full number of shares of Common Stock deliverable upon the conversion of the then outstanding shares of Series A Preferred Stock and shall take all such action as may be necessary to enable the Company lawfully to issue such shares of Common Stock upon the conversion of the shares of Series A Preferred Stock.

The foregoing Amendment to the Articles of Incorporation was duly adopted by the Board of Directors on September 1, 1994. Shareholders approval was not required.

IN WITNESS WHEREOF, the undersigned Director of this Company has executed these Articles of Amendment on September 6, 1994.

  
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John V. Hargiss, Director

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

94 NOV -7 AM 11:05  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

FILED

Pursuant to the provisions of Section 607.1001 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned director does hereby certify on behalf of the undersigned corporation as follows:

- A. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed with the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.
- B. Article III of the Articles of Incorporation provides that the Board of Directors is authorized to provide for the issuance of Preferred Stock in one or more series and, by filing the appropriate Articles of Amendment with the Secretary of State of the State of Florida, is authorized to establish the number of shares to be included in each series and the preferences, limitations, and relative rights of each series.
- C. Article III of the Articles of Incorporation is hereby amended to adopt the following series of Preferred Stock.
  1. Designation of Series. The series established hereby shall be designated Series B \$.93 Cumulative Convertible Preferred Stock (the "Series B Preferred Stock").
  2. Number of Shares; Par Value. The total number of shares of Series B Preferred Stock available for issuance shall be 570,000 with a par value of \$.01 per share. The consideration for the issuance of shares of Series B Preferred Stock may be paid in cash or, unless otherwise provided by law, in whole or in part, in other property (tangible or intangible) or in labor or services actually performed for the Corporation, in all cases at a per share sales price and valuation of consideration to be fixed by the Board of Directors.
  3. Rank. The Series B Preferred Stock shall, with respect to dividend rights and rights upon liquidation, winding up and dissolution rank (a) *pari passu* with the Series A Preferred Stock previously designated and created by the Board of Directors; and shall rank senior to (b) any other class of preferred stock established by the Board of Directors after the date hereof, the terms of which specifically shall provide that such shares rank junior to the Series B Preferred Stock; (c) all other classes of preferred stock established by the Board of Directors, after the date hereof unless the holders of the Series B Preferred Stock shall agree pursuant to Section 9(b) hereof that such shares shall rank *pari passu* with or senior to the shares of Series B Preferred Stock; and (d) all other equity securities of the Corporation, including the Common Stock, par value \$.01 per share (the "Common Stock"), of the Corporation (all of the securities of the Corporation which rank junior to the Senior Preferred are at times collectively referred to herein as the "Junior Securities").

4. Dividends.

(a) The holders of the Series B Preferred Stock (the "Holders") shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor and in preference to the holders of the common stock of the Corporation (the "Common Stock") and any other capital stock of the Corporation ranking junior to the Series B Preferred Stock as to dividends, cumulative preferential dividends per share of Series B Preferred Stock at the rate of \$.93 per annum and no more. Dividends on the Series B Preferred Stock will be cumulative, will accrue from date of issuance, and will be paid quarterly, in arrears, commencing on December 31, 1994, until the date of conversion or redemption of the Series B Preferred Stock. Each dividend on the Series B Preferred Stock shall be paid to the holders of record of shares of the Series B Preferred Stock as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Corporation.

(b) Notwithstanding anything contained herein to the contrary, no cash dividends on shares of the Series B Preferred Stock shall be declared by the Board of Directors or paid or set apart for payment by the Corporation at such time as the terms and provisions of any agreement of the Corporation, including any agreement relating to its indebtedness, prohibits such declaration, payment or setting apart for payment or provides that such declaration, payment or setting apart for payment would constitute a breach thereof or a default thereunder, unless the Corporation has obtained the consent of the requisite holders of such indebtedness to the payment or setting apart for payment of such dividends, provided, however, that nothing herein contained shall in any way or under any circumstances be construed or deemed to require the Board of Directors to declare or the Corporation to pay or set apart for payment any dividends on shares of the Series B Preferred Stock at any time, whether permitted by any of such agreements or not.

(c) If at any time the Corporation shall have failed to pay all dividends which have accrued on any outstanding shares of any series or class of preferred stock having cumulative dividend rights ranking *pari passu* with or senior to the shares of the Series B Preferred Stock at the times such dividends are payable, no cash dividend shall be declared by the Board of Directors or paid or set apart for payment until (i) all accrued and unpaid dividends on all outstanding shares of any other series or class of preferred stock having cumulative dividend rights ranking senior to the Series B Preferred Stock shall have been or be declared, paid or set apart for payment without interest, and (ii) all accrued and unpaid dividends on all outstanding shares of any other series of preferred stock having cumulative dividend rights ranking *pari passu* with the Series B Preferred Stock shall have been or be declared, paid or set apart for payment, without interest, *pro rata* with all accrued and unpaid dividends on all outstanding shares of the Series B Preferred Stock, so that the amounts of any cash dividends declared, paid or set apart for payment on shares of the Series B Preferred Stock and shares of such other series of preferred stock having cumulative dividend rights ranking *pari passu* with the Series B Preferred Stock shall in all cases bear to each other the same ratio that, at the time of such declaration, payment or setting apart for payment, all accrued but unpaid cash dividends on shares of the Series B Preferred Stock and shares of such other series of the preferred stock having cumulative dividend rights ranking *pari passu* with the Series B Preferred Stock bear to each other.

(d) (i) Holders of shares of the Series B Preferred Stock shall be entitled to receive the dividends provided for in paragraph 4(a) hereof in preference to and in priority over any dividends upon any of the Junior Securities.

(ii) So long as any shares of the Series B Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart for payment any dividend on any of the Junior Securities or make any distribution in respect thereof, either directly or indirectly, and whether in cash, obligations or shares of the Corporation or other property (other than distributions or dividends in stock to the holders of such stock), unless prior to or concurrently with such declaration, payment or setting apart for payment, as the case may be, all accrued and unpaid cash dividends on shares of the Series Preferred Stock not paid on the dates provided for in paragraph 4(a) hereof (including if not paid pursuant to paragraph 4(b) or 4(c) hereof) shall have been or concurrently therewith, shall be paid.

