

INTEVAC INC

FORM 10-Q (Quarterly Report)

Filed 08/13/01 for the Period Ending 06/30/01

Address	3560 BASSETT STREET SANTA CLARA, CA, 95054
Telephone	4089869888
CIK	0001001902
Symbol	IVAC
SIC Code	3559 - Special Industry Machinery, Not Elsewhere Classified
Industry	Industrial Machinery & Equipment
Sector	Industrials
Fiscal Year	12/31

INTEVAC INC

FORM 10-Q (Quarterly Report)

Filed 8/13/2001 For Period Ending 6/30/2001

Address	356O BASSETT ST SANTA CLARA, California 95054
Telephone	408-986-9888
CIK	0001001902
Industry	Computer Storage Devices
Sector	Technology
Fiscal Year	12/31

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2001

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 0-26946

INTEVAC, INC.

(Exact name of registrant as specified in its charter)

California
(State or other jurisdiction of
incorporation or organization)

94-3125814
(IRS Employer Identification No.)

3560 Bassett Street
Santa Clara, California 95054
(Address of principal executive office, including Zip Code)

Registrant's telephone number, including area code: (408) 986-9888

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

APPLICABLE ONLY TO CORPORATE ISSUERS:

On June 30, 2001 approximately 11,941,834 shares of the Registrant's Common Stock, no par value, were outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. *Financial Statements*

INTEVAC, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands)

	June 30, 2001	December 31, 2000
	(Unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$24,714	\$ 4,616
Short-term investments	—	33,787
Accounts receivable, net of allowances of \$95 and \$114 at June 30, 2001 and December 31, 2000, respectively	10,795	9,593
Inventories	28,681	15,833
Prepaid expenses and other current assets	849	844
Deferred tax assets	4,041	4,041
Total current assets	69,080	68,714
Property, plant and equipment, net	11,183	11,060
Investment in 601 California Avenue LLC	2,431	2,431
Goodwill and other intangibles	—	7
Debt issuance costs	652	774
Deferred tax assets and other assets	3,684	3,684
Total assets	\$87,030	\$86,670
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Notes payable	\$ —	\$ 1,904
Accounts payable	6,896	2,757
Accrued payroll and related liabilities	1,843	1,534
Other accrued liabilities	6,027	5,109
Customer advances	21,320	16,317
Total current liabilities	36,086	27,621
Convertible notes	41,245	41,245
Shareholders' equity:		
Common stock, no par value	18,894	18,675
Accumulated deficit	(9,195)	(871)
Total shareholders' equity	9,699	17,804
Total liabilities and shareholders' equity	\$87,030	\$86,670

See accompanying notes.

INTEVAC, INC.

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
AND COMPREHENSIVE INCOME**
(In thousands, except per share amounts)

(Unaudited)

	Three months ended		Six months ended	
	June 30, 2001	July 1, 2000	June 30, 2001	July 1, 2000
Net revenues	\$ 9,490	\$ 9,191	\$19,495	\$15,083
Cost of net revenues	9,671	7,383	16,276	12,624
Gross profit (loss)	(181)	1,808	3,219	2,459
Operating expenses:				
Research and development	3,609	2,516	7,105	4,977
Selling, general and administrative	1,787	(2)	3,456	1,583
Restructuring	—	—	—	(615)
Total operating expenses	5,396	2,514	10,561	5,945
Operating loss	(5,577)	(706)	(7,342)	(3,486)
Interest expense	(732)	(759)	(1,470)	(1,517)
Interest income and other, net	1,769	764	488	1,441
Loss from continuing operations before income taxes	(4,540)	(701)	(8,324)	(3,562)
Provision for (benefit from) income taxes	—	—	—	—
Net loss	\$ (4,540)	\$ (701)	\$ (8,324)	\$ (3,562)
Other comprehensive income:				
Unrealized foreign currency translation adjustment	—	—	—	—
Total comprehensive loss	\$ (4,540)	\$ (701)	\$ (8,324)	\$ (3,562)
Basic earnings per share:				
Income (loss) from continuing operations	\$ (0.38)	\$ (0.06)	\$ (0.70)	\$ (0.30)
Net income (loss)	\$ (0.38)	\$ (0.06)	\$ (0.70)	\$ (0.30)
Shares used in per share amounts	11,939	11,786	11,918	11,773
Diluted earnings per share:				
Income (loss) from continuing operations	\$ (0.38)	\$ (0.06)	\$ (0.70)	\$ (0.30)
Net income (loss)	\$ (0.38)	\$ (0.06)	\$ (0.70)	\$ (0.30)
Shares used in per share amounts	11,939	11,786	11,918	11,773

See accompanying notes.

