

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2002-05-14** | Period of Report: **2002-03-31**
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FILER

ZEVEX INTERNATIONAL INC

CIK: **827056** | IRS No.: **870462807** | State of Incorpor.: **NV** | Fiscal Year End: **1231**
Type: **10-Q** | Act: **34** | File No.: **001-12965** | Film No.: **02645948**
SIC: **3845** Electromedical & electrotherapeutic apparatus

Mailing Address
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MURRAY UT 84123

Business Address
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8012641001

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended March 31, 2002

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period fromto.....

Commission file number 001-1296

ZEVEX INTERNATIONAL, INC.
(Exact name of registrant as specified in charter)

DELAWARE
(State or other jurisdiction
of incorporation or organization)

87-0462807
(I.R.S. Employer
Identification No.)

4314 ZEVEX Park Lane, Salt Lake City, Utah 84123
(Address of principal executive offices and zip code)

(801) 264-1001
(Registrant's telephone number, including area code)

NOT APPLICABLE

(Former name, former address, and former fiscal year, if changed since last
report)

Indicate by check mark whether the registrant (1) has filed all reports required
to be filed by section 13 or 15(d) of the Securities Exchange Act of 1934 during
the preceding 12 months (or for such shorter period that the registrant was
required to file such reports), and (2) has been subject to such filing
requirements for the past 90 days. Yes No

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY
PROCEEDINGS DURING THE PRECEDING FIVE YEARS

Indicate by check mark whether the registrant has filed all documents and
reports required to be filed by Sections 12, 13 or 15(d) of the Securities
Exchange Act of 1934 subsequent to the distribution of securities under a plan
confirmed by a court.
Yes No Not Applicable

APPLICABLE ONLY TO CORPORATE ISSUERS

Indicate the number of shares outstanding of each of the issuer's classes of
common stock, as of the latest practicable date. As of April 29, 2002, the
Company had outstanding 3,415,197 shares of common stock, par value \$0.001 per
share.

PART I

FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS REQUIRED BY FORM 10-Q

ZEVEX International, Inc. ("ZEVEX" or the "Company") files herewith balance
sheets of the Company as of March 31, 2002, and December 31, 2001, and the
related statements of operations and cash flows for the respective three month
periods ended March 31, 2002 and 2001. In the opinion of the Company's
management, the financial statements reflect all adjustments, all of which are
normal recurring adjustments, necessary to fairly present the financial
condition of the Company for the interim periods presented. The financial
statements included in this report on Form 10-Q should be read in conjunction

with the audited financial statements of the Company and the notes thereto included in the annual report of the Company on Form 10-K for the year ended December 31, 2001.

<TABLE>
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**ZEVEX INTERNATIONAL, INC.
CONSOLIDATED BALANCE SHEETS**

	March 31 2002 (unaudited)	December 31 2001
	-----	-----
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,248,780	\$ 1,028,086
Restricted cash for sinking fund payment on IDB	110,247	93,076
Accounts receivable	4,690,882	5,748,578
Inventories	6,737,630	7,272,842
Marketable securities	--	219,899
Deferred income taxes	570,119	568,387
Income taxes receivable	446,446	418,506
Prepaid expenses and other current assets	221,977	62,662
Total current assets	14,026,081	15,412,036
Property and equipment, net	7,390,270	7,688,088
Patents, trademarks and acquisition costs, net	335,437	342,746
Goodwill, net	10,154,757	10,154,757
Other assets	29,467	41,519
	\$ 31,936,012	\$ 33,639,146
LIABILITIES & STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 1,038,975	\$ 1,711,429
Other accrued expenses	595,746	563,067
Bank line of credit	722,751	1,713,610
Current portion of industrial development bond	100,000	100,000
Payable related to business acquisition and convertible debt, short-term	4,140,360	1,143,390
Current portion of other long-term debt	535,278	524,381
Current portion of capital lease obligation	166,484	162,783
Total current liabilities	7,299,594	5,918,660
Deferred income taxes	273,724	276,734
Industrial development bond	1,500,000	1,500,000
Convertible debt, long-term	--	3,001,970
Other long-term debt	1,470,078	1,608,330
Capital lease obligation	258,016	301,051
Stockholders' equity:		
Common stock, \$.001 par value: authorized 10,000,000 shares, 3,440,197 issued and 3,415,197 outstanding at March 31, 2002 and December 31, 2001	3,440	3,440
Additional paid in capital	16,290,452	16,290,452
Unrealized loss on marketable securities, net	--	20,177
Treasury stock, 25,000 shares at cost	(60,956)	(60,956)
Retained earnings	4,901,664	4,779,288
Total stockholders' equity	21,134,600	21,032,401
	\$ 31,936,012	\$ 33,639,146

See accompanying notes.

</TABLE>

ZEVEX INTERNATIONAL, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS

<TABLE>				
<CAPTION>				
<S>	<C>	<C>	<C>	<C>
	Three months ended			
	March 31,			
	2002		2001	
	-----		-----	
	(unaudited)		(unaudited)	
Revenue:				
Product sales	\$ 5,927,931		\$ 7,031,447	
Engineering services	167,723		360,972	
	-----		-----	
	6,095,654		7,392,419	
Cost of sales	3,656,001		4,502,722	
	-----		-----	
Gross profit	2,439,653		2,889,697	
Operating expenses:				
General and administrative	1,466,404		1,535,990	
Selling and marketing	680,019		640,777	
Goodwill amortization	--		133,276	
Research and development	79,579		122,260	
	-----		-----	
Total operating expenses	2,226,002		2,432,303	
	-----		-----	
	-----		-----	
Operating income	213,651		457,394	
Other income (expense)				
Interest income	604		1,326	
Interest expense	(150,638)		(309,206)	
Gain on sale of				
marketable securities	38,079		40,978	
	-----		-----	
Income before benefit (provision)				
for income taxes	101,696		190,492	
Benefit (provision) for income taxes	20,680		(103,030)	
	-----		-----	
Net income	\$ 122,376		\$ 87,462	
	=====		=====	
Basic net income per share	\$.04		\$.03	
	=====		=====	
Weighted average shares				
Outstanding	3,415,197		3,440,065	
	=====		=====	
Diluted net income per share	\$.04		\$.03	
	=====		=====	
Diluted weighted average shares				
Outstanding	3,420,828		3,466,271	
	=====		=====	

</TABLE>

See accompanying notes.

