ESPEED INC

FORM 10-Q
(Quarterly Report)

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Industry	Consumer Financial Services
Sector	Financial
Fiscal Year	12/31

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

(X) QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2000

OR

( ) TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 0-28191

eSpeed, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	13-4063515
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

One World Trade Center, 103rd Floor
(Address of Principal Executive Offices)

New York, New York 10048
(City, State, Zip Code)

(212) 938-3773
(Registrant's Telephone Number, Including Area Code)

Indicate by check 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 periods that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes X No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	Outstanding at May 5, 2000
Class A Common Stock, par value $.01 per share	10,350,000 shares
Class B Common Stock, par value $.01 per share	40,650,000 shares

Part I-FINANCIAL INFORMATION

PART II--OTHER INFORMATION

PART I. FINANCIAL INFORMATION

ITEM 1. Financial Statements

eSpeed, Inc. and Subsidiaries
CONSOLIDATED STATEMENTS OF FINANCIAL CONDITION
As of March 31, 2000 and December 31, 1999

Assets

	March 31, 2000 (unaudited)	December 31, 1999
Cash	$ 45,995	$ 201,001
Securities purchased under agreements to resell	128,493,533	134,644,521
Fixed assets, at cost	17,593,033	12,556,627
Less accumulated depreciation and amortization	(4,018,890)	(3,086,555)
Fixed assets, net	13,574,143	9,470,072
Prepaid expenses, principally computer maintenance agreements	1,704,626	11,495
Total assets	$143,818,297	$144,327,089

Liabilities and Stockholders' Equity

Liabilities:		
Payable to affiliates, net	$ 6,906,849	$ 6,743,929
Accounts payable and accrued liabilities	6,325,551	2,071,347
Total liabilities	13,232,400	8,815,276
Stockholders' Equity:		
Preferred stock, par value $.01 per share; 50,000,000 shares authorized, no shares issued or outstanding	----	----
Class A common stock, par value $.01 per share; 200,000,000 shares authorized; 10,350,000 shares issued and outstanding	103,500	103,500
Class B common stock, par value $.01 per share; 100,000,000 shares authorized; 40,650,000 shares issued and outstanding	406,500	406,500
Additional paid in capital	147,588,726	147,588,726
Accumulated deficit	(17,512,829)	(12,586,913)
Total stockholders' equity	130,585,897	135,511,813
Total liabilities and stockholders' equity	$143,818,297	$144,327,089

See notes to consolidated financial statements

eSpeed, Inc. and Subsidiaries
CONSOLIDATED STATEMENTS OF OPERATIONS
for the three months ended March 31, 2000 and the period from March 10, 1999

(date of commencement of operations) to March 26, 1999 (unaudited)

	For the three months ended March 31, 2000	For the period ended March 26, 1999
Revenues:		
Transaction revenues	$ 19,246,396	$ 1,120,534
Interest income	1,842,774	----
System services fees from affiliates	3,161,057	827,716
Total revenues	24,250,227	1,948,250
Expenses:		
Compensation and employee benefits	11,337,786	1,267,838
Occupancy and equipment	4,699,749	676,023
Professional and consulting fees	2,459,088	185,985
Communications and client networks	839,694	221,159
Fulfillment fees paid to affiliates	5,075,801	26,817
Administrative fees paid to affiliates	1,604,151	93,701
Advertising	1,129,073	----
Other	1,938,301	15,235
Total expenses	29,083,643	2,486,758
Loss before provision (benefit) for income taxes	(4,833,416)	(538,508)
Provision (benefit) for income taxes:		
Federal	----	----
State and local	92,500	(13,470)
Total taxes	92,500	(13,470)
Net loss	$ (4,925,916)	$ (525,038)
Per Share Data		
Basic and diluted net loss per share	$ (.10)	$ (.01)
Weighted average shares of common stock outstanding	51,000,000	44,000,000

See notes to consolidated financial statements

CONSOLIDATED STATEMENTS OF CASH FLOWS

for the three months ended March 31, 2000 and the period from March 10, 1999

(date of commencement of operations) to March 26, 1999 (unaudited)

	For the three months ended March 31, 2000	For the period ended March 26, 1999
Cash flows from operating activities:		
Net loss	$ (4,925,916)	$ (525,038)
Non-cash item included in net loss:		
Depreciation and amortization	932,335	163,050
Increase in operating assets:		
Prepaid expenses	(1,693,131)	(74,225)
Increase (decrease) in operating liabilities:		
Payable to affiliates, net	162,920	546,136
Accounts payable and accrued liabilities	4,254,204	307,570
Cash (used in)/provided by operating activities	(1,269,588)	417,493
Cash flows from investing activities:		
Decrease in securities purchased under agreements to resell	6,150,988	----
Purchases of fixed assets	(5,036,406)	(417,493)
Cash provided by (used in)/investing activities	1,114,582	(417,493)
Net decrease in cash	(155,006)	----
Cash balance, beginning of period	201,001	----
Cash balance, end of period	$ 45,995	$ ----

See notes to consolidated financial statements

1. Introduction and Basis of Presentation

eSpeed, Inc. (eSpeed or, together with its wholly owned subsidiaries, the Company) is a leading provider of interactive business-to-business electronic marketplace solutions designed to enable market participants to trade financial and non-financial products more efficiently and at a lower cost than traditional trading environments permit. eSpeed commenced operations on March 10, 1999 as a division of Cantor Fitzgerald Securities (CFS). eSpeed is a Delaware corporation that was incorporated on June 3, 1999. In December 1999, the Company completed its initial public offering (the Offering). eSpeed is a majority owned subsidiary of CFS, which in turn is a 99.5% owned subsidiary of Cantor Fitzgerald, L.P. (CFLP, or together with its subsidiaries, Cantor). The accompanying financial statements include activities of the Company while operating as a division of CFS from March 10, 1999 to the Offering.

The Company's financial statements have been prepared in accordance with the rules and regulations of the Securities Exchange Commission (the SEC) with respect to the Form 10-Q and reflect all normal recurring adjustments which are, in the opinion of management, necessary for a fair presentation of the results for the interim periods presented. Pursuant to such rules and regulations, certain footnote disclosures which are normally required under generally accepted accounting principles have been omitted. It is recommended that these consolidated financial statements be read in conjunction with the audited consolidated financial statements included the Company's Annual Report on Form 10-K for the period ended December 31, 1999 (the Form 10-K). The Consolidated Statement of Financial Condition at December 31, 1999 was derived from audited financial statements. The results of operations for any interim period are not necessarily indicative of results for the full year.

2. Fixed Assets

Fixed assets consist of the following:

	March 31, 2000	December 31, 1999
Computer and communication equipment.....	$ 12,827,566	$ 9,544,265
Software, including software development costs..	4,765,467	3,012,362
	17,593,033	12,556,627
Less accumulated depreciation and amortization..	(4,018,890)	(3,086,555)
Fixed assets, net.....	$ 13,574,143	$ 9,470,072

3. Income Taxes

Since the commencement date of the Offering, the Company has been subject to income tax as a corporation. The net operating losses from that date, in the amount of $9,137,997, will be available to the Company on a carry-forward basis through 2015 to offset future operating income of the Company.

4. Commitments and Contingencies

Legal Matters: On May 5, 1999, CFLP, The Board of Trade of the City of Chicago, The New York Mercantile Exchange and The Chicago Mercantile Exchange were sued by Electronic Trading Systems Corporation in the United States District Court for the Northern District of Texas (Dallas Division) for alleged infringement of Wagner United States patent 4,903,201, entitled "Automated Futures Trade Exchange." The patent relates to a system and method for implementing an electronic, computer-automated futures exchange. On July 1, 1999, Cantor answered the complaint, asserting, among other things, that the `201 patent was invalid and not infringed by Cantor and that Cantor was not the real party in interest. Although not identified by the complaint, Cantor believes that the system being charged with infringement is a version of the electronic trading system used by the Cantor ExchangeSM, which Cantor contributed to the Company in December 1999. Electronic Trading Systems Corporation executed a Covenant Not to Sue, Release and Settlement Agreement, dated February 18, 2000, pursuant to which it agreed not to sue CFLP or any of its affiliates or successors, including the Company, or any customers, for infringement of the `201 patent by the Cantor ExchangeSM. On March 22, 2000, counsel to the parties filed with the court a Joint Stipulation and (proposed) Order of Dismissal requesting that CFLP be dismissed from the case without prejudice by Electronic Trading Systems Corporation. On March 23, 2000, the Court signed an Agreed Order of Dismissal and on March 24, 2000 CFLP was dismissed from the case.

In February 1998, Market Data Corporation contracted with Chicago Board Brokerage (a company controlled by the Chicago Board of Trade and Prebon Yamane) to provide the technology for an electronic trading system to compete with Cantor's United States Treasury brokerage business. Market Data Corporation is controlled by Iris Cantor and Rodney Fisher, her nephew-in-law. Iris Cantor, a company under the control of Iris Cantor referred to herein as CFI, and Rodney Fisher are limited partners of CFLP.

In April 1998, CFLP filed a complaint in the Delaware Court of Chancery against Market Data Corporation, Iris Cantor, CFI, Rodney Fisher and Chicago Board Brokerage seeking an injunction and other remedies. The complaint alleges that Iris Cantor, CFI and Rodney Fisher violated certain duties, including fiduciary duties under Cantor's partnership agreement due to their competition with CFLP with respect to the electronic trading system mentioned above. The complaint further alleges that Market Data Corporation and Chicago Board Brokerage tortiously interfered with Cantor's partnership agreement and aided and abetted Iris Cantor's, CFI's and Rodney Fisher's breaches of fiduciary duty. Iris Cantor, CFI and Rodney Fisher counterclaimed seeking, among other things,
(1) to reform agreements they have with CFLP and (2) a declaration that CFLP breached the implied covenant of good faith and fair dealing. Cantor has agreed to indemnify the Company for any liabilities that are incurred with respect to any current or future litigation involving (1) Market Data Corporation, (2) Iris Cantor, (3) CFI or (4) Rodney Fisher.