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INTEVAC, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Six months ended	
	June 30, 2001	July 1, 2000
Operating activities		
Net loss	\$ (8,324)	\$ (3,562)

Adjustments to reconcile net loss to net cash and cash equivalents used in operating activities:		
Depreciation and amortization	2,191	2,466
Foreign currency gain	(1)	—
Loss on IMAT investment	—	102
Restructuring charge — non-cash portion	—	856
Loss on disposal of investment	803	—
Changes in assets and liabilities	(5,590)	(169)
Total adjustments	(2,597)	3,255
Net cash and cash equivalents used in operating activities	(10,921)	(307)
Investing activities		
Purchase of investments	(5,463)	(74,905)
Proceeds from sale of investments	38,447	78,744
Purchase of leasehold improvements and equipment	(2,184)	(1,453)
Net cash and cash equivalents provided by investing activities	30,800	2,386
Financing activities		
Proceeds from issuance of common stock	219	280
Net cash and cash equivalents provided by financing activities	219	280
Net increase in cash and cash equivalents	20,098	2,359
Cash and cash equivalents at beginning of period	4,616	3,295
Cash and cash equivalents at end of period	\$ 24,714	\$ 5,654
Supplemental Schedule of Cash Flow Information		
Cash paid for:		
Interest	\$ 1,374	\$ 1,394
Income tax refund	—	(5,704)

See accompanying notes.

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INTEVAC, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Business Activities and Basis of Presentation

Intevac, Inc.'s ("Intevac" or the "Company") primary business is the design, manufacture and sale of complex capital equipment that is used to manufacture products such as thin-film disks for computer disk drives and flat panel displays (the "Equipment Business"). The Company also develops highly sensitive electro-optical devices (the "Photonics Business").

The Equipment Business manufactures thin-film deposition and rapid thermal processing equipment that is used in the manufacture of flat panel displays, and thin-film deposition and lubrication equipment that is used in the manufacture of thin-film disks for computer hard disk drives. Spare parts and after-sale service are also sold to purchasers of the Company's equipment, and sales of components are made to other manufacturers of vacuum equipment.

The Photonics Business has developed technology that permits highly sensitive detection of photons in the visible and short wave infrared portions of the spectrum. This technology when combined with advanced silicon integrated circuits makes it possible to produce highly sensitive video cameras. This development work is creating new products for both military and industrial applications. Products include Intensified Digital Video Sensors, cameras incorporating those sensors and Laser Illuminated Viewing and Ranging ("LIVAR®") systems for

positive target identification.

The financial information at June 30, 2001 and for the three- and six-month periods ended June 30, 2001 and July 1, 2000 is unaudited, but includes all adjustments (consisting only of normal recurring accruals) that the Company considers necessary for a fair presentation of the financial information set forth herein, in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information, the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, it does not include all of the information and footnotes required by U.S. GAAP for annual financial statements. For further information, refer to the Consolidated Financial Statements and footnotes thereto included or incorporated by reference in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000.

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenue and expenses during the reporting period. Actual results inevitably will differ from those estimates, and such differences may be material to the financial statements.

The Company evaluates the collectibility of trade receivables on an ongoing basis and provides reserves against potential losses when appropriate.

The results for the three- and six-month periods ended June 30, 2001 are not considered indicative of the results to be expected for any future period or for the entire year.

2. Recent Accounting Pronouncements

In June 1998, the Financial Accounting Standards Board issued SFAS NO. 133, Accounting for Derivative Instruments and Hedging Activities which requires that all derivative financial instruments be carried at fair value and provides for hedge accounting when certain conditions are met. SFAS No. 133, as amended by SFAS No. 137, is effective for fiscal years beginning after June 15, 2000. To date, the Company has not entered into any derivative financial instrument contracts. Thus the Company anticipates SFAS No. 133 will not have a material impact on the Company's financial position or results of operations.

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INTEVAC, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Inventories

The components of inventory consist of the following:

	June 30, 2001	December 31, 2000
	(in thousands)	
Raw materials	\$ 5,404	\$ 4,591
Work-in-progress	11,113	8,209
Finished goods	12,164	3,033
	\$28,681	\$15,833

The finished goods inventory is represented by completed units at customer sites undergoing installation and acceptance testing.