5. Conversion.

(a) Conversion Rate. The Series B Preferred Stock shall be convertible at any time at the option of the Holder thereof at the rate of 10 shares of the Common Stock of the Corporation, as adjusted pursuant to Section 5(b) and 5(c) hereof, for each share of Series B Preferred Stock (the "Conversion Rate"). The Conversion price shall be \$11.00 divided by the Conversion Rate or \$1.10 per share, as adjusted pursuant to Section 5(b) and 5(c) hereof ("Conversion Price"). Upon such conversion, the Holder of Series B Preferred Stock shall surrender the certificate evidencing such shares and receive, in lieu, and in conversion thereof, a certificate evidencing shares of the Common Stock of the Corporation. At the time of any such conversion, the Corporation shall pay all accumulated but unpaid dividends on such a share of Series B Preferred Stock.

(b) Recapitalization Dividends, Etc. If the Corporation shall, prior to conversion, effect a reorganization or recapitalization of such character that the shares of Common Stock receivable shall be changed into or become exchangeable for a larger or smaller number of shares of Common Stock, upon the effectuation of such reorganization or recapitalization, and/or, in connection therewith, securities (other than shares of Common Stock) or other property then receivable by the holders of shares of Common Stock, then (i) the number of shares of Common Stock which the Holders shall be entitled to receive upon a conversion shall be increased or decreased, as the case may be, in direct proportion to the increase or decrease in the number of shares of Common Stock resulting from such reorganization or recapitalization, (ii) the Conversion Rate applicable upon a conversion by the Holders for such reorganized or recapitalized shares of Common Stock shall be proportionately increased in the case of an increase in the number of such shares, and shall be proportionately decreased in the case of a decrease in the number of such shares, and (iii) the Holders shall be entitled to receive, upon consummation of a conversion, the other securities and property which they would have received by reason of such reorganization or recapitalization, had the Holders been the record holders, on the record date for determining stockholders entitled to such other securities and property, of the shares then issuable upon such conversion and had the Holders thereafter retained such shares (unless they would have been given up in connection with the reorganization or recapitalization) and such securities and property. A "reorganization or recapitalization" shall mean a stock or other non-cash dividend or distribution on the shares or a stock split or reverse stock split, or a reclassification of, or other change in, the shares, other than in connection with a transaction referred to in 4 (d) below.

(c) Certain Issuances. In the event that the Corporation shall issue any shares of Common Stock for a price less than the Conversion Price per share of Common Stock then in effect, or a Common Stock Equivalent (as hereinafter defined) which is convertible into Common Stock at a price less than the Conversion Price per share then in effect (each, an "Issuance"), then in each such event the Conversion Rate shall be increased, but not reduced as follows:

where:

- S1 = the number of fully diluted shares of Common Stock outstanding immediately prior to such Issuance.
- C = the consideration, if any, received by the Corporation upon such Issuance.
- S2 = the number of fully diluted shares of Common Stock outstanding immediately after such Issuance.
- R1 = \$11.00 divided by the Conversion Rate immediately prior to such Issuance

$$\text{New Conversion Rate} = \frac{\$11.00 \times S2}{(S1 \times R1) + C}$$

Each such adjustment of a Conversion Rate shall result in a Conversion Rate per share which will be calculated to the nearest whole share. No fractional shares shall be issued, but any such fraction shall be carried forward and shall be given effect in connection with the next subsequent adjustment.

In the event the Corporation issues or sells: (i) warrants to subscribe for Common Stock ("Warrants"), or (ii) securities convertible into Common Stock ("Convertible Securities"), or (iii) options to purchase Common Stock ("Options") other than Qualified Options (as hereinafter defined), then, for the purposes of the foregoing adjustment, the Corporation shall be deemed to have issued, on the date of issuance of said Warrants, Options and Convertible Securities, the Common Stock issuable pursuant to such Warrants, Options, and Convertible Securities for the consideration received or receivable by the Corporation from the issuance of shares of Common Stock pursuant to such Warrants, Options or Convertible Securities. The term "Qualified Options" shall mean options granted by the Corporation which is an "incentive stock option" as defined in Section 422A(b) of the Internal Revenue Code of 1986, as amended. The term "Common Stock Equivalent" shall mean Options, Warrants and Convertible Securities, but shall not include Qualified Options.

(d) Mergers, Consolidations, Etc. In the event of any consolidation of the Corporation with, or merger of the Corporation with or into, any other entity, or in the event of any sale or conveyance of all or substantially all of the assets of the Corporation in connection with a plan of complete liquidation of the Corporation, as a condition precedent thereto, the Corporation shall arrange for provision to be made (which shall be reasonably satisfactory to the Holders) whereby the Holders shall thereafter have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore issuable upon the exercise of the conversion rights

hereunder, such shares of stock or securities or other property which the Holders would have received in connection with such consolidation, merger or sale or conveyance with respect to or in exchange for the number of shares of Common Stock immediately theretofore receivable upon the exercise of the conversion rights hereunder, as if such conversion had already taken place at the time of such consolidation, merger, sale or conveyance.

6. Liquidation Preferences and Relative Preferences of Classes of Securities of the Corporation.

(a) Preference. The Series B Preferred Stock shall rank on a parity with the Corporation's Series A Preferred Stock. Upon the liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary, Holders shall be entitled to receive, before any distribution, payment, or declaration and setting apart for payment to the holders of Common Stock or any other security of the Corporation subordinate to the Series B Preferred Stock as to liquidation, a liquidation preference, in cash or property, of \$11.00 per share; provided, however, prior to such liquidation, dissolution or winding up of affairs the Corporation shall provide each Holder of shares of Series B Preferred Stock advance notice of such action on the earliest date that any holder of any security of the Corporation is provided such notice. After all shares of Series B Preferred Stock then outstanding receive the above described liquidation preference, such shares shall have no right or claim whatsoever to any of the remaining assets of the Corporation.

(b) Payment. If the assets of the Corporation are insufficient to pay in full the liquidation preference required by paragraph 6(a), the available assets shall be distributed pro rata among the shares of Series B Preferred Stock and the shares of any other class of security of the Corporation ranking on a parity with the Series B Preferred Stock as to liquidation preference.