CFLP settled its dispute with Chicago Board Brokerage in April 1999, and Chicago Board Brokerage subsequently announced it was disbanding its operations. On March 17, 2000, the Delaware Court of Chancery ruled in favor of CFLP, finding that Iris Cantor, CFI and Rodney Fisher had breached the Partnership Agreement of CFLP, and that Market Data Corporation had aided and abetted that breach. The court awarded CFLP declaratory judgment relief and court costs and attorneys' fees. Counsel for the defendants have expressed their intentions to appeal this result. Final judgment has not yet been entered, but Iris Cantor, CFI, Rodney Fisher and MDC filed a notice of appeal on April 12, 2000. On April 14, 2000, CFLP moved to dismiss the appeal as premature, but as a protective measure filed a notice of cross-appeal on April 27, 2000. On May 8, 2000, the Delaware Supreme Court issued an order dismissing the appeal and cross-appeal as premature because the Chancery Court has not entered final judgment. The Company believes Market Data Corporation's technology for electronic trading systems would be of substantial assistance to competitors in the wholesale market if provided to them.

Two related actions are pending in New York. In a case pending in the Supreme Court of New York, New York County, plaintiff CFLP alleges, among other things, that defendants Market Data Corporation, CFI, Iris Cantor and Rodney Fisher misused confidential information of CFLP in connection with the above-mentioned provision of technology to Chicago Board Brokerage. In a case pending in the United States District Court for the Southern District of New York, CFI and Iris Cantor allege, among other things, that certain senior officers of CFLP breached fiduciary duties they owed to CFI. The allegations in this lawsuit relate to several of the same events underlying the court proceedings in Delaware. Neither of these two cases has been pursued during the pendency of the court proceedings in Delaware. On April 24, 2000, the defendants received an order from the Court granting permission to move to dismiss the federal action and providing that briefing on the motion to dismiss should be completed by June 15, 2000.

In addition to the allegations set forth in the pending lawsuits, Cantor has received correspondence from the attorneys representing Iris Cantor, CFI, Market Data Corporation and Rodney Fisher in the proceedings in Delaware, expressing a purported concern that Cantor and/or certain of its partners may be in breach of Cantor's partnership agreement (including, among other things, the partnership agreement's provisions relating to competition with the partnership) and the general partnership agreement of CFS with respect to the Company's initial public offering. Generally, these attorneys have alleged that various purported conflicts of interest will exist arising from the fact that certain of the Company's directors and officers will simultaneously hold positions with CFLP. Moreover, these attorneys have asserted that the Company's business plan may not be consistent with certain purported rights of Market Data Corporation (including purported intellectual property rights) and other parties and they requested more information regarding the Company's initial public offering.

Although the Company does not expect to incur any losses with respect to the pending lawsuits or supplemental allegations surrounding Cantor's partnership agreement, Cantor has agreed to indemnify the Company with respect to any liabilities the Company incurs as a result of such lawsuits or allegations.

On June 21, 1999, Cantor and its affiliate CFPH, LLC, brought suit against Liberty Brokerage Investment Corporation and Liberty Brokerage Inc. in the United States District Court for the District of Delaware for infringement of the Fraser et al. U.S. patent 5,905,974, entitled "Automated Auction Protocol Processor." Cantor alleged in the complaint that Liberty was infringing the `974 patent by making, using, selling and/or offering for sale systems and methods that embody or use the inventions claimed in the `974 patent. On August 10, 1999, Cantor and CFPH, L.L.C. voluntarily dismissed the suit without prejudice. Subsequently, on August 10, 1999, Liberty filed an action for declaratory judgment in the United States District Court for the District of Delaware against Cantor and two of its affiliates, CFS and CFPH, LLC, claiming that the `974 patent was invalid, unenforceable and not infringed by Liberty. On October 12, 1999, Cantor, CFS and CFPH, LLC moved (1) to dismiss all claims against CFS for failure to state a claim upon which relief can be granted and (2) to dismiss the action as against Cantor, CFS and CFPH, LLC for lack of an actual case or controversy within the meaning of 28 U.S.C. Section 2201. On November 22, 1999, the Court granted the motion to dismiss the action as against CFS, and denied the motion to dismiss the action as against Cantor and its affiliate CFPH, LLC. On January 5, 2000, Liberty filed an Amended Complaint naming the Company as a defendant. On January 19, 2000, Cantor and CFPH, LLC filed a Second Renewed Motion to Dismiss the action. On March 8, 2000, oral arguments took place on the Second Renewed Motion to Dismiss. No decision has been rendered. The Company has assumed responsibility for defending this suit on behalf of Cantor and its affiliates and the risk of loss associated with it.

Although the ultimate outcome of these actions cannot be ascertained at this time and the results of legal proceedings cannot be predicted with certainty, it is the opinion of management that the resolution of these matters will not have a material adverse effect on the financial condition or results of operations of the Company.

5. Related Party Transactions

The Company had overnight securities purchased under agreements to resell (Resale, or Reverse Repurchase agreements) with CFS totaling $128,493,533, and $134,644,521, including accrued interest, at March 31, 2000 and December 31, 1999, respectively. Under the terms of the agreement, the securities collateralizing the Resale Agreements are held under a custodial arrangement with a third party bank.

Under a Joint Services Agreement between the Company and Cantor, the Company earns transaction revenues equal to a percentage of Cantor's commission revenues on customer transactions for services provided by the Company. The percentage of the transaction revenues range from 2.5% to 100%, depending on the type of electronic services provided for the transaction. Revenues from such transactions during the periods ended March 31, 2000 and March 26, 1999 totaled $19,246,396 and $1,120,534, respectively.

On certain transactions (those in which the Company receives 100% of the commission revenue share), Cantor provides the Company with fulfillment services for which Cantor is paid a fee of 20% or 35% of the transaction revenues earned on the transaction. Charges to the Company from Cantor for such fulfillment services during the periods ended March 31, 2000 and March 26, 1999 totaled $5,075,801 and $26,817, respectively.

Under an Administrative Services Agreement between the Company and Cantor, the Company provides network, data center and server administration support and other technology services to Cantor. The Company charges Cantor for these services commensurate with its costs of providing these services. System services fees received from Cantor during the periods ended March 31, 2000 and March 26, 1999, totaled $3,161,057 and $827,716, respectively.

Under an Administrative Services Agreement, Cantor provides various administrative services to the Company, including accounting, tax, sales and marketing, legal and facilities management. The Company is required to reimburse Cantor for the cost of providing such services. The costs represent the direct and indirect costs of providing such services and are determined based upon the time incurred by the individual performing such services. Management believes that this allocation methodology is reasonable. The Administrative Services Agreement has a three-year term which will renew automatically for successive one-year terms unless cancelled upon six month's prior notice by either the Company or Cantor. The Company incurred administrative fees for such services during the periods ended March 31, 2000 and March 26, 1999 totaled $1,604,151 and $93,701, respectively.

6. Regulatory Capital Requirements

Through its subsidiary, eSpeed Government Securities, Inc., effective December 2, 1999, the Company is subject to SEC broker-dealer regulation under
Section 15C of the Securities Exchange Act of 1934, which requires the maintenance of minimum liquid capital, as defined. At March 31, 2000, eSpeed Government Securities, Inc.'s liquid capital of $6,999,520 was in excess of minimum requirements by $6,974,520.

Additionally, the Company's subsidiary, eSpeed Securities, Inc., effective December 1, 1999, is subject to SEC broker-dealer regulation under Rule 17a-5 of the Securities Exchange Act of 1934, which requires the maintenance of minimum net capital and requires that the ratio of aggregate indebtness to net capital, both as defined, shall not exceed 8 to 1. At March 31, 2000, eSpeed Securities, Inc. had net capital of $1,522,624, which was $1,450,561 in excess of its required net capital of $72,063, and eSpeed Securities, Inc.'s net capital ratio was 0.38 to 1.

7. Options and Warrants

During the three months ended March 31, 2000, the Company issued 114,738 options to employees. The options vest ratably over the four successive anniversaries of the grant date. The options had an estimated fair value of $3,231,116 as of the grant date. No options or warrants were exercised or expired and 32,611 options were forfeited during the three months ended March 31, 2000.

Had the Company accounted for its options granted in its stock-based compensation plan based on the fair value of awards at grant date in a manner consistent with the methodology of SFAS 123, the Company's net loss and loss per common share for the three months ended March 31, 2000 would have increased by $5,852,244 and $0.11, respectively. As of March 31, 2000, the weighted average remaining contractual life of options and warrants outstanding was approximately 9 years; and options for 510,000 shares were currently exercisable.

8. Segment and Geographic Data

Segment Information: The Company currently operates its business in one segment, that of operating interactive electronic business-to-business vertical marketplaces for the trading of financial and non-financial products. This segment comprised approximately 79% of revenues for the period ended March 31, 2000 and 58% of revenues for the period ended March 26, 1999. The remainder of the Company's revenues was derived from system services fees from Cantor and interest income.

Geographic Information: The Company operates in the Americas, Europe, and Asia. Revenue attribution for purposes of preparing geographic data is principally based upon the marketplace where the financial product is traded, which, as a result of regulatory jurisdiction constraints in most circumstances, is also representative of the location of the client generating the transaction resulting in commissionable revenue. The information that follows, in management's judgment, provides a reasonable representation of the activities of each region as of and for the three months ended March 31, 2000 and the period from March 10, 1999 to March 26, 1999.