ZEVEX INTERNATIONAL, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

<TABLE> <CAPTION> <S>	<C>	<C>	<C>	<C>
	Three months ended March 31,			
	2002		2001	
	----- (unaudited)		----- (unaudited)	
Cash flows from operating activities				
Net income	\$	122,376	\$	87,462
Adjustments to reconcile net income to net cash provided by operating activities:				
Depreciation and amortization		396,367		515,255
Deferred income taxes		7,262		21,918
Realized gain on marketable securities		(38,079)		(40,978)
Changes in operating assets and liabilities:				
Restricted cash for sinking fund payment on industrial development bond		(17,171)		(26,213)
Accounts receivable		1,057,696		864,694
Inventories		694,986		535,212
Prepaid expenses		(157,366)		(2,262)
Other assets		10,103		(6,274)
Accounts payable		(672,454)		(967,067)
Accrued and other liabilities		32,679		34,535
Income taxes receivable/payable		(27,940)		81,114
		-----		-----
Net cash provided by operating activities		1,248,685		1,257,170
Cash flows from investing activities				
Purchase of property and equipment		(91,240)		(448,355)
Additions of patents and trademarks		--		(2,082)
Redemption of available-for-sale marketable securities		225,797		127,221
		-----		-----
Net cash (used in) provided by investing activities		134,557		(323,216)
Cash flows from financing activities				
Proceeds from capital leases and long-term debt		--		1,500,000
Payments on capital leases and long-term debt		(166,689)		(35,952)
Payments on business acquisition debt		(5,000)		--
Repayment of bank line of credit		(990,859)		(1,802,223)
Proceeds from exercise of stock options		--		665
		-----		-----
Net cash used in financing activities		(1,162,548)		(337,510)
		-----		-----
Net increase in cash and cash equivalents		220,694		596,444
Cash and cash equivalents at beginning of period		1,028,086		327,157
		-----		-----
Cash and cash equivalents at end of period		\$1,248,780		\$ 923,601
		=====		=====
Supplemental disclosure:				
Non-cash activities				
Unrealized (loss) gain on available-for-sale marketable securities	\$	--	\$	(26,663)

</TABLE>

See accompanying notes.

ZEVEX INTERNATIONAL, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

March 31, 2002

1. Summary of Significant Accounting Policies

Description of Organization and Business

The Company was incorporated under the laws of the State of Nevada on December 30, 1987. The Company was originally incorporated as Downey Industries, Inc. and changed its name to ZEVEX International, Inc. on August 15, 1988. In November 1997, the Company reincorporated in Delaware. In December 1998, the Company acquired an additional product line and completed the acquisition of two additional subsidiaries. Additionally, the Company acquired a product line from Nestle USA, Inc. in April of 2000. The Company, through its divisions and subsidiaries, engages in the business of designing, manufacturing and distributing medical devices. Recently, ZEVEX renamed its three primary business divisions. In its Applied Technology business division the Company designs and manufactures advanced medical components and systems for other medical technology companies through its ZEVEX, Inc. subsidiary. In its Physical Evaluation business division the Company designs, manufactures and markets industry leading physical evaluation testing systems through its JTech Medical Industries, Inc. subsidiary. The Therapeutics business division designs, manufactures and markets enteral nutrition delivery devices through its ZEVEX, Inc. subsidiary.

Principles of Consolidation

The consolidated financial statements at March 31, 2002 include the accounts of ZEVEX International, Inc. (the Company) and its wholly owned operating subsidiaries: ZEVEX, Inc. and JTech Medical Industries, Inc. (JTech). The consolidated statement of operations for the three months ended March 31, 2001 also includes the results of operations of its former subsidiary, Aborn Electronics, Inc. (Aborn). During December 2001, the corporate shell of Aborn was sold to a related party. The Company maintained certain manufacturing rights, cash, accounts receivable, equipment, and inventory, which now are included within the subsidiary, ZEVEX, Inc. For additional information regarding this transaction refer to the Company's 2001 Annual Report on SEC Form 10-K. All significant intercompany balances and transactions have been eliminated in consolidation.

Basis of Presentation

The accompanying financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information along with the instructions to Form 10-Q of Regulation S-X. Accordingly, certain information and footnote disclosures normally included in complete financial statements have been condensed or omitted. These financial statements should be read in conjunction with the financial statements and footnotes thereto included in the Company's 2001 Annual Report on SEC Form 10-K.

In the opinion of management, all adjustments (consisting of normal and recurring adjustments) considered necessary for a fair presentation have been included. The results of operations for interim periods are not indicative of the results of operations to be expected for a full year.

New Accounting Pronouncements

In June 2001, the FASB issued SFAS No. 141, Business Combinations, and No. 142, Goodwill and Other Intangible Assets.

SFAS No. 141 requires that the purchase method of accounting be used for all business combinations initiated after June 30, 2001. Use of the pooling-of-interests method is no longer permitted. SFAS No. 141 also includes guidance on the initial recognition and measurement of goodwill and other intangible assets acquired in a business combination that is completed after June 30, 2001.

SFAS No. 142 no longer permits the amortization of goodwill and indefinite-lived intangible assets. Instead, these assets must be reviewed annually (or more frequently under certain conditions) for impairment in accordance with this Statement. This impairment test uses a fair value approach, rather than the undiscounted cash flows approach previously required by SFAS No. 121. Intangible assets that do not have indefinite lives will continue to be amortized over their useful lives and reviewed for impairment in accordance with SFAS No. 121 or SFAS No. 144 (see below), once adopted. The Company has adopted SFAS No. 142 effective January 1, 2002. SFAS No. 142 provides a six-month period from the effective date of adoption for the Company to complete Step 1 (determining and comparing the fair value of the Company's reporting units to their carrying values) of the transitional impairment test. The Company anticipates completing this impairment assessment by June 30, 2002. If, upon completion of Step 1, the carrying value exceeds the fair value, the goodwill of the reporting unit is potentially impaired and the Company must complete Step 2 in order to measure the impairment loss. Step 2 involves the calculation of the implied fair value

of goodwill and must be completed by December 31, 2002. However, the Company currently does not expect to fail Step 1 of the transitional impairment test and therefore, does not expect to record an impairment loss upon completion of the transitional impairment analysis.