(c) Merger, Etc. A consolidation, merger, or other similar reorganization of the Corporation, or sale, lease or conveyance of all or substantially all of the Corporation's property or business with or to any other entity or entities, shall not be deemed to be a liquidation, dissolution or winding up of affairs of the Corporation for purpose of this paragraph 6.

7. Redemptions. The Series B Preferred Stock shall not be redeemable for three years from the date of issue, and thereafter may be called in whole or in part for a cash redemption at \$13.20 per share provided that (i) the Corporation shall have achieved annualized earnings for the preceding two quarters of no less than \$.175 per share on a fully diluted basis, (ii) the average market value for the common stock shall have exceeded the conversion price of the Series B Preferred Shares by 3 times for the 30 business days immediately prior to the call or redemption date and (iii) the Corporation give the Holders written notice no less than 90 days prior to the call date for such redemption, during which time the Holders will have the opportunity to convert their Series B Preferred Stock into shares of Common Stock.

8. No Sinking Fund. No sinking fund or other similar provision for the purchase or redemption of Series B Preferred Stock shall be established.



9. No Preemptive Rights. The Holders shall not be entitled to preemptive rights with respect to their shares or any other shares of the capital stock or securities of the Corporation.

10. Voting Rights. The holders of Series B Preferred Stock shall not be entitled to any voting rights with respect to the shares of Series B Preferred Stock except as set forth below.

(a) Election of Director. At any meeting of the shareholders of the Corporation at which directors are elected to the Corporation's Board of Directors, the holders of shares of Series B Preferred Stock shall have the right, voting separately as a class, to elect one director to the Board of Directors. Such election by the holders of the Series B Preferred Stock shall be effected by the vote of the holders of a majority of the then outstanding shares of Series B Preferred Stock.

(b) Amendments and Additional Capital Stock. The holders of Series B Preferred Stock shall have the right to vote as a separate class on the following matters: (i) the amendment of any of the terms of the Series B Preferred Stock or (ii) the authorization, creation, issuance or sale of any class or series of capital stock ranking senior to or on parity with the Series B Preferred Stock as to dividends or liquidation preference. The affirmative vote of the holders of not less than a majority of the outstanding shares of Series B Preferred Stock shall be necessary to authorize any transaction referenced in subsection (b)(i) and (ii) above.

(c) Voting Rights on Default. If the Corporation (1) fails to pay in whole or in part for four (4) or more cumulative quarterly dividends on the Series B Preferred Stock as provided for in paragraph 4 or (2) if a Default as defined in the Purchase Agreement by and between the Corporation, Renaissance Capital Partners II, Ltd. and Frole, Revy Investment Co. remains uncured for twelve (12) months, the Series B Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. Such right in the Series B Preferred Stock shall continue until all cumulative dividends for all past dividend periods shall have been declared and paid or set apart and after all defaults have been cured in the Purchase Agreement, after which the right to elect directors shall revert to the manner provided in paragraph 10(a), subject to renewal of the voting right of the Series B Preferred Stock from time to time in the event of nonpayment of dividends or Default as described above. At any time after the right to elect a majority of the directors is vested in the Series B Preferred Stock, the holders of 5% or more of the outstanding shares of Series B Preferred Stock or Common Stock, as the case may be, have a right to call a special meeting of stockholders for the purpose of electing all of the members of the Board of Directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors by the Series B Preferred Stock at a special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series B Preferred Stock, together with those elected at the special meeting by the Common Stock shall constitute the directors of the Corporation until the next annual meeting.

(d) Failure to Convert or Redeem If any of the Series B Preferred Stock remain outstanding on or after October 31, 2000, then at any time thereafter during the period that any shares of the Series B Preferred Stock remain outstanding, the remaining holders of the Series B Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. At any time after the right to elect directors pursuant to this Paragraph 10(d) is vested in the Series B Preferred Stock, the holders of 5% or more of the outstanding shares of Series B Preferred Stock shall have a right to call a special meeting of stockholders for the purpose of electing all of the members of the board of directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors at any such special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series B Preferred Stock, together with those elected at the special meeting by the Common Stock, shall constitute the directors of the Corporation until the next annual meeting. The term of office of any director elected by the holders of the Series B Preferred Stock pursuant to this Paragraph 10(d) shall terminate immediately upon the redemption or conversion of the last remaining outstanding share of Series B Preferred Stock, and the Corporation's Board of Directors or shareholders shall be entitled to fill the vacancy on the Board created thereby in a manner permitted by the Corporation's By-laws.

11. Reservation of Common Shares. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock the full number of shares of Common Stock deliverable upon the conversion of the then outstanding shares of Series B Preferred Stock and shall take all such action as may be necessary to enable the Corporation lawfully to issue such shares of Common Stock upon the conversion of the shares of Series B Preferred Stock.

The foregoing Amendment to the Articles of Incorporation was duly adopted by the Board of Directors on November 3, 1994. Shareholder approval was not required.

IN WITNESS WHEREOF, the undersigned Director of this Corporation has executed these Articles of Amendment on November 4, 1994.

  
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John V. Hargiss, Director

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED  
90 NOV 14 AM 10 19  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

Pursuant to the provisions of Section 607.1001 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned director does hereby certify on behalf of the undersigned corporation as follows:

A. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed with the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.

B. Article III, Section 10 of the Articles of Incorporation is hereby amended to read as follows:

10. Voting Rights. The holders of Series B Preferred Stock shall not be entitled to any voting rights with respect to the shares of Series B Preferred Stock except as set forth below.

(a) Election of Director. At any meeting of the shareholders of the Corporation at which directors are elected to the Corporation's Board of Directors, the holders of shares of Series B Preferred Stock shall have the right, voting separately as a class, to elect one director to the Board of Directors. Such election by the holders of the Series B Preferred Stock shall be effected by the vote of the holders of two-thirds (2/3) of the then outstanding shares of Series B Preferred Stock.