TRANSACTION REVENUES	For the three months ended March 31, 2000	For the period ended March 26, 1999
Europe	$ 3,142,845	$ 385,447
Asia	315,200	32,179
Total Non-Americas	3,458,045	417,626
Americas	15,788,351	702,908
TOTAL	$ 19,246,396	$ 1,120,534

AVERAGE LONG-LIVED ASSETS	March 31, 2000	Dec. 31, 1999
Europe	$ 1,859,226	$ 2,257,914
Asia	832,057	925,790
Total Non-Americas	2,691,283	3,183,704
Americas	8,830,824	5,236,613
TOTAL	$ 11,522,107	$ 8,420,317

9. Subsequent Event

On April 26, 2000, the Company entered into a Subscription Agreement (a "Subscription Agreement") with each of The Williams Companies, Inc. ("Williams") and Dynegy, Inc. ("Dynegy") for the purchase by each of a Unit consisting of (i) 789,071 shares (the "Shares") of the Company's Class A Common Stock, par value $0.01 per share (the "Class A Stock"), and (ii) warrants (the "Warrants") exercisable for the purchase of up to 666,666 shares of Class A Stock, for an aggregate purchase price for the Unit of $25.0 million. The Warrants will have a per share exercise price of $35.203125, will have a ten year term and will be exercisable during the last 4 1/2 years of the term, subject to acceleration under certain prescribed circumstances intended to provide incentives to Williams and Dynegy to invest in four Qualified Verticals as described below. It is expected that the purchase and sale of the Units will be consummated (the "Closing") during the second quarter of fiscal 2000. The Closing is subject to the satisfaction of certain customary conditions, including the receipt of all approvals required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (or all applicable waiting periods, and any extensions thereof, under such Act shall have expired or otherwise been terminated). The Shares will not be transferable prior to the first anniversary of the Closing. As required by GAAP accounting, the Company will record a one-time, non-cash charge of approximately $29.8 million at the time of the Closing to reflect the cost of the Warrants.

Each of Williams and Dynegy agreed in its Subscription Agreement that, subject to the satisfaction of certain conditions, it will invest $2.5 million in at least four entities (the "Qualified Verticals") to be formed by the Company and Cantor within 12 months of the Closing (subject to extension for a period not to exceed six months under certain prescribed circumstances, the "Investment Period"). It is expected that each Qualified Vertical will be jointly owned by industry market participants, the Company and Cantor and will establish a new vertical electronic and telephonic marketplace with the Company in which such Qualified Vertical will broker and possibly clear transactions for the industry market participants and other clients. It is anticipated that the first Qualified Vertical to be so formed will be an electronic and telephonic marketplace for North American wholesale transactions in natural gas, electricity, coal and sulfur dioxide and nitrogen dioxide emissions. Products that may be traded on other Qualified Verticals include natural gas liquids, petrochemicals, crude oil and bandwidth. Each of Williams and Dynegy will not necessarily invest in the same Qualified Verticals as the other. The Subscription Agreements further provide that, in connection with up to four additional Qualified Verticals (the "Additional Investment Right"), Williams and, subject to certain limitations, Dynegy, will be entitled to invest $25.0 million in shares of the Class A Stock at a 10% discount to the average trading price for the 10 trading days preceding the date of such party's investment in such new Qualified Vertical, or, under certain circumstances, the public announcement of the formation of such Qualified Vertical. The Additional Investment Right is subject to stockholder approval if required, and in such event, the Company has agreed to submit for a vote of its common stockholders, at its next annual meeting of stockholders, the approval of the issuance of any such shares and Cantor has agreed to vote the shares of common stock of the Company beneficially owned by it in favor of such issuance. Any shares of Class A Stock purchased pursuant to the Additional Investment Right will not be transferable prior to the first anniversary of issuance.

Contemporaneously with the execution of the Subscription Agreements, the Company entered into a stock purchase agreement with Cantor providing for the purchase by the Company from Cantor (i) at the Closing, of 789,071 shares of Class B Common Stock of the Company, par value $.01 per share, representing half of the number of shares of the Class A Stock being sold by the Company to Williams and Dynegy pursuant to the Subscription Agreements, for a purchase price of $25.0 million and (ii) of half of the number of shares purchased by Williams and Dynegy, in the aggregate, each time an Additional Investment Right is exercised for the same purchase price per share as is paid by Williams and Dynegy at the time.

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The information in this report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and
Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based upon current expectations that involve risks and uncertainties. Any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. For example, words such as "may," "will," "should," "estimates," "predicts," "potential," "continue," "strategy," "believes," "anticipates," "plans," "expects," "intends" and similar expressions are intended to identify forward-looking statements. Our actual results and the timing of certain events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause or contribute to such a discrepancy include, but are not limited to, those discussed under "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 1999. The following discussion is qualified in its entirety by, and should be read in conjunction with, the more detailed information set forth in our financial statements and the notes thereto appearing elsewhere in this filing.

Overview

eSpeed, Inc. was incorporated on June 3, 1999 as a Delaware corporation. Our wholly-owned subsidiaries are eSpeed Securities, Inc., eSpeed Government Securities, Inc., eSpeed Markets, Inc. and eSpeed International Limited. Prior to our initial public offering, we were a wholly-owned subsidiary of, and we conducted our operations as a division of, Cantor Fitzgerald Securities, which in turn is a 99.5%-owned subsidiary of Cantor Fitzgerald, L.P. (collectively with its affiliates, "Cantor"). We commenced operations as a division of Cantor on March 10, 1999, the date the first fully electronic transaction using our eSpeedSM system was executed. Cantor has been developing systems to promote fully electronic marketplaces since the early 1990s. Since January 1996, Cantor has used our eSpeed system internally to conduct electronic trading.

Concurrent with our initial public offering in December 1999, Cantor contributed to us, and we acquired from Cantor, certain of our assets. These assets primarily consist of proprietary software, network distribution systems, technologies and other related contractual rights that comprise our eSpeed system.

For the three months ended March 31, 2000, we had a net loss of $4,925,916. This loss primarily resulted from expenditures on our technology and infrastructure incurred in building our revenue base. We expect that we will continue to incur losses and generate negative cash flow from operations for the foreseeable future as we continue to develop our systems and infrastructure and expand our brand recognition and client base through increased marketing efforts. In light of the rapidly changing nature of our business and our limited operating history, we believe that period-to-period comparisons of our operating results will not necessarily be meaningful and should not be relied upon as an indication of future performance. In addition, because the three month period ended March 31, 2000 was a full quarter as compared to the abbreviated period ended March 26, 1999, we do not believe that a comparison of our operating results are meaningful.

Results of Operations

The following table sets forth statement of operations data for the three months ended March 31, 2000 and the period from March 10, 1999 (date of commencement of operations) to March 26, 1999.

Revenues:	March 31, 2000	March 26, 1999
Transaction Revenues:		
Fully electronic transactions	$ 14,502,288	$ 76,621
Voice-assisted brokerage transactions	3,861,240	664,597
Screen assisted open outcry transactions	882,868	379,316
Total transaction revenues	19,246,396	1,120,534
Interest income	1,842,774	
System services fees	3,161,057	827,716
Total revenues	24,250,227	1,948,250
Expenses:		
Compensation and employee benefits	11,337,786	1,267,838
Occupancy and equipment	4,699,749	676,023
Professional and consulting fees	2,459,088	185,985
Communications and client networks	839,694	221,159
Fulfillment services fees	5,075,801	26,817
Administrative fees	1,604,151	93,701
Advertising	1,129,073	
Other	1,938,301	15,235
Total expenses	29,083,643	2,486,758
Loss before provision (benefit) for income taxes	$ (4,833,416)	$ (538,508)

Revenues

Transaction Revenues

We operate interactive electronic marketplaces. We have entered into a Joint Services Agreement with Cantor under which we and Cantor agreed to collaborate to provide brokerage and related services to clients in multiple electronic markets for transactions in securities and other financial products. In addition, we may, in our discretion, collaborate on operating markets for non-financial products. Under the Joint Services Agreement, we own and operate the electronic trading systems and are responsible for providing electronic brokerage services, and Cantor provides voice-assisted brokerage services, fulfillment services such as clearance and settlement, and related services such as credit risk management services, oversight of client suitability and regulatory compliance, sales positioning of products and other services customary to marketplace intermediary operations. Under this agreement, we and Cantor have agreed to share revenues derived from transactions effected in the marketplaces in which we collaborate and other specified markets.

Generally, if the transactions:

o are effected in a marketplace in which we collaborate with Cantor, are fully electronic transactions and relate to financial products, such as fixed income securities, futures contracts, derivatives and commodities, that are not traded on the Cantor ExchangeSM, or products that are traded on the Cantor Exchange, then we receive the aggregate transaction revenues and pay to Cantor service fees equal to 35% and 20% of the transaction revenues, respectively.

o are effected in a marketplace in which we collaborate with Cantor, involve voice-assisted brokerage services that Cantor provides and the transactions relate to (1) financial products that are not traded on the Cantor Exchange, or (2) products that are traded on the Cantor Exchange, then, in the case of a transaction described in (1), Cantor receives the aggregate transaction revenues and pays to us a service fee equal to 7% of the transaction revenues, and, in the case of a transaction described in (2), we receive the aggregate transaction revenues and pay to Cantor a service fee equal to 55% of the transaction revenues.

o are effected in a marketplace in which we do not collaborate with Cantor, but in which we do provide electronic brokerage services, and (1) the transaction relates to a financial product, then we will receive the aggregate transaction revenues and pay to Cantor a fulfillment service fee equal to 20% of the transaction and data revenues paid to or received by us or (2) the transaction relates to a non-financial product, then we will receive all of the transaction revenues.

o are not effected through an electronic marketplace, but are electronically assisted, such as screen-assisted open outcry transactions, then Cantor receives the aggregate transaction revenues and pays to us a service fee equal to 2.5% of the transaction revenues.