As of March 31, 2002, the Company's gross goodwill balance is \$11,603,600 with accumulated amortization of \$1,448,843. The adoption of SFAS No. 142 will reduce the Company's amortization expense by approximately \$532,000 annually beginning in 2002, due to the nonamortization of goodwill. Amortization expense for goodwill for the three months ended March 31, 2001 was \$133,276. Adjusted net income and net income per common share for the three months ended March 31, 2001 compared to the actual results for the three months ended March 31, 2002 is as follows:

	<C> For Three Months 2001	<C> <C> Ended March 31 2002
Reported net income	\$ 87,462	\$ 122,376
Goodwill amortization	133,276	--
Adjusted net income	220,738	122,376
Basic net income per share reported	\$.03	\$.04
Goodwill amortization	.03	--
Adjusted	\$.06	\$.04
Diluted net income per share reported	\$.03	\$.04
Goodwill amortization	.03	--
Adjusted	\$.06	\$.04

In August 2001, the FASB issued SFAS No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets. This Statement addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This Statement supersedes SFAS No. 121, and the accounting and reporting provisions of APB Opinion No. 30, Reporting the Results of Operations and Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual, and Infrequently Occurring Events and Transactions, for the disposal of a segment of business (as previously defined in that Opinion). The Company adopted SFAS No. 144 effective January 1, 2002. As expected, the adoption of SFAS No. 144 did not have a material impact on the consolidated financial position, consolidated results of operations or liquidity of the Company.

2. Bank Line of Credit

In early 2001, the Company renewed its line of credit arrangement with a financial institution with availability of \$7 million. In the fourth quarter of 2001, the availability was reduced to \$6 million. The line matures on May 28, 2002. The line of credit is collateralized by accounts receivable and inventory and bears interest at the prime rate, which was 4.75% at March 31, 2002 and December 31, 2001. The Company's balance on its line of credit was \$722,751 at March 31, 2002 and \$1,713,610 at December 31, 2001. Under the line of credit agreement, the Company is restricted from declaring cash dividends. In addition, the Company's line of credit contains certain financial covenants. As of March 31, 2002, the Company was in compliance with these financial covenants.

3. Related Party Transactions

On December 31, 1998, the Company acquired JTech pursuant to a Stock Purchase Agreement among the Company and the four shareholders of JTech (the "JTech Stock Purchase"). Leonard C. Smith, one of the selling JTech shareholders, received \$1,311,188 in cash and a convertible debenture in connection with the JTech Stock Purchase. The Company paid \$290,000 of the convertible debenture in December 2001, and the remaining principal amount of \$1,073,594 (inclusive of the 1999 earn-out provision of \$73,594 which was paid on April 2, 2002) is due January 6, 2003 (as modified in December 2001) and is convertible to common stock at Mr. Smith's option during the period from January 6, 2000 to January 6, 2003 at \$11 per share.

4. Comprehensive Income

Effective January 1, 1998, the Company adopted Statement of Financial Accounting Standards ("SFAS") No. 130, "Reporting Comprehensive Income". SFAS No. 130

requires that all items recognized under accounting standards as components of comprehensive income be reported in an annual financial statement that is displayed with the same prominence as other annual financial statements. This statement also requires that an entity classify items of other comprehensive income by their nature in an annual financial statement. Other comprehensive income may include foreign currency translation adjustments, and unrealized gains and losses on marketable securities classified as available-for-sale. For the three months ending March 31, 2002, the Company did not have any other elements of comprehensive income. Therefore, comprehensive income equaled net income. For the three months ending March 31, 2001, the Company's comprehensive income was \$16,718 (net of tax effect) lower than net income reported on the Company's financial statements

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5. Inventories

Inventories consist of the following:

	March 31, 2002	December 31, 2001
Materials	\$ 2,989,060	\$ 3,355,793
Work in progress	1,368,364	1,241,034
Finished goods, including completed subassemblies	2,380,206	2,676,015
	\$ 6,737,630	\$ 7,272,842

</TABLE>

6. Net Income Per Common Share

Basic net income per common share is calculated by dividing net income for the period by the weighted-average number of the Company's common shares outstanding.

Diluted net income per common share includes the dilutive effect of options in the weighted-average number of the Company's common shares outstanding as calculated using the treasury stock method.

 ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF
 FINANCIAL CONDITION AND RESULTS OF OPERATIONS

General

ZEVEX, through its divisions and subsidiaries, engages in the business of designing, manufacturing and distributing medical devices. Recently, ZEVEX renamed its three primary business divisions. Through its Applied Technology business division the Company designs and manufactures advanced medical components and systems for other medical technology companies. Its Physical Evaluation business division designs, manufactures and markets industry leading physical evaluation testing systems. The Therapeutics business division designs, manufactures and markets award-winning enteral nutrition delivery devices. See Note 1 of the Financial Statements, Description of Organization and Business for more information.

Results of Operations

ZEVEX' revenues for the first quarter of 2002 decreased to \$6,095,654 from \$7,392,419 for the first quarter of 2001, a decrease of approximately 18%. In the first quarter of 2002, 58% of ZEVEX' revenue was derived from proprietary products sold by ZEVEX, in comparison to 61% in 2001. Sales of ZEVEX' Therapeutic business products accounted for approximately 43% of total revenues for the three months ended March 31, 2002, compared to 51% for the three months ended March 31, 2001. Sales of ZEVEX' Physical Evaluation products accounted for approximately 14% of total revenues for the three months ended March 31, 2002, compared to 10% for the three months ended March 31, 2001. Forty-two percent of ZEVEX' revenues during the first quarter 2002 were derived from its Applied

Technology business, compared to 39% in 2001. The decrease in revenues for the first quarter of 2002 is largely due to the delay of several orders for contract-manufactured products, the scheduling of private-label enteral feeding pump orders for a European customer, and a slow down in orders related to the stationary enteral nutrition delivery pumps.