4. Net Income (Loss) Per Share

The following table sets forth the computation of basic and diluted earnings per share:

Three months ended		Six months ended	
June 30,	July 1,	June 30,	July 1,

	2001	2000	2001	2000
	(in thousands)			
Numerator:				
Loss from continuing operations	\$ (4,540)	\$ (701)	\$ (8,324)	\$ (3,562)
Net loss	\$ (4,540)	\$ (701)	\$ (8,324)	\$ (3,562)
Numerator for basic earnings per share — loss available to common stockholders	(4,540)	(701)	(8,324)	(3,562)
Effect of dilutive securities:				
6 1/2% convertible notes(1)	—	—	—	—
Numerator for diluted earnings per share — loss available to common stockholders after assumed conversions	\$ (4,540)	\$ (701)	\$ (8,324)	\$ (3,562)
Denominator:				
Denominator for basic earnings per share — weighted-average shares	11,939	11,786	11,918	11,773
Effect of dilutive securities:				
Employee stock options(2)	—	—	—	—
6 1/2% convertible notes(1)	—	—	—	—
Dilutive potential common shares	—	—	—	—
Denominator for diluted earnings per share — adjusted weighted-average shares and assumed conversions	11,939	11,786	11,918	11,773

- (1) Diluted EPS for the three- and six-month periods ended June 30, 2001 and July 1, 2000 excludes “as converted” treatment of the Convertible Notes as their inclusion would be anti-dilutive. The number of “as converted” shares excluded for the three- and six-month periods ended June 30, 2001 and July 1, 2000 was 1,999,758.
- (2) Diluted EPS for the three- and six-month periods ended June 30, 2001 and July 1, 2000 excludes the effect of employee stock options as their inclusion would be anti-dilutive. The number of employee stock options excluded for the three-month periods ended June 30, 2001 and July 1, 2000 was 199,420 and

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INTEVAC, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

86,201, respectively, and the number of employee stock options excluded for the six-month periods ended June 30, 2001 and July 1, 2000 was 186,505 and 132,890, respectively.

5. Segment Reporting

Segment Description

Intevac, Inc. has two reportable segments: Equipment and Photonics. The Company’s Equipment business sells complex capital equipment primarily used in the manufacturing of thin-film disks and flat panel displays. The Company’s Photonics business is developing products utilizing electron sources that permit highly sensitive detection of photons in the visible and short-wave infrared spectrum.

Included in corporate activities are general corporate expenses, the equity in net loss of an equity investee, amortization expenses related to certain intangible assets and a restructuring reserve first established in September 1999, less an allocation of corporate expenses to operating units equal to 1% of net revenues.

	Three months ended		Six months ended	
	June 30, 2001	July 1, 2000	June 30, 2001	July 1, 2000
	(in thousands)			
Equipment	\$6,183	\$7,114	\$14,115	\$11,973
Photonics	3,307	2,077	5,380	3,110
Total	\$9,490	\$9,191	\$19,495	\$15,083

Business Segment Profit & Loss and Reconciliation to Consolidated Pre-tax Profit (Loss)

	Three months ended		Six months ended	
	June 30, 2001	July 1, 2000	June 30, 2001	July 1, 2000
	(in thousands)			
Equipment	\$(4,691)	\$ 290	\$(5,254)	\$(1,479)
Photonics	(400)	(323)	(1,062)	(1,207)
Corporate activities	(486)	(673)	(1,026)	(800)
Operating loss	\$(5,577)	\$(706)	\$(7,342)	\$(3,486)
Interest expense	(732)	(759)	(1,470)	(1,517)
Interest income	331	534	912	1,085
Other income and expense, net	1,438	230	(424)	356
Loss from continuing operations before income taxes	\$(4,540)	\$(701)	\$(8,324)	\$(3,562)

6. Restructuring

During the third quarter of 1999, the Company adopted an expense reduction plan that included closing one of the buildings at its Santa Clara facility and a reduction in force of 7 employees out of the Company's staff of contract and regular personnel. The reductions took place at the Company's facilities in Santa Clara, California. The Company incurred a charge of \$2,225,000 related to the expense reduction plan. The significant components of this charge included \$873,000 for future rent due on the building (net of expected sublease income), \$160,000 for costs associated with operating the building through May 2000, \$580,000 for the write-off of leasehold improvements and \$584,000 for moving from the building.