We are pursuing an aggressive strategy to convert most of Cantor's financial marketplace products to our eSpeed system and, with the assistance of Cantor, to continue to create new markets and convert new clients to our eSpeed system. Other than Cantor, no client of ours accounted for more than 10% of our transaction revenues from our date of inception through March 31, 2000.

The process of converting these marketplaces includes modifying existing Cantor trading systems to allow for transactions to be entered directly from a client location, signing an agreement with the client, installing the hardware and software at the client location and establishing lines between us and the client.

For the three months ended March 31, 2000, we earned $19,246,396 in transaction revenues, as compared to transaction revenues of $1,120,534 for the period from March 10, 1999 to March 26, 1999. The growth in revenue was attributable to the addition of electronic marketplaces and clients to our eSpeed system. In addition, revenues for the three months ended March 31, 2000 were positively impacted by the unusually high level of volatility in the fixed income markets around the world. It is anticipated that as more marketplaces are converted to our eSpeed system and more clients are added to our eSpeed system, more of our income will be generated from marketplaces around the world. Our revenues are currently highly dependent on transaction volume in the fixed income markets globally. Accordingly, revenues are dependent on the volume of transactions in marketplaces that we operate, which can be affected by, among other things, economic and political conditions in the United States and elsewhere in the world, concerns over inflation and wavering institutional/consumer confidence levels, the availability of cash for investment by mutual funds and other wholesale and retail investors, rising interest rates, fluctuating exchange rates, legislative and regulatory changes and currency values.

Interest Income

The proceeds of our initial public offering on December 10, 1999 have been invested by us in reverse repurchase agreements which are fully collateralized by U.S. Government securities held in a custodial account at The Chase Manhattan Bank. For the three months ended March 31, 2000, these investments generated interest income of $1,842,774 at an average interest rate of 5.6%. We had no interest income for the period from March 10, 1999 to March 26, 1999.

System Services Fees

We have agreed to provide to Cantor technology support services at cost, including (1) systems administration, (2) internal network support, (3) support and procurement for desktops of end-user equipment, (4) operations and disaster recovery services, (5) voice and data communications, (6) support and development of systems for clearance and settlement services, (7) systems support for Cantor brokers, (8) electronic applications systems and network support for Cantor's unrelated dealer businesses with respect to which we will not collaborate with Cantor and (9) provision and/or implementation of existing electronic applications systems, including improvements and upgrades thereto, and use of the related intellectual property rights, having potential application in a gaming business. System services fees from Cantor for the three months ended March 31, 2000 were $3,161,057 and represented 13% of total revenues for the quarter, as compared with system services fees from March 10, 1999 to March 26, 1999 of $827,716, which represented 42% of total revenues for that period. Although the increase in revenues for system services fees was attributable to the shortened period in 1999, system services fees as a percent of revenues have decreased as a result of our increased transaction revenues in the three months ended March 31, 2000.

Expenses

Compensation and employee benefits

At March 31, 2000, we had approximately 415 professionals, as compared to approximately 310 employees at March 26, 1999. Substantially all of our employees are full time employees located predominantly in New York and London. Compensation costs include salaries, bonus accruals, payroll taxes and costs of employer-provided medical benefits for our employees. For the quarter ended March 31, 2000, we had compensation costs of $11,337,786, as compared to $1,267,838 for the period from March 10, 1999 to March 26, 1999. This increase in compensation expense was attributable to the increased number of professionals we employed during the period ended March 31, 2000 and to the shortness of the period from March 10, 1999 to March 26, 1999. We intend to hire additional technical, sales and marketing, product development and administrative personnel, including personnel from Cantor, in order to expand our business. As a result, we anticipate that compensation expense may increase significantly in subsequent periods.

Occupancy and equipment

Occupancy and equipment costs of $4,699,749 for the three months ended March 31, 2000 included depreciation on computer and communications equipment and amortization of software owned by us, lease costs of other fixed assets leased by us from Cantor and a charge for premises costs from Cantor. Occupancy and equipment costs for the period March 10, 1999 to March 26, 1999 totaled $676,023. Cantor leases from third parties under operating lease arrangements certain computer-related fixed assets that we have the right to use at rates intended to equal costs incurred by Cantor. Our equipment expenses should increase as we continue to invest in technology and related equipment. Occupancy expenditures are comprised principally of our rent and facilities costs of our New York and London offices.

Professional and consulting fees

Professional and consulting fees of $2,459,088 for the three months ended March 31, 2000 consisted primarily of legal fees and consultant costs paid to outside computer professionals who performed specialized enhancement activities for us. Professional and consulting fees totaled $185,985 for the period March 10, 1999 to March 26, 1999. We currently have approximately 20 contracted consultants and additional outside services providers working under short-term contracts costing approximately $500,000 per month in the aggregate. Our professional and consulting expenses will likely increase over the foreseeable future.

Communications and client networks

Communications costs of $839,694 for the three months ended March 31, 2000 included the costs of local and wide area network infrastructure, the cost of establishing the client network linking clients to us, data and telephone lines, data and telephone usage and other related costs. Communications costs totaled $221,159 for the period March 10, 1999 to March 26, 1999. We expect such costs to increase as we continue to expand into new marketplaces and geographic locations and establish additional communication links with clients. However, certain communications costs are decreasing globally due to increased competition in the communications industry. This may or may not result in a decrease in our communications costs.

Fulfillment services fees

Under the Joint Service Agreement, we are required to pay to Cantor a fulfillment services fee of 20%, 35% or 55%, depending on the type of transaction, of commissions paid by clients related to fully electronic transactions. Such costs were $5,075,801 for the three months ended March 31, 2000 as compared to $26,817 for the period March 10 to March 26, 1999. As we continue to sign up new clients, in conjunction with Cantor, and the volume of business processed in the fully electronic brokerage channel increases, this expense will likely increase commensurately with our revenues.

Administrative fees

Under an Administrative Services Agreement with Cantor, Cantor has agreed to provide various administrative services to us, including, but not limited to, accounting, tax, legal and human resources, and we have agreed to provide sales and marketing services at cost to Cantor. We are required to reimburse Cantor for its costs of providing these services plus allocation of overhead. We have provided for the cost of such services in our financial statements under the terms set forth in the Administrative Services Agreement as if it was effective March 10, 1999. Administrative fees amounted to $1,604,151 for the three months ended March 31, 2000, as compared to administrative fees of $93,701 for the period March 10, 1999 to March 26, 1999. As we expand our business, the services provided by Cantor, and accordingly the expense, will likely also increase. As circumstances warrant, we will consider adding employees to take over these services from Cantor.

Advertising Expenses

During the three months ended March 31, 2000, we launched a national advertising campaign. We incurred advertising expenses of $1,129,073 during the quarter, as compared to no advertising expenses during the period from March 10, 1999 to March 26, 1999. We anticipate that our advertising program and expenses will continue to increase.

Other expenses

Other expenses for the three months ended March 31, 2000 were of $1,938,301, as compared to $15,235 for the period from March 10, 1999 to March 26, 1999, and consisted primarily of recruitment fees, travel, promotional and entertainment expenditures. We expect that these expenses will also continue to increase over the foreseeable future as we seek to expand our business.

Liquidity and Capital Resources

Our cash flows are comprised of transaction revenues and systems services fees from Cantor, various fees paid to Cantor, occupancy costs and other expenses paid by Cantor on our behalf and investment income. In its capacity as a fulfillment service provider, Cantor processes and settles transactions and, as such, collects and pays the funds necessary to clear transactions with the counterparty. In doing so, Cantor receives our portion of the transaction fee and, in accordance with the Joint Services Agreement, remits the gross amount owed to us. Under the Administrative Services Agreement and the Joint Services Agreement, any net receivable or payable is settled monthly, at the discretion of the parties.

Our ability to withdraw capital from our regulated broker-dealer subsidiaries could be restricted, which in turn could limit our ability to pay dividends, repay debt and redeem or purchase shares of our outstanding stock.

Although we have no material commitments for capital expenditures, we anticipate that we will experience a substantial increase in our capital expenditures and lease commitments consistent with our anticipated growth in operations, infrastructure and personnel. We currently anticipate that we will continue to experience significant growth in our operating expenses for the foreseeable future and that our operating expenses will be a material use of our cash resources.

Under the current operating structure, our cash flows from operations and the net proceeds from our initial public offering should be sufficient to fund our current working capital and current capital expenditure requirements for at least the next 12 months. However, we believe that there are a significant number of capital intensive opportunities for us to maximize our growth and strategic position, including, among other things, strategic alliances and joint ventures potentially involving all types and combinations of equity, debt, acquisition and recapitalization alternatives. We are continually considering such options and their effect on our liquidity and capital resources.

On April 26, 2000, we entered into Subscription Agreements (the "Subscription Agreement") with each of The Williams Companies, Inc. ("Williams") and Dynegy, Inc. ("Dynegy") for the purchase by each of a Unit consisting of (i) 789,071 shares (the "Shares") of our Class A Common Stock, par value $0.01 per share (the "Class A Stock"), and (ii) warrants exercisable to purchase up to 666,666 shares of Class A Stock, for an aggregate purchase price for the two Units of $50.0 million. The purchase of the Units by Williams and Dynegy is subject to the satisfaction of certain customary conditions, including the receipt of all approvals required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (or all applicable waiting periods, and any extensions thereof, under such Act shall have expired or otherwise been terminated). We expect that the purchase and sale of the Units will be consummated (the "Closing") during the second quarter of fiscal 2000. Contemporaneously with the execution of the Subscription Agreements, we entered into a stock purchase agreement with Cantor providing for the purchase by eSpeed from Cantor, at the Closing, of 789,071 shares of Class B Common Stock of eSpeed, par value $.01 per share, representing half of the number of shares of the Class A Stock being sold to Williams and Dynegy, for a purchase price of $25.0 million and resulting in eSpeed receiving a net amount of $25.0 million at the Closing from the sale of the Units. For a more detailed description of this transaction, see Part II, Item 5 of this report under the heading, "Other Information".