ZEVEX' gross profit as a percentage of revenues was approximately 40% for the first quarter of 2002, compared to 39% for the first quarter of 2001. Management attributes the slight increase in gross profit percentage from 2001 to 2002 to the particular product mix delivered during the quarter.

Selling, general and administrative expenses decreased slightly during the first quarter of 2002 to \$2,146,423, as compared to \$2,166,849, for the first quarter of 2001.

As of March 31, 2002, ZEVEX had two full-time engineers engaged in research and development, and had several other designers and engineers, including independent contractors, contributing to research and development projects. During the first quarter of 2002, ZEVEX invested \$79,579 in research and development, compared to \$122,260 in the first quarter 2001. Management anticipates that research and development expenses for 2002 will be approximately 2% of total revenues.

For the first quarter of 2002, ZEVEX had net income of \$122,376, 2.0% of revenues compared to net income of \$87,462, 1.2% of revenues for the first quarter of 2001. The increase in net income during the first quarter of 2002, as compared to the first quarter of 2001, is due to a number of factors, (1) higher gross margins associated with the ZEVEX' product mix (2) a reduction in interest expense from \$309,206 to \$150,638, due to decreased debt and interest rates, (3) nonamortization of goodwill amortization under SFAS No. 142, which was adopted as of January 1, 2002, (4) and the tax benefit derived from a capital loss which, for the State of Utah, was treated as a net operating loss carryback for income tax purposes.

Depreciation and amortization expenses decreased to \$396,367 in the first quarter 2002 from \$515,255 in the first quarter 2001. The decrease is due to the elimination of goodwill amortization as of January 1, 2002 with the adoption of SFAS No. 142. See Note 2 of the Financial Statements for more information on the effect of this change.

ZEVEX had an income tax benefit of \$20,680 in the first quarter of 2002 compared to an income tax expense of \$103,030 for the first quarter of 2001. The decrease from 2001 to 2002 is primarily due to a refund generated by a capital loss that was treated as a net operating loss for state income tax purposes.

As of March 31, 2002, ZEVEX' backlog of customer orders was \$4,089,000, as compared to \$5,312,000 on March 31, 2001. Management estimates that approximately 90% of the backlog will be shipped before December 31, 2002. ZEVEX' backlog is for contract manufacturing only and can be significantly affected by the timing of annual or semi-annual purchase orders placed by its customers.

Liquidity and Capital Resources

ZEVEX' primary sources of liquidity have consisted of cash flow from operations, borrowings under its revolving line of credit and other financial arrangements. In prior years, ZEVEX also has increased working capital through the issuance of stock and it may do so in the future.

Cash flows provided from operating activities for the first quarter 2002 were \$1,248,685 compared to cash flows provided from operating activities for the first quarter 2001 of \$1,257,170. In 2002, cash provided by operating activities was primarily associated with reduction of accounts receivable due to better collection procedures and reduction in inventories as ZEVEX recognized the benefit of its manufacturing resource planning software. Cash flows provided by investing activities were \$134,557, largely as a result of the sale of securities held by ZEVEX.

ZEVEX' working capital at March 31, 2002 was \$6,726,487, compared to \$6,452,707 at March 31, 2001. ZEVEX' increase in working capital was primarily due to the reduction in current debt outstanding. The portion of working capital represented by cash and short-term investments at such dates was \$1,248,780, and \$923,601 respectively. The ratio of current assets to current liabilities increased to 1.92 to 1 at March 31, 2002, from 1.54 to 1 at March 31, 2001.

ZEVEX has a \$6,000,000 open line of credit arrangement with a financial

institution. The line matures on May 28, 2002. The line of credit is collateralized by accounts receivable and inventories, and bears interest at the financial institution's prime rate. ZEVEX owed \$722,751 on the line of credit at March 31, 2002 and \$1,713,610 at December 31, 2001. Management expects to renew the existing line of credit upon its expiration.

On March 29, 2000, the Company entered into an agreement to acquire certain assets from Nestle USA, Inc. relating to Nestle's enteral nutrition delivery devices. The purchase was completed on April 6, 2000 for a purchase price of approximately \$2.6 million, plus the actual cost of inventory acquired by the Company, which totaled approximately \$1.2 million. Upon closing, cash of approximately \$600,000 was paid. An additional \$2.2 million was paid in October 2000, which included \$1.2 million for inventory. The remainder of the purchase price, approximately \$1,000,000, was calculated based upon the sales generated by the acquired assets of which approximately \$778,000 was paid in July 2001. The remainder of the balance will be paid upon resolution of certain contingencies.

On March 15, 2001, ZEVEX entered into a Secured Financing Agreement with a bank for the amount of \$1,500,000. The agreement is secured by ZEVEX' enteral feeding pumps, which were purchased from Nestle and are now manufactured by ZEVEX. The proceeds from the agreement were used to reduce ZEVEX' line of credit balance. The agreement has a 36 month term, is due on February 15, 2004, and bears interest at a rate of 8.24%. ZEVEX owed \$1,040,439 on the agreement at March 31, 2002.

On April 18, 2001, ZEVEX entered into a Term Loan Agreement with a bank for the amount of \$1,000,000. The agreement is secured by ZEVEX' manufacturing facility. The proceeds from the Promissory Note were used to reduce ZEVEX' line of credit balance. The note is due on May 15, 2003 and is amortized over a fifteen-year term at the interest rate of 8.5%. ZEVEX owed \$964,917 on the Term Loan Agreement at March 31, 2002.

In 1997, ZEVEX completed construction of its new 51,000 square foot headquarters and manufacturing facility. The cost of this undertaking was approximately \$2,591,177. In 1996, ZEVEX negotiated a \$2.0 million Industrial Development Bond ("IDB") to finance this construction. As of March 31, 2002, the remaining principal balance on the IDB was \$1,600,000. During the first quarter of 2002, the interest paid monthly ranged from 1.45% to 1.65% (APR). ZEVEX' purchases of leasehold improvements to its facilities, self-constructed enteral feeding pumps, MRP software system and new engineering, production, testing equipment, and tooling totaled \$91,240 for the first quarter of 2002, compared to \$448,355 for the first quarter of 2001. ZEVEX expects to spend approximately \$900,000 during the remainder of 2002 for additional manufacturing equipment and software, for normal replacement of aging equipment, equipment for lease, and manufacturing tooling related to its proprietary products. ZEVEX also expects to invest approximately \$700,000 in the research and development of new proprietary products for the rest of 2002.