(b) Amendments and Additional Capital Stock. The holders of Series B Preferred Stock shall have the right to vote as a separate class on the following matters: (i) the amendment of any of the terms of the Series B Preferred Stock or (ii) the authorization, creation, issuance or sale of any class or series of capital stock ranking senior to or on parity with the Series B Preferred Stock as to dividends or liquidation preference. The affirmative vote of the holders of not less than two-thirds (2/3) of the outstanding shares of Series B Preferred Stock shall be necessary to authorize any transaction referenced in subsection (b)(i) and (ii) above.

(c) Voting Rights on Default. If the Corporation (1) fails to pay in whole or in part for four (4) or more cumulative quarterly dividends on the Series B Preferred Stock as provided for in paragraph 4 or (2) if a Default as defined in the Purchase Agreement by and between the Corporation, Renaissance Capital Partners II, Ltd. and Froley, Revy Investment Co. remains uncured for twelve (12) months, the Series B Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. Such right in the Series B Preferred Stock shall continue until all cumulative dividends for all past dividend periods shall have been declared and paid or set apart and after all defaults have been cured in the Purchase Agreement, after which the right to elect directors shall revert to the manner provided in paragraph 10(a), subject to renewal of the voting right of the Series B Preferred Stock from time to time in the event of nonpayment of dividends or Default as described above. At any time after the right to elect a majority of the directors is vested in the Series B Preferred Stock, the holders of 5% or more of the outstanding shares of Series B Preferred Stock or Common Stock, as the

case may be, have a right to call a special meeting of stockholders for the purpose of electing all of the members of the Board of Directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors by the Series B Preferred Stock at a special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series B Preferred Stock, together with those elected at the special meeting by the Common Stock shall constitute the directors of the Corporation until the next annual meeting.

(d) Failure to Convert or Redeem. If any of the Series B Preferred Stock remain outstanding on or after October 31, 2000, then at any time thereafter during the period that any shares of the Series B Preferred Stock remain outstanding, the remaining holders of the Series B Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. At any time after the right to elect directors pursuant to this Paragraph 10(d) is vested in the Series B Preferred Stock, the holders of 5% or more of the outstanding shares of Series B Preferred Stock shall have a right to call a special meeting of stockholders for the purpose of electing all of the members of the board of directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors at any such special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series B Preferred Stock, together with those elected at the special meeting by the Common Stock, shall constitute the directors of the Corporation until the next annual meeting. The term of office of any director elected by the holders of the Series B Preferred Stock pursuant to this Paragraph 10(d) shall terminate immediately upon the redemption or conversion of the last remaining outstanding share of Series B Preferred Stock, and the Corporation's Board of Directors or shareholders shall be entitled to fill the vacancy on the Board created thereby in a manner permitted by the Corporation's By-laws.

The foregoing Amendment to the Articles of Incorporation was duly adopted by the Board of Directors on November 10<sup>th</sup>, 1994, before the issuance of any shares of Series B Preferred Stock. No shareholder approval was required.

IN WITNESS WHEREOF, the undersigned Director of this Corporation has executed these Articles of Amendment on November 10<sup>th</sup>, 1994.

  
John V. Hargiss, Director

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

55 JUN 17 PM 3:51  
SECRETARY'S OFFICE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1001 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned director does hereby certify on behalf of the undersigned corporation as follows:

A. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed with the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.

B. Article III, Sections 4 (a) and (c) of the Articles of Incorporation are hereby amended to read as follows:

(a) Conversion Rate. The Series A Preferred Stock shall be convertible at any time at the option of the Holder thereof at the rate of 8.8 shares of the Common Stock of the Company, as adjusted pursuant to Section 4(b) and 4(c) hereof, for each share of Series A Preferred Stock (the "Conversion Rate"). Upon such conversion, the Holder of Series A Preferred Stock shall surrender the certificate evidencing such shares and receive, in lieu, and in conversion thereof, a certificate evidencing shares of the Common Stock of the Company. At the time of any such conversion, the Company shall pay all cumulated but unpaid dividends on such shares of Series A Preferred Stock converted in shares of Common Stock which shall be valued for such purpose at the rate of \$2.00 per share.

(c) Certain Issuances. In the event that the Company shall issue any shares of Common Stock for a price less than \$1.25 per share of Common Stock, or a Common Stock Equivalent (as hereinafter defined) which is convertible into Common Stock at a price less than \$1.25 per share (each, an "Issuance"), then in each such event the Conversion Rate shall be increased, but not reduced as follows:

where:

- S1 = the number of fully diluted shares of Common Stock outstanding immediately prior to such Issuance.
- C = the consideration, if any, received by the Company upon such Issuance.
- S2 = the number of fully diluted shares of Common Stock outstanding immediately after such Issuance.
- R1 = \$11.00 divided by the Conversion Rate immediately prior to such Issuance

$$\text{New Conversion Rate} = \frac{\$11.00 \times S2}{(S1 \times R1) + C}$$

Each such adjustment of a Conversion Rate shall result in a Conversion Rate per share which will be calculated to the nearest whole share. No fractional shares shall be issued.

but any such fraction shall be carried forward and shall be given effect in connection with the next subsequent adjustment.

In the event the Corporation issues or sells: (i) warrants to subscribe for Common Stock ("Warrants"), or (ii) securities convertible into Common Stock ("Convertible Securities"), or (iii) options to purchase Common Stock ("Options") other than Qualified Options (as hereinafter defined), then, for the purposes of the foregoing adjustment, the Corporation shall be deemed to have issued, on the date of issuance of said Warrants, Options and Convertible Securities, the Common Stock issuable pursuant to such Warrants, Options, and Convertible Securities for the consideration received or receivable by the Corporation for the issuance of shares of Common Stock pursuant to such Warrants, Options or Convertible Securities. The term "Qualified Options" shall mean options granted by the Corporation which is an "incentive stock option" as defined in Section 422A(b) of the Internal Revenue Code of 1986, as amended. The term "Common Stock Equivalent" shall mean Options, Warrants and Convertible Securities, but shall not include Qualified Options.

All other information in this Section 4 remains unchanged.

The foregoing Amendment to the Articles of Incorporation was duly adopted by the Board of Directors on November 3, 1994. This Amendment was approved by the Shareholders by unanimous consent on November 10, 1994.