ITEM 3. Quantitative and Qualitative Disclosures about Market Risk

We have invested $128,493,533 of our excess cash in securities purchased under reverse repurchase agreements which are fully collateralized by U.S. Government securities held in a custodial account at The Chase Manhattan Bank. These reverse repurchase agreements have an overnight maturity and, as such, are highly liquid. We do not use derivative financial instruments, derivative commodity instruments or other market risk sensitive instruments, positions or transactions. Accordingly, we believe that we are not subject to any material risks arising from changes in interest rates, foreign currency exchange rates, commodity prices, equity prices or other market changes that affect market risk sensitive

instruments. Our policy is to invest our excess cash in a manner that provides us with the appropriate level of liquidity to enable us to meet our current obligations, primarily accounts payable, capital expenditures and payroll, recognizing that we do not currently have outside bank funding.

PART II. OTHER INFORMATION

ITEM 1. Legal Proceedings.

The information required by this Item is incorporated by reference to Note 4 of the Notes to Consolidated Financial Statements for the three months ended March 31, 2000 (unaudited) contained elsewhere in this report.

ITEM 2. Changes in Securities and Use of Proceeds.

(d) Use of Proceeds. The effective date of our registration statement (Registration No. 333-87475) filed on Form S-1 relating to our initial public offering of Class A common stock was December 9, 1999. In our initial public offering, we sold 7,000,000 shares of Class A common stock at a price of $22.00 per share and CFS, the selling stockholder, sold 3,350,000 shares of Class A common stock at a price of $22.00 per share. Our initial public offering was managed on behalf of the underwriters by Warburg Dillon Read LLC, Hambrecht & Quist, Thomas Weisel Partners LLC and Cantor Fitzgerald & Co. The offering commenced on December 10, 1999 and closed on December 15, 1999. Proceeds to us from our initial public offering, after deduction of the underwriting discounts and commissions of approximately $10.0 million and offering costs of $4.4 million, totaled approximately $139.6 million. None of the expenses incurred in our initial public offering were direct or indirect payments to our directors, officers, general partners or their associates, to persons owning 10% or more of any class of our equity securities or to our affiliates. Of the $139.6 million raised, approximately $11.1 million has been used for working capital purposes and the balance of $128.5 million has been invested in reverse repurchase agreements which are fully collateralized by U.S. Government Securities held in a custodial account at a third-party bank. We intend to use the amount invested in the reverse repurchase agreements as follows:

o Approximately $25 million will be invested in hardware and software for entry into new product segments, expansion of our current markets and an increase in communication links to our clients;

o Approximately $25 million will be for hiring of technology and other professionals to develop new markets in both financial and non-financial sectors;

o Approximately $25 million will be for marketing to current and new institutional clients and to promote general awareness and acceptance of the retail trading of fixed income securities and other financial instruments; and

o The balance of the net proceeds will be used for working capital and general corporate purposes, including possible acquisitions and strategic alliances.

Of the amount of proceeds spent through March 31, 2000, approximately $11.1 million has been paid to Cantor under the Administrative Services Agreement between us and Cantor.

The occurrence of unforeseen events, opportunities or changed business conditions, however, could cause us to use the net proceeds of our initial public offering in a manner other than as described above.

ITEM 3. Defaults Upon Senior Securities.

Not Applicable.

ITEM 4. Submission of Matters to a Vote of Securities Holders.

Not Applicable.

ITEM 5. Other Information.

On April 26, 2000, we entered into a Subscription Agreement (a "Subscription Agreement") with each of The Williams Companies, Inc. ("Williams") and Dynegy, Inc. ("Dynegy") for the purchase by each of a Unit consisting of (i) 789,071 shares (the "Shares") of our Class A Common Stock, par value $0.01 per share (the "Class A Stock"), and (ii) warrants (the "Warrants") exercisable for the purchase of up to 666,666 shares of Class A Stock, for an aggregate purchase price for the Unit of $25.0 million. The Warrants will have a per share exercise price of $35.203125, will have a ten year term and will be exercisable during the last 4 1/2 years of the term, subject to acceleration under certain prescribed circumstances intended to provide incentives to Williams and Dynegy to invest in four Qualified Verticals as described below. We expect that the purchase and sale of the Units will be consummated (the "Closing") during the second quarter of fiscal 2000. The Closing is subject to the satisfaction of certain customary conditions, including the receipt of all approvals required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (or all applicable waiting periods, and any extensions thereof, under such Act shall have expired or otherwise been terminated). The Shares will not be transferable prior to the first anniversary of the Closing.

Each of Williams and Dynegy agreed in its Subscription Agreement that, subject to the satisfaction of certain conditions, it will invest $2.5 million in at least four entities (the "Qualified Verticals") to be formed by eSpeed and Cantor within 12 months of the Closing (subject to extension for a period not to exceed six months under certain prescribed circumstances, the "Investment Period"). We expect that each Qualified Vertical will be jointly owned by industry market participants, eSpeed and Cantor and will establish a new vertical electronic and telephonic marketplace with eSpeed in which such Qualified Vertical will broker and possibly clear transactions for the industry market participants and other clients. We anticipate that the first Qualified Vertical to be so formed will be an electronic and telephonic marketplace for North American wholesale transactions in natural gas, electricity, coal and sulfur dioxide and nitrogen dioxide emissions. Products that may be traded on other Qualified Verticals include natural gas liquids, petrochemicals, crude oil and bandwidth. Each of Williams and Dynegy will not necessarily invest in the same Qualified Verticals as the other. The Subscription Agreements further provide that, in connection with up to four additional Qualified Verticals (the "Additional Investment Right"), Williams and, subject to certain limitations, Dynegy, will be entitled to invest $25.0 million in

shares of the Class A Stock at a 10% discount to the average trading price for the 10 trading days preceding the date of such party's investment in such new Qualified Vertical, or, under certain circumstances, the public announcement of the formation of such Qualified Vertical. The Additional Investment Right is subject to stockholder approval if required, and in such event, we have agreed to submit for a vote of our common stockholders, at our next annual meeting of stockholders, the approval of the issuance of any such shares, and Cantor has agreed to vote the shares of common stock of eSpeed beneficially owned by it in favor of such issuance. Any shares of Class A Stock purchased pursuant to the Additional Investment Right will not be transferable prior to the first anniversary of issuance.

The Subscription Agreements also provide that, at such time as when Williams and Dynegy (or their permitted affiliate assignees) have made an aggregate equity investment in eSpeed of an amount equal to at least $100.0 million valued on a cost basis (and for so long as such parties maintain ownership of equity securities having such cost basis), Cantor will use its best efforts to cause one designee jointly selected by Williams and Dynegy to be nominated to the eSpeed Board of Directors and to vote its shares of common stock of eSpeed in favor of such designee.

Contemporaneously with the execution of the Subscription Agreements, we entered into a stock purchase agreement (the "Stock Purchase Agreement") with Cantor providing for the purchase by eSpeed from Cantor (i) at the Closing, of 789,071 shares of Class B Common Stock of eSpeed, par value $.01 per share (the "Class B Stock"), representing half of the number of shares of the Class A Stock being sold by eSpeed to Williams and Dynegy pursuant to the Subscription Agreements, for a purchase price of $25.0 million and (ii) of half of the number of shares purchased by Williams and Dynegy, in the aggregate, each time an Additional Investment Right is exercised for the same purchase price per share as is paid by Williams and Dynegy at the time.

Warburg Dillon Read LLC delivered an opinion dated April 26, 2000 to the eSpeed Board of Directors to the effect that, as of such date, the transaction, as described in the Subscription Agreements and the exhibits thereto and the Stock Purchase Agreement, is fair, from a financial point of view, to the stockholders of eSpeed other than Cantor.

Immediately following the Closing, it is expected that Cantor will beneficially own approximately 77% of the outstanding voting securities of eSpeed, and Williams and Dynegy will each beneficially own approximately 1.7% of the outstanding voting securities and will each beneficially own not more than 4.9% of the outstanding Class A Stock (in each case after giving effect to the conversion by Cantor prior to the Closing of certain shares of Class B Stock into Class A Stock, as required under the Subscription Agreements).

It is intended that the sale of the Shares and Warrants will be exempt from registration under the Securities Act of 1933 in reliance on Section 4 (2) of such Act, as a transaction by an issuer not involving a public offering.

ITEM 6. Exhibits and Reports on Form 8-K.

(a) Exhibits

Exhibit 3(ii) - Second Amended and Restated By-Laws of eSpeed, Inc.

Exhibit 27 - Financial Data Schedule

(b) Reports on Form 8-K

None.

SIGNATURES

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

eSpeed, Inc.

(Registrant)

Date: May 10, 2000

/s/ Howard W. Lutnick

Howard W. Lutnick
Chairman and Chief Executive Officer

Date: May 10, 2000

/s/ Kevin C. Piccoli

Kevin C. Piccoli
Senior Vice President
and Chief Financial Officer
(Principal Financial and Accounting Officer)

SECOND AMENDED AND RESTATED

BY-LAWS

OF

eSPEED, INC.

ARTICLE I

Stockholders

SECTION 1. Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held on such date, at such time and at such place within or without the State of Delaware as may be designated by the Board of Directors, for the purpose of electing Directors and for the transaction of such other business as may be properly brought before the meeting.

SECTION 2. Special Meetings. Except as otherwise provided in the Certificate of Incorporation, a special meeting of the stockholders of the Corporation may be called at any time by the Chairman of the Board, or, if the Chairman of the Board is unavailable, by the Vice Chairman acting jointly with the President. Any special meeting of the stockholders shall be held on such date, at such time and at such place within or without the State of Delaware as the Board of Directors or the officer calling the meeting may designate. At a special meeting of the stockholders, no business shall be transacted and no corporate action shall be taken other than

that stated in the notice of the meeting unless all of the stockholders are present in person or by proxy, in which case any and all business may be transacted at the meeting even though the meeting is held without notice.