ZEVEX' expected principal liquidity requirements are working capital, investments in capital expenditures, and convertible debt reduction. ZEVEX believes its sources of liquidity are sufficient for operations during the coming twelve months with its projected cash flows from operations and if necessary, the availability of funds under its revolving line of credit.

Critical Accounting Policies

ZEVEX has not had significant changes to its accounting policies with the exception of the adoption of SFAS No. 142, "Goodwill and Other Intangible Assets," and SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets."

Under SFAS No. 142, ZEVEX no longer amortizes its goodwill. However, ZEVEX is required to assess goodwill for impairment at least annually at a level within ZEVEX referred to as a reporting unit, as defined by SFAS No. 142. Impairment of goodwill is deemed to exist when the carrying amount of the goodwill for the reporting unit exceeds its implied fair value. In order to determine if such impairment exists, ZEVEX is required to complete Step 1 (determining and comparing the fair value of the reporting units to the reporting units' carrying value) impairment test. In the year of adoption, ZEVEX is required to complete Step 1 within six months of adopting SFAS No. 142. If Step 1 of the goodwill impairment test is failed in any of ZEVEX' reporting units, thereby indicating a potential impairment, ZEVEX is required to complete Step 2 of the impairment test as soon as possible. In the year of adoption, this is required to be completed no later than the end of the year of adoption (December 31, 2002 for ZEVEX). Under Step 2, ZEVEX is required to calculate the implied fair value of

goodwill and compare it to the carrying value of goodwill. ZEVEX is currently in the process of completing Step 1 of the transitional accounting provisions of SFAS No. 142.

Under SFAS No. 144, ZEVEX evaluates its long-lived assets other than goodwill (amortizable intangible assets, property, plant and equipment, and other such assets) for impairment. In order to perform this evaluation, ZEVEX groups its long-lived assets with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. Consistent with SFAS No. 121, ZEVEX continues to consider whether indicators of impairment of long-lived assets are present. If indicators exist, ZEVEX determines whether the sum of the estimated undiscounted future cash flows attributable to the assets in question are less than their carrying amount. If so, ZEVEX recognizes an impairment loss based on the excess of the carrying amount of the assets over their respective fair values. ZEVEX currently has no indicators of impairment of any of its long-lived assets.

Other

As part of a nationwide investigation into billing practices associated with enteral nutrition delivery products, particularly in regard to billing practices for pumps and disposable delivery sets, on July 2, 2001, the Office of Inspector General (OIG), served a subpoena on ZEVEX' ZEVEX, Inc. subsidiary. According to published reports, the investigation involved most manufacturers, distributors and health care service providers in the United States enteral pump industry and similar subpoenas were served on many of those parties. The subpoena requested Company documents relating to its enteral pump customers, marketing and billing practices. ZEVEX has responded to the subpoena and it is cooperating with the investigation. At this time ZEVEX is uncertain as to any future impact this investigation will have on its operations or financial position.

Cautionary Statement for Purposes of "Safe Harbor Provisions" of the Private Securities Litigation Reform Act of 1995

When used in this report, the words such as "estimate," "believe," "project," "anticipates" and similar expressions, together with other discussion of future trends or results, are intended to identify forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such statements, which include the Company's statements about the level of anticipated expenses during 2002 and its liquidity position are subject to certain risks and uncertainties, including those discussed below that could cause actual results to differ materially from those projected. These forward-looking statements speak only as of the date hereof and the Company disclaims any obligation to update them. All of these forward-looking statements are based on estimates and assumptions made by management of the Company, which although believed to be reasonable, are inherently uncertain and difficult to predict. Therefore, undue reliance should not be placed upon such estimates. There can be no assurance that the benefits anticipated in these forward-looking statements will be achieved. The following important factors, among others, could cause the Company not to achieve the benefits contemplated herein, or otherwise cause the Company's results of operations to be adversely affected in future periods: (i) continued or increased competitive pressures from existing competitors and new entrants; (ii) unanticipated costs related to the Company's growth and operating strategies; (iii) loss or retirement of key members of management; (iv) increase in interest rates of the Company's cost of borrowing, or a default under any material debt agreement; (v) adverse state or federal legislation or regulation that increases the cost of compliance, or adverse findings by a regulator with respect to existing operations; (vi) loss of customers; (vii) inability to achieve future sales; (viii) the unavailability of sufficient funds for operations or capital expenditures; and (ix) inability to introduce new products as planned. Many of such factors are beyond the control of the Company. Please refer to the Company's SEC Form 10-K for its fiscal year ended December 31, 2001 for additional cautionary statements.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

No significant changes in market risk have occurred since December 31, 2001. Please refer to the Company's SEC Form 10-K for its fiscal year ended December

31, 2001 for additional discussions on market risks.

PART II

Item 6. Exhibits and Reports on Form 8-K.
(a) Exhibits

The following exhibits are attached hereto or are incorporated herein by reference as indicated in the table below:

Exhibit No.	Title of Document	Location if other than attached hereto
3.01*	Certificate of Incorporation	Amendment No. 1 to Form S-1, filed October 24, 1997
3.02	Amended Bylaws	
(b)	Reports on Form 8-K	

No reports on Form 8-K were filed by the Company during the quarter ended March 31, 2002.

* Denotes exhibits specifically incorporated in this Form 10-Q by reference to other filings of the Company pursuant to the provisions of Securities and Exchange Commission rule 12b-32 and Regulation S-K. These documents are located under File No. 001-10287 at, among other locations, the Securities and Exchange Commission, Public Reference Branch, 450 5th St., N.W., Washington, D.C. 20549.

SIGNATURES

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

ZEVEX INTERNATIONAL, INC.

Dated: May 10, 2002

By /s/ David J. McNally
David J. McNally, CEO
(Chief Executive Officer)

By /s/ Phillip L. McStotts
Phillip L. McStotts, Secretary
(Principal Financial Officer)

AMENDED BYLAWS

OF

ZEVEX INTERNATIONAL, INC.