In the fourth quarter of 1999, \$97,000 of the restructuring reserve was reversed due to lower than expected costs on the closure of the facility. During the first quarter of 2000, the Company vacated the

INTEVAC, INC.**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

building and negotiated a lease termination for that space with its landlord, which released the Company from the obligation to pay any rent after April 30, 2000. As a result, the Company reversed \$615,000 of the restructuring reserve during the first quarter of 2000.

During the fourth quarter of 1999, the Company adopted a plan to discontinue operations at its RPC Technologies, Inc. electron beam processing equipment subsidiary and to close the RPC facility in Hayward, California. Twenty-six employees out of the Company's staff of contract and regular personnel were terminated as a result. The Company incurred a charge of \$1,639,000 related to this plan. The significant components of this charge include \$679,000 for inventory write-downs which were charged to cost of sales, \$264,000 for fixed asset write-offs,

\$200,000 for closure of the facility, \$163,000 for employee severance costs, \$161,000 for future rent due on the facility and \$152,000 for write-off of intangibles.

In the first quarter of 2000, Intevac sold certain assets of the RPC Technologies, Inc. subsidiary to Quemex Technology. Proceeds from the sale included a cash payment, assumption of the Hayward facility lease and the assumption of certain other liabilities. Excluded from the sale were two previously leased systems and three completed systems remaining in inventory. Of the three systems in inventory, two were included in 2000 revenues and one was included in 2001 revenues. The Company was able to reverse the portions of the restructuring reserve established to provide for future rents due on the facility and for the closure of the facility. However, since Intevac retained ownership of the two leased systems, the Company established an equivalent reserve to provide for any residual value at the end of the leases.

The following table displays the activity in the building closure restructuring reserve, established in the third quarter of 1999, and in the RPC operation discontinuance restructuring reserve, established in the fourth quarter of 1999, through December 31, 2000.

	Building Closure Restructuring	RPC Operation Discontinuance Restructuring
	(in thousands)	
Original restructuring charge	\$2,225	\$1,639
Actual expense incurred	(511)	(851)
Reversal of restructuring charge	(97)	—
	<hr/>	<hr/>
Balance at December 31, 1999	1,617	788
Actual expense incurred	(815)	(365)
Valuation reserve — leased systems	—	(361)
Reversal of restructuring charge	(615)	—
	<hr/>	<hr/>
Balance at April 1, 2000	187	62
Actual expense incurred	(162)	(61)
	<hr/>	<hr/>
Balance at July 1, 2000	25	1
Actual expense incurred	(2)	(1)
Reversal of restructuring charge	(23)	—
	<hr/>	<hr/>
Balance at December 31, 2000	\$ —	\$ —
	<hr/>	<hr/>

7. Income Taxes

For the three- and six-month periods ended June 30, 2001 and July 1, 2000, the Company did not accrue a tax benefit due to the inability to realize additional refunds from loss carry-backs. As of June 30, 2001 the Company's net deferred tax assets totaled \$7.7 million. The Company believes that it is more likely than not that it will earn sufficient taxable income in the future to realize the value of these net deferred tax assets. If in the future the Company cannot project with reasonable certainty that it will earn taxable income sufficient to

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INTEVAC, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

realize all or part of the value of these net deferred tax assets, the Company will expense the value of the net deferred tax assets not likely to be realized.

8. Capital Transactions

During the six-month period ending June 30, 2001, Intevac sold stock to its employees under the Company's Stock Option and Employee Stock Purchase Plans. A total of 98,265 shares were issued for which the Company received \$219,000.

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

This Quarterly Report on Form 10-Q contains forward-looking statements, which involve risks and uncertainties. Words such as "believes", "expects", "anticipates" and the like indicate forward-looking statements. The Company's actual results may differ materially from those discussed in the forward-looking statements. Factors that might cause such a difference include, but are not limited to, the risk factors set forth elsewhere in this Quarterly Report on Form 10-Q under "Certain Factors Which May Affect Future Operating Results" and in other documents the Company files from time to time with the Securities and Exchange Commission, including the Company's Annual Report on Form 10-K filed in March 2001, Form 10-Q's and Form 8-K's.