IN WITNESS WHEREOF, this Corporation has caused these Articles of Amendment to be executed on January 12, 1995.

BIODYNAMICS INTERNATIONAL, INC.

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John V. Hargiss, President

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED  
96 MAY 29 PM 2:18  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1001 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned director does hereby certify on behalf of the undersigned corporation as follows:

- A. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed with the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.
- B. Article III of the Articles of Incorporation provides that the Board of Directors is authorized to provide for the issuance of Preferred Stock in one or more series and, by filing the appropriate Articles of Amendment with the Secretary of State of the State of Florida, is authorized to establish the number of shares to be included in each series and the preferences, limitations, and relative rights of each series.
- C. Article III of the Articles of Incorporation is hereby amended to adopt the following series of Preferred Stock.
  1. Designation of Series. The series established hereby shall be designated Series C 8% Cumulative Convertible Preferred Stock (the "Series C Preferred Stock").
  2. Number of Shares; Par Value. The total number of shares of Series C Preferred Stock available for issuance shall be 125,000 shares with a par value of \$.01 per share. The consideration for the issuance of shares of Series C Preferred Stock may be paid in cash or, unless otherwise provided by law, in whole or in part, in other property (tangible or intangible) or in labor or services actually performed for the Corporation, in all cases at a per share sales price and valuation of consideration to be fixed by the Board of Directors.
  3. Rank. The Series C Preferred Stock shall, with respect to dividend rights and rights upon liquidation, winding up and dissolution, rank senior to (a) any other class of preferred stock established by the Board of Directors after the date hereof, the terms of which specifically shall provide that such shares rank junior to the Series C Preferred Stock; (b) all other classes of preferred stock established by the Board of Directors after the date hereof unless the holders of the Series C Preferred Stock shall agree pursuant to Section 10(b) hereof that such shares shall rank *pari passu* with or senior to the shares of Series C Preferred Stock; and (c) all other equity securities of the Corporation, including the Common Stock, par value \$.01 per share (the "Common Stock"), of the Corporation (all of the securities of the Corporation which rank junior to Series C Preferred are at times collectively referred to herein as the "Junior Securities").

4. Dividends.

(a) The holders of the Series C Preferred Stock (the "Holders") shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor and in preference to the holders of the Common Stock of the Corporation and any other capital stock of the Corporation ranking junior to the Series C Preferred Stock as to dividends, cumulative preferential dividends per share of Series C Preferred Stock either in cash or in shares of Series C Preferred Stock of the Company, at the sole option of the Company, at the rate of \$10.20 per annum and no more. Dividends on the Series C Preferred Stock will be cumulative, will accrue from date of issuance, and will be paid quarterly, in arrears, commencing on December 31, 1995, until the date of conversion or redemption of the Series C Preferred Stock. Each dividend on the Series C Preferred Stock shall be paid to the holders of record of shares of the Series C Preferred Stock as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Corporation. Fractional shares will not be issued. In lieu thereof, the cash value of the fractional share, as determined below, will be paid to the holders.

If the Company utilizes Series C Preferred Stock to pay any dividend, the value of the Series C Preferred Stock utilized to pay such dividend shall be equal to the average closing bid and asked prices as quoted by Nasdaq (or the closing price if the Series C Preferred Stock is then listed on a national exchange) for the ten (10) trading day period ending one day prior to the date on which the dividend is declared. If the Series C Preferred Stock is not quoted by Nasdaq, the bid and ask prices will be obtained from any member of the National Association of Securities Dealers, Inc. If none of these alternatives are available, the value of the Series C Preferred Stock will be deemed to be \$127.50.

(b) Notwithstanding anything contained herein to the contrary, no cash dividends on shares of the Series C Preferred Stock shall be declared by the Board of Directors or paid or set apart for payment by the Corporation at such time as the terms and provisions of any agreement of the Corporation, including any agreement relating to its indebtedness, prohibits such declaration, payment or setting apart for payment or provides that such declaration, payment or setting apart for payment would constitute a breach thereof or a default thereunder, unless the Corporation has obtained the consent of the requisite holders of such indebtedness to the payment or setting apart for payment of such dividends, provided, however, that nothing herein contained shall in any way or under any circumstances be construed or deemed to require the Board of Directors to declare or the Corporation to pay or set apart for payment any dividends on shares of the Series C Preferred Stock at any time, whether permitted by any of such agreements or not.

(c) If at any time the Corporation shall have failed to pay all dividends which have accrued on any outstanding shares of any series or class of preferred stock having cumulative dividend rights ranking *pari passu* with or senior to the shares of the Series C Preferred Stock at the times such dividends are payable, no cash dividend shall be declared by the Board of Directors or paid or set apart for payment until (i) all accrued and unpaid dividends on all outstanding shares of any other series or class of preferred stock having cumulative dividend rights ranking senior to the Series C Preferred Stock shall have been or be declared, paid or set apart for payment without interest, and (ii) all accrued and unpaid dividends on all outstanding shares of any other series of preferred stock having cumulative dividend rights ranking *pari passu* with the Series C Preferred Stock shall have



been or be declared, paid or set apart for payment, without interest, *pro rata* with all accrued and unpaid dividends on all outstanding shares of the Series C Preferred Stock, so that the amounts of any cash dividends declared, paid or set apart for payment on shares of the Series C Preferred Stock and shares of such other series of preferred stock having cumulative dividend rights ranking *pari passu* with the Series C Preferred Stock shall in all cases bear to each other the same ratio that, at the time of such declaration, payment or setting apart for payment, all accrued but unpaid cash dividends on shares of the Series C Preferred Stock and shares of such other series of the preferred stock having cumulative dividend rights ranking *pari passu* with the Series C Preferred Stock bear to each other.

(d) (i) Holders of shares of the Series C Preferred Stock shall be entitled to receive the dividends provided for in paragraph 4(a) hereof in preference to and in priority over any dividends upon any of the Junior Securities.