Adopted by Board of Directors on April 18, 2002

ARTICLE I.

Shareholders

Section I.1. Annual Meetings. An annual meeting of shareholders shall be held for the election of directors on such date, and at such time and place as the Board of Directors may, from time to time, determine. Any other proper business may be transacted at an annual meeting. If the annual meeting is not held on the date designated, it may be held as soon thereafter as convenient and shall be called the annual meeting.

Section I.2. Special Meetings. Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by the General Corporation Law of the State of Delaware, may be called by the Chairman, Chief Executive Officer or the Board of Directors. The shareholders do not have the authority to call a special meeting of the shareholders.

Section I.3. Shareholder Proposals/Nominees.

a. Shareholder Proposals. Shareholders seeking to place shareholder proposals on the agenda for a shareholders' meeting must (i) notify the Corporation of such proposal not less than 30 nor more than 60 days prior to the date of the meeting; provided, however, that if the Corporation provides shareholders with less than 40 days advance notice of the date of the meeting, the shareholder notice must be given no later than the close of business on the 10th day following the day the Corporation's notice was mailed or publicly disclosed. Such notice must provide the Corporation with adequate information regarding the proposal.

b. Shareholder Director Nominees. Shareholders director nominations must (i) be in writing and contain adequate information about the nominee; and (ii) be received by the secretary of the Corporation not less than 30 nor more than 60 days prior to the date of the meeting at which Directors will be elected; provided, however, that if the Corporation provides shareholders with less than 40 days advance notice of the date of the meeting,

the shareholder notice must be given no later than the close of business on the 10th day following the day the Corporation's notice was mailed or publicly disclosed.

Section I.4. Notice of Meetings. Whenever shareholders are required or permitted to take any action at a meeting, a written notice of the meeting will be given that states the place, date and hour of the meeting, and in the case of a special meeting, the purpose(s) for which the meeting is called. Unless otherwise provided by law, the Certificate of Incorporation or these Bylaws, the written notice of any meeting will be given not less than ten nor more than sixty days before the date of the meeting to each shareholder entitled to vote at such meeting. If mailed, such notice will be deemed to be given when deposited in the United States mail, postage prepaid, directed to the shareholder at his or her address as it appears in the records of the Corporation.

Section I.5. Waiver of Notice. A shareholder may waive notice of any meeting; provided that a shareholder's attendance at a meeting shall constitute waiver of notice of such meeting, except when the shareholder attends a meeting for the express purpose of objecting to the transaction of any business to be transacted at the meeting, and not for the purpose of objecting to the purpose of the meeting.

Section I.6. Adjournments. Any meeting of shareholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, pursuant to Section 1.3, notice of the adjourned meeting will be given to each shareholder of record entitled to vote at the meeting.

Section I.7. Record Date.

a. Determination of Record Date. For purposes of determining the number and identity of shareholders for any purpose, the Board of Directors may fix a date in advance as the record date for any such determination of shareholders, provided that the record date may not precede the date of the resolution fixing the record date. The record date may not be more than sixty days prior to the date that the particular action requiring the determination of shareholders is to occur. If to determine the shareholders entitled to notice of, or to vote at, a meeting of shareholders, the record date may not be fewer than ten days prior to the meeting. The record date for determining shareholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of shareholders of record entitled to notice of, or to vote at, a meeting of shareholders will apply to any adjournment of the meeting; provided that the Board of Directors may fix a new record date for the adjourned meeting.

b. Failure to Fix Record Date. If the stock transfer books are

not closed and no record date is fixed for the determination of shareholders entitled to notice or to vote, or to receive payment of a dividend, the date on which the notice is mailed or the Board of Directors resolution declaring the dividend is adopted, as the case may be, will be the record date for such determination of shareholders.

Section I.8 List of Shareholders Entitled to Vote. At least ten days before each meeting of shareholders, the officer or agent charged with overseeing the stock transfer books of the Corporation will compile a complete list of the shareholders entitled to vote at such meeting, or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such list will be kept on file at the Corporation's principal office for the ten days before the meeting and will be subject to the inspection of any shareholder during that ten day period during normal business hours for any purpose related to the meeting and during the meeting.

Section I.9. Quorum. Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, a majority of the outstanding shares of the Corporation entitled to vote, represented in person or by proxy, will constitute a quorum at a meeting of shareholders. If less than a majority of the outstanding shares are represented at the meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. If a quorum is present or represented at such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally notified. The shareholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

Section I.10. Voting.

a. One Vote Per Share. Unless otherwise provided by the Certificate of Incorporation (or action of the Board of Directors as provided therein) or these Bylaws, each outstanding share entitled to vote will be entitled to one vote on each matter submitted to a vote at a meeting of shareholders.

b. Required Vote. Article VIII of the Certificate of Incorporation provides for super-majority voting in certain circumstances. Except as set forth therein, or as provided in the General Corporation Law of the State of Delaware, a majority vote of those shares present and voting at a duly organized meeting will suffice to defeat or enact any proposal; provided that with respect to votes to elect directors, a plurality of the votes cast will be sufficient to elect.

c. Shares Held By Other Than the Record Owner. Shares held by an administrator, executor, guardian or conservator may be voted by him or her, in person or by proxy, without the transfer of such shares into his or her name. Shares held in the name of a trustee may be voted by him or her, in person or by proxy, only if the shares are transferred into the trustee's name. Shares held in the name of, by or under the control of a receiver may be voted by the receiver without transferring the shares into the receiver's name if authority

to do so is evidenced in an order from the court that appointed the receiver. A shareholder whose shares are pledged shall be entitled to vote his or her shares until the shares are transferred into the name of the pledgee, and thereafter, the pledgee will be entitled to vote the shares so transferred. Shares belonging to the Corporation or held by it in a fiduciary capacity may not be voted, directly or indirectly, at any meeting, and will not be counted in determining the total number of outstanding shares at any given time.

Section I.11. Proxies.

a. General. At all meetings of shareholders, a shareholder may vote by proxy. Proxies must be written, signed by the shareholder or by his or her duly authorized attorney-in-fact, and filed with the Secretary of the Corporation before or at the time of a meeting where a proxy is granted. No proxy is valid after six months from the date of its execution, unless otherwise provided in the proxy or coupled with an interest.

b. Irrevocable Proxies. A proxy may be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power.

c. Revocation of a Proxy. A shareholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or by delivering a proxy in accordance with applicable law bearing a later date to the Secretary of the Corporation.