Results of Operations

Three Months Ended June 30, 2001 and July 1, 2000

Net revenues. Net revenues consist primarily of sales of equipment used to manufacture thin-film disks for computer hard disk drives and flat panel displays, related equipment system components, electron beam processing equipment ("Equipment") and contract research and development related to the development of highly sensitive electro-optical devices under government sponsored R&D contracts and sales of derivative products ("Photonics"). Net revenues from system sales are recognized upon customer acceptance. Net revenues from sales of related equipment and system components are recognized upon product shipment. Contract research and development revenue is recognized in accordance with contract terms, typically as costs are incurred. Net revenues increased 3% to \$9.5 million for the three months ended June 30, 2001 from \$9.2 million for the three months ended July 1, 2000. Net revenues from Equipment sales declined to \$6.2 million for the three months ended June 30, 2001 from \$7.1 million for the three months ended July 1, 2000. The decrease in Equipment sales was primarily the result of a decrease in domestic sales of disk manufacturing equipment, which was partially offset by an increase in international sales of disk manufacturing equipment and the sale of the last system in inventory from the Company's discontinued electron beam product line. Net revenues from Photonics sales increased 59% to \$3.3 million for the three months ended June 30, 2001 from \$2.1 million for the three months ended July 1, 2000 primarily as a result of increased contract R&D sales.

International sales increased 79% to \$3.5 million for the three months ended June 30, 2001 from \$2.0 million for the three months ended July 1, 2000. The increase in international sales was primarily due to an increase in net revenues from disk manufacturing equipment. International sales constituted 37% of net revenues for the three months ended June 30, 2001 and 21% of net revenues for the three months ended July 1, 2000.

Backlog. The Company's backlog of orders for its products was \$52.9 million at June 30, 2001 and \$31.2 million at July 1, 2000. The Company includes in backlog the value of purchase orders for its products that have scheduled delivery dates.

Gross margin. Cost of net revenues consists primarily of purchased materials, fabrication, assembly, test, installation, warranty costs, scrap and costs attributable to contract research and development. Gross margin decreased to (2%) for the three months ended June 30, 2001 from 20% for the three months ended July 1, 2000. Equipment gross margins in the second quarter of 2001 were (6%) and were negatively impacted by the provision of a \$2.4 million inventory reserve related to a custom multi chip module system manufactured for a customer that recently ceased operations and by the sale of an electron beam processing system at low gross margin. Equipment margin during the second quarter of 2001 without the effect of these two items would have been 42%. Equipment gross margin in the second quarter of 2000 was 28% and was depressed as the result of a \$1.1 million provision for inventory reserves related to slow moving systems inventory. Equipment gross margin during the second quarter of 2000 without the effect of the inventory reserve would have been 43%. Photonics gross margins increased to 6% for the three months ended June 30, 2001 from 0% for the three months ended July 1, 2000. The Company expects that Photonics gross margin will fluctuate from quarter to quarter based on the relative mix of revenues derived from sales of prototype products, from fully funded research and development contracts and from cost shared research and development contracts.

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Research and development. Research and development expense consists primarily of prototype materials, salaries and related costs of employees engaged in ongoing research, design and development activities for disk manufacturing equipment, flat panel manufacturing equipment and research by the Photonics Division. Company funded research and development expense increased to \$3.6 million for the three months ended June 30, 2001 from \$2.5 million for the three months ended July 1, 2000 representing 38% and 27%, respectively, of net revenue. The increase was primarily the result of higher spending for development of flat panel display manufacturing equipment, and to a lesser extent, a higher proportion of Photonics research and development being funded by the Company, rather than by research and

development contracts.

Research and development expenses do not include costs of \$2.8 million and \$1.5 million, respectively, for the three-month periods ended June 30, 2001 and July 1, 2000 related to contract research and development performed by the Company's Photonics business. These expenses are included in cost of net revenues.

Research and development expenses also do not include costs of \$0.3 million in each of the three-month periods ended June 30, 2001 and July 1, 2000, reimbursed under the terms of various research and development cost sharing agreements.

Selling, general and administrative. Selling, general and administrative expense consists primarily of selling, marketing, customer support, financial, travel, management, legal and professional services, and bad debt expense. Domestic sales are made by the Company's direct sales force, whereas international sales are made by distributors and representatives that provide services such as sales, installation, warranty and customer support. The Company also has a subsidiary in Singapore to support customers in Southeast Asia. Through the second quarter 2000, the Company marketed its flat panel manufacturing equipment to the Far East through its Japanese joint venture, IMAT. During the third quarter of 2000 the Company and its joint venture partner, Matsubo, transferred IMAT's activities and employees to Matsubo and shut down the operations of IMAT.