(ii) So long as any shares of the Series C Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart for payment any dividend on any of the Junior Securities or make any distribution in respect thereof, either directly or indirectly, and whether in cash, obligations or shares of the Corporation or other property (other than distributions or dividends in stock to the holders of such stock), unless prior to or concurrently with such declaration, payment or setting apart for payment, as the case may be, all accrued and unpaid cash dividends on shares of the Series Preferred Stock not paid on the dates provided for in paragraph 4(a) hereof (including if not paid pursuant to paragraph 4(b) or 4(c) hereof) shall have been or concurrently therewith, shall be paid.

5. Conversion.

(a) Conversion Date. The Series C Preferred Stock shall be convertible into shares of Common Stock of the Corporation at any time subsequent to the date of issuance.

(b) Conversion Rate. For the purposes of conversion, the Common Stock shall be valued at \$.85 per share as adjusted pursuant to Section 5(c) and 5(d) hereof (the "Conversion Price") and the Series C Preferred Stock shall be valued at \$127.50 per share resulting in an initial conversion rate of 150 shares of the Common Stock of the Corporation for each share of Series C Preferred Stock (the "Conversion Rate"). Upon such conversion, the Holder of Series C Preferred Stock shall surrender the certificate evidencing such shares and receive, in lieu, and in conversion thereof, a certificate evidencing shares of the Common Stock of the Corporation. At the time of any such conversion, the Corporation shall pay all cumulated but unpaid dividends on such shares of Series C Preferred Stock.

(c) Recapitalizations, Dividends, Etc. If the Corporation shall, prior to conversion, effect a reorganization or recapitalization of such character that the shares of Common Stock receivable shall be changed into or become exchangeable for a larger or smaller number of shares of Common Stock, upon the effectuation of such reorganization or recapitalization, and/or, in connection therewith, securities (other than shares of Common Stock) or other property then receivable by the holders of shares of Common Stock, then (i) the number of shares of Common Stock which the Holders shall be entitled to receive upon a conversion shall be increased or decreased, as the case may be, in direct proportion to the increase or decrease in the number of shares of Common Stock resulting from such reorganization or recapitalization, (ii) the Conversion Rate applicable upon a conversion by the Holders for such reorganized or recapitalized shares of Common Stock shall be

proportionately increased in the case of an increase in the number of such shares, and shall be proportionately decreased in the case of a decrease in the number of such shares, and (iii) the Holders shall be entitled to receive, upon consummation of a conversion, the other securities and property which they would have received by reason of such reorganization or recapitalization, had the Holders been the record holders, on the record date for determining stockholders entitled to such other securities and property, of the shares then issuable upon such conversion and had the Holders thereafter retained such shares (unless they would have been given up in connection with the reorganization or recapitalization) and such securities and property. A "reorganization or recapitalization" shall mean a stock or other non-cash dividend or distribution on the shares or a stock split or reverse stock split, or a reclassification of, or other change in, the shares, other than in connection with a transaction referred to in 4 (d) below.

(d) Certain Issuances. In the event that the Corporation shall issue any shares of Common Stock in excess of 100,000 during any twelve consecutive month period for a price less than the Conversion Price per share of Common Stock then in effect, or a Common Stock Equivalent (as hereinafter defined) which is convertible into Common Stock at a price less than the Conversion Price per share then in effect (each, an "Issuance"), then in each such event the Conversion Price shall be reduced to such lower issuance price.

In the event the Corporation issues or sells: (i) warrants to subscribe for Common Stock ("Warrants"), or (ii) securities convertible into Common Stock ("Convertible Securities"), or (iii) options to purchase Common Stock ("Options") other than Qualified Options (as hereinafter defined), then, for the purposes of the foregoing adjustment, the Corporation shall be deemed to have issued, on the date of issuance of said Warrants, Options and Convertible Securities, the Common Stock issuable pursuant to such Warrants, Options and Convertible Securities for the consideration received or receivable by the Corporation for the issuance of shares of Common Stock pursuant to such Warrants, Options or Convertible Securities. The term "Qualified Options" shall mean options granted by the Corporation which is an "incentive stock option" as defined in Section 422A(b) of the Internal Revenue Code of 1986, as amended. The term "Common Stock Equivalent" shall mean Options, Warrants and Convertible Securities, but shall not include Qualified Options.

(e) Mergers, Consolidations, Etc. in the event of any consolidation of the Corporation with, or merger of the Corporation with or into, any other entity, or in the event of any sale or conveyance of all or substantially all of the assets of the Corporation in connection with a plan of complete liquidation of the Corporation, as a condition precedent thereto, the Corporation shall arrange for provision to be made (which shall be reasonably satisfactory to the Holders) whereby the Holders shall thereafter have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore issuable upon the exercise of the conversion rights hereunder, such shares of stock or securities or other property which the Holders would have received in connection with such consolidation, merger or sale or conveyance with respect to or in exchange for the number of shares of Common Stock immediately theretofore receivable upon the exercise of the conversion rights hereunder, as if such conversion had already taken place at the time of such consolidation, merger, sale or conveyance.

6. Liquidation Preferences and Relative Preferences of Classes of Securities of the Corporation.

(a) Preference. Upon the liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary, Holders shall be entitled to receive, before any distribution, payment, or declaration and setting apart for payment to the holders of Common Stock or any other security of the Corporation subordinate to the Series C Preferred Stock as to liquidation, a liquidation preference, in cash or property, of \$127.50 per share; provided, however, prior to such liquidation, dissolution or winding up of affairs the Corporation shall provide each Holder of shares of Series C Preferred Stock advance notice of such action on the earliest date that any holder of any security of the Corporation is provided such notice. After all shares of Series C Preferred Stock then outstanding receive the above described liquidation preference, such shares shall have no right or claim whatsoever to any of the remaining assets of the Corporation.

(b) Payment. If the assets of the Corporation are insufficient to pay in full the liquidation preference required by paragraph 6(a), the available assets shall be distributed pro rata among the shares of Series C Preferred Stock and the shares of any other class of security of the Corporation ranking on a parity with the Series C Preferred Stock as to liquidation preference.

(c) Merger, Etc. A consolidation, merger, or other similar reorganization of the Corporation, or sale, lease or conveyance of all or substantially all of the Corporation's property or business with or to any other entity or entities, shall not be deemed to be a liquidation, dissolution or winding up of affairs of the Corporation for purpose of this paragraph 6.