Section I.12. Shareholder Action by Written Consent Without a Meeting.

a. Action. Any action required to be taken at any annual or special meeting of shareholders of the Corporation, or any action that may be taken at any annual or special meeting of such shareholders may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

b. Notice. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing. If the action which is consented to is such as would have required the filing of a certificate under any Section of the General Corporation Law of Delaware, if such action had been voted on by shareholders at a meeting thereof, then the certificate filed under such Section shall state, in lieu of any statement required by such Section concerning any vote of shareholders, that written notice and written consent have been given as provided in Section 228 of the General Corporation Law of Delaware.

ARTICLE II

Board of Directors

Section II.1. Number, Qualifications. The Board of Directors shall consist of that number of directors as are set from time to time by the affirmative vote of a majority of the members of the Board of Directors. The Board of Directors shall be divided into three classes, with only a single class subject to re-election in a given year. Subject to Section II.2, below, a director will hold office until the next annual meeting of shareholders at which his or her class is subject to re-election and until his or her successor is elected and qualified. Directors need not be shareholders of the corporation.

Section II.2. Election; Resignation; Vacancies. The Board of Directors will initially consist of the persons named as directors in the Certificate of Incorporation, and each director so elected will hold office until the first annual meeting of shareholders and until his or her successor is elected and qualified. At the first annual meeting of shareholders, the shareholders will elect directors to serve in all three classes of the Board of Directors as provided by the Certificate of Incorporation. Thereafter, one class of directors will be elected each year at either an annual or special meeting of the shareholders to hold office for the period of time designated for that class. If there is only one nominee for any directorship, it will be in order to move that the Secretary cast the elective ballot to elect the nominee. A director may resign at anytime on written notice to the Corporation. Any vacancy occurring in the Board of Directors, whether by reason of death, resignation, removal, or an increase in the number of directors, may be filled by the affirmative vote of the majority of the remaining directors, though less than a quorum of the Board of Directors, or by election at an annual meeting or at a special meeting of the shareholders called for that purpose. A director elected to fill a vacancy will be elected for the unexpired term of his predecessor in office.

Section II.3. Regular Meetings. A regular meeting of the Board of Directors for the election of officers and the transaction of any other business that may properly come before the meeting shall be held immediately after, and at the same place as, each annual meeting of shareholders, if a quorum of directors is then present or as soon thereafter as may be convenient. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine. The Board of Directors may provide, by resolution, the date, time and place for the holding of additional regular meetings without other notice than such resolution.

Section II.4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairman, Chief Executive Officer or any director. The person(s) authorized to call special meetings of the Board of Directors may fix any place, within or without the State of Delaware, to hold a special meeting of the Board of Directors. Notice of a special meeting must be given to each director by the person(s) calling the meeting at least two days before the meeting.

Section II.5. Waiver of Notice. A director may waive notice of any meeting. A director's attendance at a meeting shall constitute waiver of notice of such meeting; provided that, when a director attends a meeting for the

express purpose of objecting to the transaction of any business to be transacted at the meeting, the director will not be deemed to have waived notice of such meeting.

Section II.6. Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting thereof by means of telephonic conference, or similar communications equipment that permits all persons participating in the meeting to hear each other, and participation in a meeting pursuant to this Bylaw will constitute presence at such meeting.

Section II.7. Quorum. Vote Required for Action. At all meetings of the Board of Directors, a majority of the whole Board of Directors will constitute a quorum for the transaction of business. Unless required by the General Corporation Law of the State of Delaware, the Certificate of Incorporation or these Bylaws, the vote of a majority of the directors present at a meeting at which a quorum is present will be the act of the Board of Directors. If less than a majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice. Once a quorum has been established at a duly organized meeting, the Board of Directors may continue to transact corporate business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section II.8. Payment of Expenses. By resolution of the Board of Directors, directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors. Directors may be paid also either a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. Such payment will not preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section II.9. Dissent to Corporate Action. A director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she (i) enters his or her dissent in the minutes of the meeting, (ii) files written dissent to such action with the Secretary of the meeting before adjournment, or (iii) expresses such dissent by written notice to the Secretary of the Corporation within one (1) day after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of such action.

Section II.10. Action by Written Consent. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors consent with respect to such action in writing or by electronic transmission. Such consent shall be filed with the minutes of proceedings of the Board of Directors.

ARTICLE III

Committees

Section III.1. Committees. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more committees, each to consist of one or more of the directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by the General Corporation Law of the State of Delaware and to the extent provided in the resolution of the Board of Directors, will have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it.

Section III.2. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules, each committee will conduct its business pursuant to Article II of these Bylaws.

ARTICLE IV

Officers

Section IV.1. Officers. The officers of the Corporation are the Chief Executive Officer, President, Secretary, and Treasurer. Other officers and assistant officers may be authorized and elected or appointed by the Board of Directors. An individual is permitted to hold more than one office.

Section IV.2. Election. The officers of the Corporation will be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the shareholders. If the election of officers is not held at such meeting, it will be held as soon thereafter as convenient. Each officer will hold office until his or her successor is duly elected and qualified, or until his or her death, resignation or removal.

Section IV.3. Removal. Any officer, elected or appointed, may be removed by the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section IV.4. Vacancy. A vacancy in any office for any reason may be filled by majority vote of the Board of Directors, and any officer so elected will serve for the unexpired portion of the term of such office.

Section IV.5. Chief Executive Officer. The Chief Executive Officer presides at all meetings of the Board of Directors and of shareholders and has general charge and control over the affairs of the Corporation subject to the Board of Directors. The Chief Executive Officer signs or countersigns all certificates, contracts and other instruments of the Corporation as authorized by the Board of Directors and performs such other duties incident to the office

or required by the Board of Directors.

Section IV.6. President. The President exercises the functions of the Chief Executive Officer in the Chief Executive Officer's absence, and has such powers and duties as may be assigned to him or her from time to time by the Board of Directors.