SECTION 3. Notice of Stockholder Business and Nominations.

Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders by or at the direction of the Board of Directors or by any stockholder of the Corporation who was a stockholder of record on the record date established for the giving of notice of such meeting, who is entitled to vote at the meeting and who complies with the notice procedures set forth in these By-Laws.

In the event the Corporation calls a special meeting of stockholders for the purpose of electing Directors, nominations of persons for election to the Board of Directors may be made by or at the direction of the Board of Directors or by any stockholder of the Corporation who was a stockholder of record at the record date for the giving of notice of such meeting, who was a stockholder of record on the record date established for the giving of notice of such meeting, who is entitled to vote at the meeting and who complies with the notice procedures set forth in these By-Laws.

For nominations or other business to be properly brought by a stockholder, the stockholder must have given timely advance notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to, or mailed and received at, the principal executive offices of the Corporation (i) with respect to an annual meeting of the

stockholders of the Corporation, not later than the close of business on the 120th day prior to the first anniversary of the date of the Corporation's proxy statement for the preceding year's annual meeting; provided, however, that with respect to the annual meeting of stockholders to be held in 2000 or in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered not later than the close of business on the later of the 120th day prior to the date of such proxy statement or the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation; and (ii) with respect to a special meeting of stockholders of the Corporation for the election of Directors, not later than the close of business on the 10th day following the day on which notice of the date of the special meeting was mailed to stockholders of the Corporation as provided in Article 1,
Section 3 hereof or public disclosure of the date of the special meeting was made, whichever first occurs. Any such notice to be given by a stockholder shall set forth: (a) as to each person whom the stockholder proposes to nominate for election as a Director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934 and Rule 14a-11 thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of such business, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on

whose behalf the nomination or proposal is made, (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

Only such persons who are nominated in accordance with the procedures set forth in these By-Laws shall be eligible to serve as Directors and only such business shall be conducted at a meeting of the stockholders as shall have been brought before the meeting in accordance with these By-Laws. Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth herein and, if any proposed nomination or business is not in compliance with procedures set forth herein, to declare that such defective proposal or nomination shall be disregarded.

Nothing herein shall be deemed to limit or restrict the procedures required to be followed in connection with stockholder proposals to be brought before a meeting of stockholders pursuant to Regulation 14A under the Securities Exchange Act of 1934 and Rule 14a-8 thereunder.

SECTION 4. Notice of Meetings. Except as otherwise provided in these By-Laws or by law, a written notice of each meeting of the stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder of the Corporation entitled to vote at such meeting at his or her address as it appears on the records of

the Corporation. The notice shall state the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to a stockholder at his or her address as it appears on the records of the Corporation.

SECTION 5. Quorum. At any meeting of the stockholders, the holders of a majority of the voting power of all outstanding shares of stock of the Corporation entitled to vote at such meeting, present in person or represented by proxy, shall constitute a quorum of the stockholders for all purposes, unless the representation of a larger number of shares shall be required by law, by the Certificate of Incorporation or by these By-Laws, in which case the representation of the number of shares so required shall constitute a quorum; provided that at any meeting of the stockholders at which the holders of any class of stock of the Corporation shall be entitled to vote separately as a class, the holders of a majority of the voting power of all outstanding shares of such class, present in person or represented by proxy, shall constitute a quorum for purposes of such class vote unless the representation of a larger number of shares of such class shall be required by law, by the Certificate of Incorporation or by these By-Laws.

SECTION 6. Adjourned Meetings. Whether or not a quorum shall be present in person or represented at any meeting of the stockholders, the holders of a majority of the voting power of all outstanding shares of stock of the Corporation present in person or represented by proxy and entitled to vote at such meeting may adjourn from time to time; provided, however, that if the holders of any class of stock of the Corporation are entitled to vote separately as a

class upon any matter at such meeting, any adjournment of the meeting in respect of action by such class upon such matter shall be determined by the holders of a majority of the voting power of all outstanding shares of such class present in person or represented by proxy and entitled to vote at such meeting. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the stockholders, or the holder of any class of stock entitled to vote separately as a class, as the case may be, may transact any business which might have been transacted by them 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, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the adjourned meeting.

SECTION 7. Organization. The Chairman of the Board, or, in his absence, the Chief Executive Officer, or, in their absence, the President, or, in the absence of the Chairman of the Board, the Chief Executive Officer and the President, the Vice Chairman, the Chief Operating Officer, or a Vice President shall call all meetings of the stockholders to order, and shall act as Chairman of such meetings. In the absence of the Chairman of the Board, the Chief Executive Officer, the President, the Vice Chairman, the Chief Operating Officer and all of the Vice Presidents, the holders of a majority in number of the shares of stock of the Corporation present in person or represented by proxy and entitled to vote at such meeting shall elect a Chairman.

The Secretary of the Corporation shall act as Secretary of all meetings of the stockholders; but in the absence of the Secretary, the Chairman may appoint any person to act as

Secretary of the meeting. It shall be the duty of the Secretary to prepare and make, at least ten days before every meeting of stockholders, a complete list of stockholders entitled to vote at such meeting, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting or, if not so specified, at the place where the meeting is to be held, for the ten days next preceding the meeting, to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, and shall be produced and kept at the time and place of the meeting during the whole time thereof and subject to the inspection of any stockholder who may be present.

SECTION 8. Voting. Except as otherwise provided in the Certificate of Incorporation or by law, each stockholder shall be entitled to one vote for each share of the capital stock of the Corporation registered in the name of such stockholder upon the books of the Corporation. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him or her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. When directed by the presiding officer or upon the demand of any stockholder, the vote upon any matter before a meeting of stockholders shall be by ballot. Except as otherwise provided by law or by the Certificate of Incorporation, (a) Directors shall be elected by a plurality of the votes cast at a meeting of stockholders by the stockholders entitled to vote in the election, and (b) whenever any corporate action, other than

the election of Directors is to be taken, it shall be authorized by a majority of the votes cast at a meeting of stockholders by the stockholders entitled to vote thereon.

Shares of the capital stock of the Corporation belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of Directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes.

SECTION 9. Inspectors of Election; Opening and Closing the Polls. When required by law or directed by the presiding officer or upon the demand of any stockholder entitled to vote, but not otherwise, the polls shall be opened and closed, the proxies and ballots shall be received and taken in charge, and all questions touching the qualification of voters, the validity of proxies and the acceptance or rejection of votes shall be decided at any meeting of the stockholders by one or more Inspectors who may be appointed by the Board of Directors before the meeting, or if not so appointed, shall be appointed by the presiding officer at the meeting. If any person so appointed fails to appear or act, the vacancy may be filled by appointment in like manner. The Chairman of the meeting may fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting.

SECTION 10. No Stockholder Action by Written Consent. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of the stockholders, upon due notice and in accordance with the other

provisions of these By-Laws and may not be effected by any consent in writing by the stockholders, unless such taking of any such corporate action without a meeting is by unanimous written consent.

ARTICLE II

Board of Directors

SECTION 1. Number, Classification and Tenure. The powers of the Corporation shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors. Each Director shall be elected at the annual meeting of the stockholders, and shall hold office for the full term for which such Director is elected and until such Director's successor shall have been duly elected and qualified or until his earlier death or resignation or removal in accordance with the Certificate of Incorporation or these By-Laws.

The number of Directors that shall constitute the whole Board of Directors shall be fixed by, and may be increased or decreased from time to time by, the Board of Directors. Newly created Directorships resulting from any increase in the number of Directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall be filled by the affirmative vote of a majority of the remaining Directors then in office, even though less than a quorum of the Board of Directors. Any Director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of Directors in which the new Directorship was created or the vacancy occurred and until

such Director's successor shall have been elected and qualified or until his earlier death, resignation or removal. No decrease in the number of Directors constituting the Board of Directors shall shorten the term of any incumbent Director.

SECTION 2. Qualifications. Directors need not be residents of the State of Delaware or stockholders of the Corporation.

SECTION 3. Removal, Vacancies and Additional Directors. The stockholders may, at any special meeting the notice of which shall state that it is called for that purpose, remove, with or without cause, any Director and fill the vacancy; provided that whenever any Director shall have been elected by the holders of any class of stock of the Corporation voting separately as a class under the provisions of the Certificate of Incorporation, such Director may be removed and the vacancy filled only by the holders of that class of stock voting separately as a class. Vacancies caused by any such removal and not filled by the stockholders at the meeting at which such removal shall have been made, or any vacancy caused by the death or resignation of any Director or for any other reason, and any newly created Directorship resulting from any increase in the authorized number of Directors, may be filled by the affirmative vote of a majority of the Directors then in office, although less than a quorum, and any Director so elected to fill any such vacancy or newly created Directorship shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

When one or more Directors shall resign effective at a future date, a majority of the Directors then in office, including those who have so resigned, shall have power to fill such

vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office as herein provided in connection with the filling of other vacancies.

SECTION 4. Place of Meeting. The Board of Directors may hold its meetings in such place or places in the State of Delaware or outside the State of Delaware as the Board from time to time shall determine.

SECTION 5. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as the Board from time to time by resolution shall determine. No notice shall be required for any regular meeting of the Board of Directors; but a copy of every resolution fixing or changing the time or place of regular meetings shall be mailed to every Director at least five days before the first meeting held in pursuance thereof.

SECTION 6. Special Meetings. Special meetings of the Board of Directors shall be held whenever called by direction of the Chairman of the Board, or, if the Chairman of the Board is unavailable, by the Vice Chairman acting jointly with the President. The person or persons authorized to call special meetings of the Board of Directors may fix the place and time of the meetings.