7. Redemptions. The Series C Preferred Stock shall not be redeemable for three years from the date of issue, and thereafter may be called in whole or in part for a cash redemption at \$127.50 per share provided that (i) the Corporation shall have achieved annualized earnings for the preceding two quarters of no less than \$.05 per share on a fully diluted basis, (ii) the average market value for the common stock shall have exceeded the conversion price of the Series C Preferred Shares by 2 times for the 30 business days immediately prior to the call or redemption date and (iii) the Corporation give the Holders written notice no less than 90 days prior to the call date for such redemption, during which time the Holders will have the opportunity to convert their Series C Preferred Stock into shares of Common Stock.

If less than all of the outstanding shares of Series C Preferred Stock are to be redeemed, the Company will select those to be redeemed pro rata or by lot or in such other manner as the Board of Directors may determine. There is no mandatory redemption or sinking fund obligation with respect to the Series C Preferred Stock. In the event that the Company has failed to pay accrued and unpaid dividends on the Series C Preferred Stock, it may not redeem any of the then outstanding shares of the Series C Preferred Stock, unless all the then outstanding shares are redeemed, until all such accrued and unpaid dividends and (except with respect to shares to be redeemed) the then-current annual dividend have been paid in full.

8. No Sinking Fund. No sinking fund or other similar provision for the purchase or redemption of Series C Preferred Stock shall be established.

9. No Preemptive Rights. The Holders of the Series C Preferred Stock shall not be entitled to preemptive rights with respect to their shares or any other shares of the capital stock or securities of the Corporation.

10. Voting Rights. The holders of Series C Preferred Stock shall not be entitled to any voting rights with respect to the shares of Series C Preferred Stock except as set forth below.

(a) Election of Director. At any meeting of the shareholders of the Corporation at which directors are elected to the Corporation's Board of Directors, the holders of shares of Series C Preferred Stock shall have the right, voting separately as a class, to elect two directors to the Board of Directors. Such election by the holders of the Series C Preferred Stock shall be effected by the vote of the holders of two-thirds (2/3) of the then outstanding shares of Series C Preferred Stock.

(b) Amendments and Additional Capital Stock. The holders of Series C Preferred Stock shall have the right to vote as a separate class on the following matters: (i) the amendment of any of the terms of the Series C Preferred Stock or (ii) the authorization, creation, issuance or sale of any class or series of capital stock ranking senior to or on parity with the Series C Preferred Stock as to dividends or liquidation preference. The affirmative vote of the holders of not less than two-thirds (2/3) of the outstanding shares of Series C Preferred Stock shall be necessary to authorize any transaction referenced in subsection (b)(i) and (ii) above.

(c) Voting Rights on Default. If the Corporation fails to pay in whole or in part for four (4) or more cumulative quarterly dividends on the Series C Preferred Stock, the Series C Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. Such right in the Series C Preferred Stock shall continue until all cumulative dividends for all past dividend periods shall have been declared and paid or set apart and after all defaults have been cured in the Purchase Agreement, after which the right to elect directors shall revert to the manner provided in paragraph 10(a), subject to renewal of the voting right of the Series C Preferred Stock from time to time in the event of nonpayment of dividends or Default as described above. At any time after the right to elect a majority of the directors is vested in the Series C Preferred Stock, the holders of 5% or more of the outstanding shares of Series C Preferred Stock or Common Stock, as the case may be, have a right to call a special meeting of stockholders for the purpose of electing all of the members of the Board of Directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors by the Series C Preferred Stock at a special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series C Preferred Stock, together with those elected at the special meeting by the Common Stock shall constitute the directors of the Corporation until the next annual meeting.

(d) Failure to Convert or Redeem. If any of the Series C Preferred Stock remain outstanding on or after October 31, 2000, then at any time thereafter during the period that

any shares of the Series C Preferred Stock remain outstanding, the remaining holders of the Series C Preferred Stock shall have the right to elect the smallest number of directors constituting a majority of the authorized number of directors of the Corporation, and the holders of the Common Stock shall have the right to elect the remaining directors. At any time after the right to elect directors pursuant to this Paragraph 10(d) is vested in the Series C Preferred Stock, the holders of 5% or more of the outstanding shares of Series C Preferred Stock shall have a right to call a special meeting of stockholders for the purpose of electing all of the members of the board of directors, such right to be exercisable by delivering a request in writing for the calling of the special meeting to the president or secretary, or to the chairman of the board or a vice-president if there be such. The officer receiving the request shall forthwith cause notice to be given to the stockholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than 35 or more than 90 days after the receipt of the request. Upon the election of directors at any such special meeting, the terms of all persons who were directors immediately prior thereto shall terminate and the directors elected by the Series C Preferred Stock, together with those elected at the special meeting by the Common Stock, shall constitute the directors of the Corporation until the next annual meeting. The term of office of any director elected by the holders of the Series C Preferred Stock pursuant to this Paragraph 10(d) shall terminate immediately upon the redemption or conversion of the last remaining outstanding share of Series C Preferred Stock, and the Corporation's Board of Directors or shareholders shall be entitled to fill the vacancy on the Board created thereby in a manner permitted by the Corporation's By-laws.

The foregoing Amendment to the Articles of Incorporation was duly adopted by the Board of Directors on December 29, 1995. Shareholder approval was not required.

IN WITNESS WHEREOF, the undersigned Director of this Corporation has executed these Articles of Amendment on December 29, 1995.



Charles C. Dragone, Director

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF BIODYNAMICS INTERNATIONAL, INC.**

97 SEP 23 PM 3:31  
TELETYPE UNIT

Biodynamics International, Inc. (the "Company"), is a corporation which has been duly incorporated and organized under the Florida Business Corporations Act ("FBCA"). The articles of incorporation of the Company (the "Articles of Incorporation"), were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of the Company is S98512. The Company hereby amends its Articles of Incorporation pursuant to the provisions of Sections 607.1001 - 607.1006 of the FBCA. The undersigned director does hereby certify individually and on behalf of the Company as follows:

At the August 29, 1997 meeting of the board of directors of the Company (the "Board"), the following amendments to Article III of the Articles of Incorporation (the "Amendments") were proposed and recommended by the Board for submission to the shareholders of the Company's Series C Preferred Stock (the "Series C Shareholders," and the "Series C Shares," respectively). On September 16, 1997, a special meeting of the Series C Shareholders (the "Special Meeting"), was held to consider and vote upon the Amendments. All of the outstanding Series C Shares were present by proxy and voted at the Special Meeting. The Amendments were approved and adopted at the Special Meeting by a vote of 86% of the Series C Shares cast in favor, and 14% of the Series C Shares cast in opposition to the Amendments. The number of votes cast for the Amendments by the Series C Shareholders was sufficient for approval of the Amendments. Approval by the holders of the Company's Common Stock was not required.