Selling, general and administrative expense increased to \$1.8 million for the three months ended June 30, 2001 from (\$2) thousand for the three months ended July 1, 2000, representing 19% and 0%, respectively, of net revenue. Selling, general and administrative expense was unusually low during the second quarter of 2000 as a result of a \$1.5 million reduction in the allowance for doubtful accounts.

Interest expense. Interest expense consists primarily of interest on the Company's convertible notes, and, to a lesser extent, interest on approximately \$2.0 million of short-term debt related to the purchase of Cathode Technology in 1996. Interest expense was \$0.7 million and \$0.8 million, respectively, in the three-month periods ended June 30, 2001 and July 1, 2000. Interest expense declined slightly in the three-month period ended June 30, 2001 due to the retirement during the first quarter of 2001 of the debt related to the Cathode Technology purchase.

Interest income and other, net. Interest income and other, net consists primarily of interest income on the Company's investments, gain or loss on the disposition of assets, foreign currency hedging gains and losses, early payment discounts on the purchase of inventories, goods and services and, in 2000, the Company's 49% share of the loss incurred by IMAT. Interest income and other, net increased to \$1.8 million, for the three-month period ended June 30, 2001 from \$0.8 million for the three-month period ended July 1, 2000 primarily as the result of a \$1.2 million gain on the disposition of previously reserved Pacific Gas and Electric commercial paper, partially offset by lower interest income and lower foreign currency hedging gains.

Provision for (benefit from) income taxes. For the three-month periods ended June 30, 2001 and July 1, 2000, the Company did not accrue a tax benefit due to the inability to realize additional refunds from loss carry-backs. As of June 30, 2001 the Company's deferred tax assets totaled \$7.7 million. The Company believes that it is more likely than not that it will earn sufficient taxable income in the future to realize the value of these deferred tax assets. If in the future the Company cannot project with reasonable certainty that it will earn sufficient taxable income in the future to realize all or part of the value of these net deferred tax assets, the Company will expense the value of the net deferred tax assets not likely to be realized.

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Six Months Ended June 30, 2001 and July 1, 2000

Net revenues. Net revenues increased 29% to \$19.5 million for the six months ended June 30, 2001 from \$15.1 million for the six months ended July 1, 2000. Net revenues from Equipment sales increased to \$14.1 million for the six months ended June 30, 2001 from \$12.0 million for the six months ended July 1, 2000. The increase in net revenues from Equipment was due primarily to the sale of an electron beam manufacturing system during the second quarter of 2001. Net revenues from Photonics increased to \$5.4 million for the six months ended June 30, 2001 from \$3.1 million for the six months ended July 1, 2000. The increase in Photonics sales was primarily the result of increased contract R&D activities during 2001 in combination with a large research and development contract that was on hold for a portion of the six-month period ended July 1, 2000.

International sales increased 163% to \$10.4 million for the six months ended June 30, 2001 from \$4.0 million for the six months ended July 1, 2000. The increase in international sales during the six months ended June 30, 2001 was primarily due to an increase in net revenues from disk manufacturing equipment, and to a lesser extent from the sale of a rapid thermal processing system for flat panel display manufacturing. International sales constituted 53% of net revenues for the six months ended June 30, 2001 and 26% of net revenues for the six months ended July 1, 2000.

Gross margin. Gross margin was 17% for the six months ended June 30, 2001 as compared to 16% for the six months ended July 1, 2000.

Gross margin in the Equipment business declined to 23% for the six months ended June 30, 2001 from 27% for the six months ended July 1, 2000. Equipment gross margin in the six months ended June 30, 2001 was negatively impacted by the previously mentioned provision of a \$2.4 million inventory reserve related to the custom multi chip module system and by the sale of an electron beam processing system at low gross margin. Equipment gross margin during the six months ended June 30, 2001 without the effect of these two items would have been 44%. Equipment gross margin during the six months ended July 1, 2000 was 27% and was depressed as the result of a \$1.1 million provision for inventory reserves. Equipment gross margin during the six months ended July 1, 2000 without the effect of this reserve would have been 36%. Photonics gross margin increased to 0% for the six months ended June 30, 2001 from (15%) for the six months ended July 1, 2000. The Company expects that Photonics gross margin will fluctuate from quarter to quarter based on the relative mix of revenues derived from sales of prototype products, from fully funded research and development contracts and from cost shared research and development contracts.