Notice of the day, hour and place of holding of each special meeting shall be given by mailing the same at least two days before the meeting or by causing the same to be transmitted

by facsimile, telegram or telephone at least one day before the meeting to each Director. Unless otherwise indicated in the notice thereof, any and all business other than an amendment of these By-Laws may be transacted at any special meeting, and an amendment of these By-Laws may be acted upon if the notice of the meeting shall have stated that the amendment of these By-Laws is one of the purposes of the meeting. At any meeting at which every Director shall be present, even though without any notice, any business may be transacted, including the amendment of these By-Laws.

SECTION 7. Quorum. Subject to the provisions of Section 4 of this Article II, a majority of the members of the Board of Directors in office (but, unless the Board shall consist solely of one Director, in no case less than one-third of the total number of Directors nor less than two Directors) shall constitute a quorum for the transaction of business and the vote of the majority of the Directors present at any meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time.

SECTION 8. Organization. The Chairman of the Board, or, in his absence, the President shall preside at all meetings of the Board of Directors. In the absence of both the Chairman of the Board and the President, a Chairman shall be elected from the Directors present. The Secretary of the Corporation shall act as Secretary of all meetings of the Directors; but in the absence of the Secretary, the Chairman may appoint any person to act as Secretary of the meeting.

SECTION 9. Committees. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation. The Board 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 a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided by resolution passed by a majority of the whole Board, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and the affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending these By-Laws; and unless such resolution, these By-laws, or the Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock.

A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in this Article II of these By-Laws.

The Board shall have power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee. Nothing herein shall be deemed to prevent the Board from appointing one or more committees consisting in whole or in part of persons who are not Directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board.

Each Committee shall keep regular minutes of its meetings and, on no less than a quarterly basis, report such minutes to the Board of Directors.

SECTION 10. Conference Telephone Meetings. Unless otherwise restricted by the Certificate of Incorporation or by these By-Laws, the members of the Board of Directors or any committee designated by the Board, may participate in a meeting of the Board or such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

SECTION 11. Consent of Directors or Committee in Lieu of Meeting. Unless otherwise restricted by the Certificate of Incorporation or by these By-Laws, any action required or permitted to be taken at any meeting of the Board Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Board or committee, as the case may be.

ARTICLE III

Officers

SECTION 1. Officers. The officers of the Corporation shall be a Chairman of the Board, a Chief Executive Officer, a President, a Vice Chairman, a Chief Operating Officer, a Chief Financial Officer, one or more Vice Presidents, and a Secretary, and such additional officers, if any, as shall be elected by the Board of Directors pursuant to the provisions of Section 10 of this Article III. The Chairman of the Board, the Chief Executive Officer, the President, the Vice Chairman, the Chief Operating Officer, the Chief Financial Officer, one or more Vice Presidents and the Secretary shall be elected by the Board of Directors at its first meeting after each annual meeting of the stockholders. The failure to hold such election shall not of itself terminate the term of office of any officer. All officers shall hold office at the pleasure of the Board of Directors. Any officer may resign at any time upon written notice to the Corporation. Officers may, but need not, be Directors. Any number of offices may be held by the same person.

All officers, agents and employees shall be subject to removal, with or without cause, at any time by the Board of Directors. The removal of an officer without cause shall be without prejudice to his or her contract rights, if any. The election or appointment of an officer shall not of itself create contract rights. All agents and employees other than officers elected by the Board of Directors shall also be subject to removal, with or without cause, at any time by the officers appointing them.

Any vacancy caused by the death, resignation or removal of any officer, or otherwise, may be filled by the Board of Directors, and any officer so elected shall hold office at the pleasure of the Board of Directors.

In addition to the powers and duties of the officers of the Corporation as set forth in these By-Laws, the officers shall have such authority and shall perform such duties as from time to time may be determined by the Board of Directors.

SECTION 2. Powers and Duties of the Chairman of the Board. The Chairman of the Board shall preside at all meetings of the stockholders and at all meetings of the Board of Directors and shall have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors.

SECTION 3. Powers and Duties of the Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation, have general charge and control of all the Corporation's business and affairs and, subject to the control of the Board of Directors, shall have all powers and shall perform all duties incident to the office of Chief Executive Officer. In the absence of the Chairman of the Board, the Chief Executive Officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors. The Chief Executive Officer may appoint such officers of the Corporation, other than "executive officers" as such term is defined in the Securities Exchange Act of 1934, as the Chief Executive Officer shall deem in the best interests of the Corporation. In addition, the Chief Executive Officer shall

have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors.

SECTION 4. Powers and Duties of the President. The President shall, subject to the control of the Board of Directors, have all powers and shall perform all duties incident to the office of President. In the absence of the Chairman of the Board and the Chief Executive Officer, the President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors. In the absence of the Chief Executive Officer, the President shall be the chief executive officer of the Corporation, have general charge and control of all the Corporation's business and affairs and shall have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors.

SECTION 5. Powers and Duties of the Vice Chairman. The Vice Chairman shall have such powers and perform such duties as may from time to time be assigned by these By- Laws or by the Chairman of the Board or the Board of Directors.

SECTION 6. Powers and Duties of the Chief Operating Officer. The Chief Operating Officer shall, subject to the control of the Board of Directors, have all powers and shall perform all duties incident to the office of Chief Operating Officer. In addition, the Chief Operating Officer shall have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

SECTION 7. Powers and Duties of the Chief Financial Officer. The Chief Financial Officer shall, subject to the control of the Board of Directors, have all powers and shall perform all duties incident to the office of Chief Financial Officer. In addition, the Chief Financial Officer shall have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

SECTION 8. Powers and Duties of the Vice Presidents. Each Vice President shall have all powers and shall perform all duties incident to the office of Vice President and shall have such other powers and perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

SECTION 9. Powers and Duties of the Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the stockholders in books provided for that purpose. The Secretary shall attend to the giving or serving of all notices of the Corporation; shall have custody of the corporate seal of the Corporation and shall affix the same to such documents and other papers as the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President shall authorize and direct; shall have charge of the stock certificate books, transfer books and stock ledgers and such other books and papers as the Board of Directors, the Chairman of the Board,

the Chief Executive Officer or the President shall direct, all of which shall at all reasonable times be open to the examination of any Director, upon application, at the office of the Corporation during business hours. The Secretary shall have all powers and shall perform all duties incident to the office of Secretary and shall also have such other powers and shall perform such other duties as may from time to time be assigned by these By-Laws or by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

SECTION 10. Additional Officers. The Board of Directors may from time to time elect such other officers (who may but need not be Directors), including a Controller, Treasurer, Assistant Treasurers, Assistant Secretaries and Assistant Controllers, as the Board may deem advisable and such officers shall have such authority and shall perform such duties as may from time to time be assigned by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

The Board of Directors may from time to time by resolution delegate to any Assistant Treasurer or Assistant Treasurers any of the powers or duties herein assigned to the Treasurer; and may similarly delegate to any Assistant Secretary or Assistant Secretaries any of the powers or duties herein assigned to the Secretary.

SECTION 11. Giving of Bond by Officers. All officers of the Corporation, if required to do so by the Board of Directors, shall furnish bonds to the Corporation for the faithful performance of their duties, in such penalties and with such conditions and security as the Board shall require.

SECTION 12. Voting Upon Stocks. Unless otherwise ordered by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or any Vice President shall have full power and authority on behalf of the Corporation to attend and to act and to vote, or in the name of the Corporation to execute proxies to vote, at any meeting of stockholders of any corporation in which the Corporation may hold stock, and at any such meeting shall possess and may exercise, in person or by proxy, any and all rights, powers and privileges incident to the ownership of such stock. The Board of Directors may from time to time, by resolution, confer like powers upon any other person or persons.

SECTION 13. Compensation of Officers. The officers of the Corporation shall be entitled to receive such compensation for their services as shall from time to time be determined by the Board of Directors.

ARTICLE IV

Indemnification of Directors and Officers

Section 1. Nature of Indemnity. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was or has agreed to become a Director or officer of the Corporation, or is or was serving or has agreed to serve at the request of the Corporation as a Director or

officer of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, and may indemnify any person who was or is a party or is threatened to be made a party to such an action, suit or proceeding by reason of the fact that he or she is or was or has agreed to become an employee or agent of the Corporation, or is or was serving or has agreed to serve at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or on his or her behalf in connection with such action, suit or proceeding and any appeal therefrom, if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful; except that in the case of an action or suit by or in the right of the Corporation to procure a judgment in its favor (1) such indemnification shall be limited to expenses (including attorneys' fees) actually and reasonably incurred by such person in the defense or settlement of such action or suit, and (2) no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Delaware Court of Chancery or such other court shall deem proper.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Section 2. Successful Defense. To the extent that a Director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of this Article IV or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Section 3. Determination that Indemnification is Proper. Any indemnification of a Director or officer of the Corporation under Section 1 of this Article IV (unless ordered by a court) shall be made by the Corporation unless a determination is made that indemnification of the Director or officer is not proper in the circumstances because he or she has not met the applicable standard of conduct set forth in Section 1. Any indemnification of an employee or agent of the Corporation under Section 1 (unless ordered by a court) may be made by the Corporation upon a determination that indemnification of the employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 1. Any such determination shall be made (1) by the Board of Directors by a majority vote of a

quorum consisting of Directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

Section 4. Advance Payment of Expenses. Unless the Board of Directors otherwise determines in a specific case, expenses incurred by a Director or officer in defending a civil or criminal action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Director or officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Article IV. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate. The Board of Directors may authorize the Corporation's legal counsel to represent such Director, officer, employee or agent in any action, suit or proceeding, whether or not the Corporation is a party to such action, suit or proceeding.