Set forth below is the text of each Amendment adopted at the Special Meeting:

1. Section 5(a) of Article III shall be deleted in its entirety, and in its place and stead shall be substituted the following:

"(a) Conversion Date. The Series C Shares shall be convertible into shares of Common Stock of the Corporation at any time subsequent to September 1, 1996 by action of the Board of Directors of the Corporation."

2. The last sentence of Section 5(b) of Article III shall be deleted and in its place and stead shall be substituted the following:

(b) "...At the time of any such conversion, the Corporation shall pay all cumulated but unpaid dividends on such shares of the Series C Preferred Stock by issuance of additional shares of such Preferred Stock which shall be valued at \$127.50 per share, which such shares shall therewith be converted into Common Stock at the stated Conversion Rate."

3. Section 5(d) of Article III shall be deleted in its entirety.

IN WITNESS WHEREOF, the Company has caused these Articles of Amendment to the Articles of Incorporation to be executed this 17<sup>th</sup> day of September, 1997.

BIODYNAMICS INTERNATIONAL, INC.



Charles Dragone, Chairman of the Board

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED

97 OCT -1 PM 4:06

CLERK OF THE CIRCUIT COURT  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.181 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned officers do hereby certify individually and on behalf of the undersigned corporation as follows:

1. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of this Corporation were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512
2. Article III of the Articles of Incorporation of this Corporation shall be amended as follows:

ARTICLE III - CAPITAL STOCK

Shares Authorized. The aggregate number of shares of stock which this corporation shall have authority to issue shall be thirty-one million (31,000,000) shares of which thirty million (30,000,000) shares shall be of Common Stock (each with a par value of \$.01) and one million (1,000,000) shares of Preferred Stock (each with a par value of \$.01).

The terms of the Preferred Stock and Common Stock were not changed.

3. This Amendment was recommended by the Board of Directors to the Corporation's shareholders on December 29, 1995.
4. On June 13, 1996, the holders of a majority of the outstanding shares of Common Stock of the Corporation, the only class of securities outstanding, adopted this amendment to the Corporation's Articles of Incorporation at a special, duly called and convened meeting of such shareholders. The number of votes cast for the amendment by the shareholders was sufficient for approval.

IN WITNESS WHEREOF, the Company has caused these Articles of Amendment to the Articles of Incorporation to be executed this 21<sup>st</sup> day of September, 1997.

BIODYNAMICS INTERNATIONAL, INC.

By: Karl Meister  
Karl Meister, President



**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.**

**FILED**  
97 NOV 10 PM 11 04  
SECRETARY  
TALLAHASSEE  
FLORIDA

Pursuant to the provisions of Section 607.181 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned officer does hereby certify individually and on behalf of the undersigned corporation as follows:

1. The name of the corporation is Biodynamics International, Inc. (the "Company"). The Articles of Incorporation of this Corporation were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of this Corporation is S98512.
2. A new Article VII to the Articles of Incorporation of this Corporation shall be as follow:

**ARTICLE VII**

The 26,875,090 shares of common stock of the Corporation, par value \$0.01 per share, either issued and outstanding or held by the Corporation as treasury stock, immediately prior to the time this amendment becomes effective shall be and are automatically reclassified and changed (without any further act) into 2,687,509 fully-paid and nonassessable shares of the common stock of the Corporation, par value \$0.01 per share (subject to adjustment due to rounding of fractional shares), without increasing or decreasing the amount of stated capital or paid-in surplus of the Corporation, provided that no fractional shares shall be issued. The fractional share shall be rounded up to the next whole number.

3. This Amendment was recommended by the Board of Directors to the Corporation's shareholders on September 22, 1997
4. On November 10, 1997, the holders of a majority of the outstanding shares of Common Stock of the Corporation, the only class of securities outstanding, adopted this amendment to the Corporation's Articles of Incorporation at a special, duly called and convened meeting of such shareholders. The number of votes cast for the amendment by the shareholders was sufficient for approval.

IN WITNESS WHEREOF, the Company has caused these Articles of Amendment to the Articles of Incorporation to be executed this 10<sup>th</sup> day of November, 1997.

**BIODYNAMICS INTERNATIONAL, INC.**

By:   
Karl Meister, President

*11/10/97*

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
BIODYNAMICS INTERNATIONAL, INC.

FILED  
98 APR 15 PM 12:30  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.181 of the Florida General Corporation Act, the undersigned corporation does hereby adopt these Articles of Amendment to the Articles of Incorporation, and the undersigned officer does hereby certify individually and on behalf of the undersigned corporation as follows:

1. The name of the corporation is Biodynamics International, Inc. (the "Corporation"). The Articles of Incorporation of the Corporation were filed by the Department of State of the State of Florida and became effective on December 6, 1991. The document number of the Corporation is S98512.
2. A new Article I to the Articles of Incorporation of the Corporation shall be as follows:


ARTICLE I - CORPORATE NAME

The name of this corporation shall be: Tutogen Medical, Inc.

3. This Amendment was recommended by the Board of Directors to the Corporation's shareholders on January 12, 1998.
4. At the Annual Meeting of Shareholders held on March 30, 1998, duly called and convened, the holders of a majority of the outstanding shares of Common Stock of the Corporation adopted this amendment to the Articles of Incorporation. The number of votes cast for the amendment by the shareholders was sufficient for approval.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to the Articles of Incorporation to be executed this 6<sup>th</sup> day of April, 1998.

BIODYNAMICS INTERNATIONAL, INC.

By:   
Karl Meister, President