Section IV.7. Chief Financial Officer. The Chief Financial Officer exercises the functions of the President in the President's absence, and has such powers and duties as may be assigned to him or her from time to time by the Board of Directors.

Section IV.8. Secretary. The Secretary issues all required notices for meetings of the Board of Directors and of the shareholders, keeps a record of the minutes of the proceedings of the meetings of the Board of Directors and of the shareholders, has charge of the Corporate Seal and the corporate books, and makes such reports and performs such other duties as are incident to the office or required by the Board of Directors.

Section IV.9. Treasurer. The Treasurer has custody of all monies and securities of the Corporation, keeps regular books of account, disburses the funds of the Corporation, renders account to the Board of Directors of all transactions made on behalf of the Corporation and of the financial condition of the Corporation from time to time as the Board requires, and performs all duties incident to the office or properly required by the Board of Directors.

Section IV.10. Additional Officers. The Corporation may have such additional officers as the Board of Directors deems necessary or appropriate including, without limitation, a Chief Operating Officer, Vice President, Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers. Each such officer shall perform those duties as determined or assigned by the Board of Directors.

Section IV.11. Salaries. The salaries of all officers will be fixed by the Board of Directors, and may be changed from time to time by a majority vote of the Board of Directors.

ARTICLE V

Certificate of Shares

Section V.1. Certificates. Certificates representing shares of the Corporation will be in the form determined by the Board of Directors, and will be signed by the Chairman of the Corporation or any officer, certifying the number of shares owned by him or her in the Corporation. Any of or all the signatures on the certificate may be a facsimile. If any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, a certificate ceases to hold that position before the certificate is issued, it may be issued by the Corporation with the same effect as if the officer, transfer agent or registrar continued to hold that position at the date of issue.

Section V.2. Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. If a certificate is lost, stolen or destroyed, a new one may be issued on such terms and indemnity to the Corporation as the Board of Directors may prescribe.

ARTICLE VI

Indemnification

Section VI.1. Directors and Officers.

a. Right to Indemnification. Every director and officer of the Corporation who was or is a party to, or is threatened to be made a party to, or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she, or a person of whom he is the legal representative, is or was a director or officer, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, or as its representative in another enterprise (an "Indemnitee"), shall be indemnified and held harmless by the Corporation to the fullest extent legally permissible under the laws of the State of Delaware against all judgments, fines, penalties, excise taxes, amounts paid in settlement and costs, charges and expenses (including attorneys' fees and disbursements) actually and reasonably incurred or suffered by him or her in connection therewith, subject to the standards of conduct, the procedures, and other applicable provisions of the General Corporation Law of the State of Delaware. Such right of indemnification is a contract right which may be enforced in any manner desired by such person. The Corporation may purchase and maintain insurance on behalf of an Indemnitee against any liability arising out of such status, whether or not the corporation would have the power to indemnify such person.

b. Inurement. The right to indemnification shall inure whether or not the claim asserted is based on matters that predate the adoption of this Article VI, will continue as to an Indemnitee who has ceased to hold the position by virtue of which he or she was entitled to indemnification, and will inure to the benefit of his or her heirs and personal representatives.

c. Non-exclusivity of Rights. The right to indemnification and to the advancement of expenses conferred by this Section VI.1 are not exclusive of any other rights that an Indemnitee may have or acquire under any statute, bylaw, agreement, vote of shareholders or disinterested directors, this Certificate of Incorporation or otherwise.

d. Advancement of Expenses. The Corporation shall, from time to time, reimburse or advance to any Indemnitee the funds necessary for payment of expenses, including attorneys' fees and disbursements, incurred in connection with defending any proceeding for which he or she is indemnified by the Corporation, in advance of the final disposition of such proceeding; provided

that, if then required by the General Corporation Law of the State of Delaware, the expenses incurred by or on behalf of an Indemnitee may be paid in advance of the final disposition of a proceedings only upon receipt by the Corporation of an undertaking by or on behalf of such Indemnitee to repay any such amount so advanced if it is ultimately determined by a final and unappealable judicial decision that the Indemnitee is not entitled to be indemnified for such expenses.

Section VI.2. Employees and Agents. The Board of Directors may, on behalf of the Corporation, grant indemnification to any employee, agent or other individual to such extent and in such manner as the Board of Directors in its sole discretion may from time to time and at any time determine, in accordance with the General Corporation Law of the State of Delaware.

ARTICLE VII

General Provisions

Section VII.1. Fiscal Year. The fiscal year of the Corporation will be fixed by the Board of Directors.

Section VII.2. Amendments. These Bylaws may be amended or repealed or new Bylaws may be adopted (i) at any regular or special meeting of shareholders at which a quorum is present or represented, by the vote of the holders of a majority of the shares entitled to vote in the election of any directors, provided notice of the proposed alteration, amendment or repeal is contained in the notice of such meeting; or (ii) by affirmative vote of a majority of the Board of Directors at any regular or special meeting thereof.

Section VII.3. Books and Records; Examination. Any records maintained by the corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or be in any form of information storage, provided that the records can be converted into clearly legible form within a reasonable time. The books and records of the Corporation may be kept outside of the State of Delaware. Except as may otherwise be provided by the General Corporation Law of the State of Delaware, the Board of Directors will have the power to determine from time to time whether and to what extent and at what times and places and under what conditions any of the accounts, records and books of the Corporation are to be open to the inspection of any shareholder.

Section VII.4. Dividends. Subject to the provisions, if any, of the General Corporation Law of Delaware and the Certificate of Incorporation, dividends on the capital shares of the Corporation may be declared by the Board of Directors at any regular or special meeting. Dividends may be paid in cash, in property or in shares of the capital stock. Before payment of any dividend, the Board of Directors may set aside out of any funds of the Corporation available for dividends such reserves for any purpose that the directors will think conducive to the interests of the Corporation.

Section VII.5. Seal. The Corporation may or may not have a corporate

seal, as may from time to time be determined by resolution of the Board of Directors. If a corporate seal is adopted, it will have inscribed thereon the name of the corporation and the words "Corporate Seal" and "Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced or by causing the word {SEAL}, in brackets, to appear where the seal is required to be impressed or affixed.