Section 5. Survival; Preservation of Other Rights. The foregoing indemnification provisions shall be deemed to be a contract between the Corporation and each Director, officer, employee and agent who serves in any such capacity at any time while these provisions as well as the relevant provisions of the Delaware General Corporation Law are in effect and any repeal or modification thereof shall not affect any right or obligation then existing with respect to any state of facts then or previously existing or any action, suit, or proceeding previously or thereafter brought or threatened based in whole or in part upon any such state of facts. Such a

contract right may not be modified retroactively without the consent of such Director, officer, employee or agent.

The indemnification provided by this Article IV shall not be deemed exclusive of any other rights to which a person indemnified may be entitled under any by-law, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. The Corporation may enter into an agreement with any of its Directors, officers, employees or agents providing for indemnification and advancement of expenses, including attorneys fees, that may change, enhance, qualify or limit any right to indemnification or advancement of expenses created by this Article IV.

Section 6. Severability. If this Article IV or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Director or officer and may indemnify each employee or agent of the Corporation as to costs, charges and expenses (including attorneys' fees), judgment, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Corporation, to the fullest extent permitted by any applicable portion of this Article IV that shall not have been invalidated and to the fullest extent permitted by applicable law.

Section 7. Subrogation. In the event of payment of indemnification to a person described in Section 1 of this Article IV, the Corporation shall be subrogated to the extent of such payment to any right of recovery such person may have and such person, as a condition of receiving indemnification from the Corporation, shall execute all documents and do all things that the Corporation may deem necessary or desirable to perfect such right of recovery, including the execution of such documents necessary to enable the Corporation effectively to enforce any such recovery.

Section 8. No Duplication of Payments. The Corporation shall not be liable under this Article IV to make any payment in connection with any claim made against a person described in Section 1 of this Article IV to the extent such person has otherwise received payment (under any insurance policy, by-law or otherwise) of the amounts otherwise payable as indemnity hereunder.

ARTICLE V

Stock-Seal-Fiscal Year

SECTION 1. Certificates For Shares of Stock. The certificates for shares of stock of the Corporation shall be in such form, not inconsistent with the Certificate of Incorporation, as shall be approved by the Board of Directors. All certificates shall be signed by the Chairman of the Board, the Chief Executive Officer, the President, the Vice Chairman, the Chief Operating

Officer or a Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer, and shall not be valid unless so signed.

In case any officer or officers who shall have signed any such certificate or certificates shall cease to be such officer or officers of the Corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by the Corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates had not ceased to be such officer or officers of the Corporation.

All certificates for shares of stock shall be consecutively numbered as the same are issued. The name of the person owning the shares represented thereby with the number of such shares and the date of issue thereof shall be entered on the books of the Corporation.

Except as hereinafter provided, all certificates surrendered to the Corporation for transfer shall be canceled, and no new certificates shall be issued until former certificates for the same number of shares have been surrendered and canceled.

SECTION 2. Lost, Stolen or Destroyed Certificates. Whenever a person owning a certificate for shares of stock of the Corporation alleges that it has been lost, stolen or destroyed, he or she shall file in the office of the Corporation an affidavit setting forth, to the best of his or her knowledge and belief, the time, place and circumstances of the loss, theft or destruction, and, if required by the Board of Directors, a bond of indemnity or other indemnification sufficient in the opinion of the Board of Directors to indemnify the Corporation and its agents against any claim that may be made against it or them on account of the alleged loss, theft or destruction of

any such certificate or the issuance of a new certificate in replacement therefor. Thereupon the Corporation may cause to be issued to such person a new certificate in replacement for the certificate alleged to have been lost, stolen or destroyed. Upon the stub of every new certificate so issued shall be noted the fact of such issue and the number, date and the name of the registered owner of the lost, stolen or destroyed certificate in lieu of which the new certificate is issued.

SECTION 3. Transfer of Shares. Shares of stock of the Corporation shall be transferred on the books of the Corporation by the holder thereof, in person or by his or her attorney duly authorized in writing, upon surrender and cancellation of certificates for the number of shares of stock to be transferred, except as provided in Section 2 of this Article IV.

SECTION 4. Regulations. The Board of Directors shall have power and authority to make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock of the Corporation.

SECTION 5. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting or to receive payment of any dividend or other distribution or allotment of any rights, or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, as the case may be, the Board of Directors may fix, in advance, a record date, which shall not be (i) more than sixty (60) nor less than ten (10) days before the date of such meeting, or (ii)

in the case of corporate action to be taken by consent in writing without a meeting, prior to, or more than ten (10) days after, the date upon which the resolution fixing the record date is adopted by the Board of Directors, or (iii) more than sixty (60) days prior to any other action.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is delivered to the Corporation; and the record date for determining stockholders 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 stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

SECTION 6. Dividends. Subject to the provisions of the Certificate of Incorporation, the Board of Directors shall have power to declare and pay dividends upon shares of stock of the Corporation, but only out of funds available for the payment of dividends as provided by law.

Subject to the provisions of the Certificate of Incorporation, any dividends declared upon the stock of the Corporation shall be payable on such date or dates as the Board of Directors shall determine. If the date fixed for the payment of any dividend shall in any year fall

upon a legal holiday, then the dividend payable on such date shall be paid on the next day not a legal holiday.

SECTION 7. Corporate Seal. The Board of Directors shall provide a suitable seal, containing the name of the Corporation, which seal shall be kept in the custody of the Secretary. A duplicate of the seal may be kept and be used by any officer of the Corporation designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

SECTION 8. Fiscal Year. The fiscal year of the Corporation shall be such fiscal year as the Board of Directors from time to time by resolution shall determine.

ARTICLE VI

Miscellaneous Provisions.

SECTION 1. Checks, Notes, Etc. All checks, drafts, bills of exchange, acceptances, notes or other obligations or orders for the payment of money shall be signed and, if so required by the Board of Directors, countersigned by such officers of the Corporation and/or other persons as the Board of Directors from time to time shall designate.

Checks, drafts, bills of exchange, acceptances, notes, obligations and orders for the payment of money made payable to the Corporation may be endorsed for deposit to the credit of the Corporation with a duly authorized depository by the Treasurer and/or such other officers or persons as the Board of Directors from time to time may designate.

SECTION 2. Loans. No loans and no renewals of any loans shall be contracted on behalf of the Corporation except as authorized by the Board of Directors. When authorized to do so, any officer or agent of the Corporation may effect loans and advances for the Corporation from any bank, trust company or other institution or from any firm, corporation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Corporation. When authorized so to do, any officer or agent of the Corporation may pledge, hypothecate or transfer, as security for the payment of any and all loans, advances, indebtedness and liabilities of the Corporation, any and all stocks, securities and other personal property at any time held by the Corporation, and to that end may endorse, assign and deliver the same. Such authority may be general or confined to specific instances.

SECTION 3. Contracts. Except as otherwise provided in these By-Laws or by law or as otherwise directed by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President, the Vice Chairman, the Chief Operating Officer or any Vice President shall be authorized to execute and deliver, in the name and on behalf of the Corporation, all agreements, bonds, contracts, deeds, mortgages, and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and the seal of the Corporation, if appropriate, shall be affixed thereto by any of such officers or the Secretary or an Assistant Secretary. The Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President, the Vice Chairman, the Chief Operating Officer or any Vice President designated by the Board of Directors may authorize any other officer, employee or agent to execute and deliver, in the name and on behalf of the Corporation, agreements, bonds, contracts, deeds, mortgages,

and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and, if appropriate, to affix the seal of the Corporation thereto. The grant of such authority by the Board or any such officer may be general or confined to specific instances.

SECTION 4. Waivers of Notice. Whenever any notice whatever is required to be given by law, by the Certificate of Incorporation or by these By-Laws to any person or persons, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

SECTION 5. Offices Outside of Delaware. Except as otherwise required by the laws of the State of Delaware, the Corporation may have an office or offices and keep its books, documents and papers outside of the State of Delaware at such place or places as from time to time may be determined by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

ARTICLE VII

Amendments

These By-Laws and any amendment thereof may be altered, amended or repealed, or new By-Laws may be adopted, by the Board of Directors at any regular or special meeting by the affirmative vote of a majority of all of the members of the Board, provided in the case of any special meeting at which all of the members of the Board are not present, that the notice of such

meeting shall have stated that the amendment of these By-Laws was one of the purposes of the meeting; but, except as otherwise provided in the Certificate of Incorporation, these By-Laws and any amendment thereof may be altered, amended or repealed or new By-Laws may be adopted by the holders of a majority of the voting power of all outstanding stock of the Corporation, present in person or by proxy and entitled to vote at any annual meeting or at any special meeting, provided, in the case of any special meeting, that notice of such proposed alteration, amendment, repeal or adoption is included in the notice of the meeting.

ARTICLE 5

PERIOD TYPE	3 MOS
FISCAL YEAR END	DEC 31 2000
PERIOD START	JAN 01 2000
PERIOD END	MAR 31 2000
CASH	45,995
SECURITIES	128,493,533
RECEIVABLES	0
ALLOWANCES	0
INVENTORY	0
CURRENT ASSETS	1,704,626
PP&E	17,593,033
DEPRECIATION	4,018,890
TOTAL ASSETS	143,818,297
CURRENT LIABILITIES	13,232,400
BONDS	0
PREFERRED MANDATORY	0
PREFERRED	0
COMMON	510,000
OTHER SE	130,075,000
TOTAL LIABILITY AND EQUITY	143,818,297
SALES	19,246,396
TOTAL REVENUES	24,250,227
CGS	0
TOTAL COSTS	0
OTHER EXPENSES	29,083,643
LOSS PROVISION	0
INTEREST EXPENSE	0
INCOME PRETAX	(4,833,416)
INCOME TAX	92,500
INCOME CONTINUING	(4,925,916)
DISCONTINUED	0
EXTRAORDINARY	0
CHANGES	0
NET INCOME	(4,925,916)
EPS BASIC	(.10)
EPS DILUTED	(.10)