Research and development. Company funded research and development expense increased 43% to \$7.1 million for the six months ended June 30, 2001 from \$5.0 million for the six months ended July 1, 2000, representing 36% and 33%, respectively, of net revenue. The increase was primarily the result of increased expense for the development of flat panel manufacturing equipment, and to a lesser extent, a higher proportion of Photonics research and development being funded by the Company, rather than by research and development contracts, partially offset by lower expenses for the development of disk manufacturing equipment.

Research and development expenses do not include costs of \$4.9 million and \$2.3 million, respectively, for the six-month periods ended June 30, 2001 and July 1, 2000 related to contract research and development performed by the Company's Photonics business. These expenses are included in cost of net revenues.

Research and development expenses also do not include costs of \$0.4 million and \$0.5 million, respectively, in the six-month periods ended June 30, 2001 and July 1, 2000, reimbursed under the terms of various research and development cost sharing agreements.

Selling, general and administrative. Selling, general and administrative expense increased 118% to \$3.5 million for the six months ended June 30, 2001 from \$1.6 million for the six months ended July 1, 2000, representing 18% and 10%, respectively, of net revenue. The primary reason for the increase was a \$1.5 million reduction in the allowance for doubtful accounts during the six months ended July 1, 2000, and to a lesser extent, increased marketing and administrative staff.

Restructuring expense (gain). Restructuring gain was \$0.6 million in the six months ended July 1, 2000. During the six months ended July 1, 2000 the Company vacated approximately 47,000 square feet of its Santa

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Clara Headquarters and negotiated an early lease termination for the space. As a result, the Company reversed approximately \$0.6 million of previously accrued restructuring expense relating to future rents on the vacated space.

Interest expense. Interest expense was approximately \$1.5 million in each of the six months ended June 30, 2001 and July 1, 2000. Interest expense declined slightly in 2001 due to the retirement of the debt related to the Cathode Technology purchase during the first quarter of 2001.

Interest income and other, net. Interest income and other, net decreased to \$0.5 million for the six months ended June 30, 2001 from \$1.4 million for the six months ended July 1, 2000. The decrease was primarily the result of a \$0.8 million loss on the disposition of Pacific Gas and Electric commercial paper, and to a lesser extent, lower interest income and lower foreign currency hedging gains.

Provision for (benefit from) income taxes. For the six-month periods ended June 30, 2001 and July 1, 2000, the Company did not accrue a tax benefit due to the inability to realize additional refunds from loss carry-backs. As of June 30, 2001 the Company's deferred tax assets totaled \$7.7 million. The Company believes that it is more likely than not that it will earn sufficient taxable income in the future to realize the value of these deferred tax assets. If in the future the Company cannot project with reasonable certainty that it will earn sufficient taxable income in the future to realize all or part of the value of these net deferred tax assets, then the Company will expense the value of the net deferred tax assets not likely to be realized.

Liquidity and Capital Resources

The Company's operating activities used cash of \$10.9 million for the six months ended June 30, 2001. The cash used was due primarily to inventory increases and the net loss incurred by the Company, which were partially offset by increases in customer advances, accounts payable and payroll, and by depreciation and amortization.

The Company's investing activities provided cash of \$30.8 million for the six months ended June 30, 2001 as a result of the net sale of investments, which was partially offset by the purchase of fixed assets.

The Company's financing activities provided cash of \$0.2 million for the six months ended June 30, 2001 as the result of the sale of the Company's common stock to its employees through the Company's employee benefit plans.

Certain Factors Which May Affect Future Operating Results

Our products are complex, constantly evolving, and often designed and manufactured to individual customer requirements which requires additional engineering.

Intevac's Equipment Division products have a large number of components and are highly complex. Intevac may experience delays and technical and manufacturing difficulties in future introductions or volume production of new systems or enhancements. In addition, some of the systems built by Intevac may be customized to meet individual customer requirements. Intevac has limited manufacturing capacity and engineering resources and may be unable to complete development, manufacture and shipment of its products, or to meet the required technical specifications of its products in a timely manner. Such delays could lead to rescheduling of orders in backlog, or in extreme situations, to cancellation of orders. In addition, Intevac may incur substantial unanticipated costs early in a product's life cycle, such as increased engineering, manufacturing, installation and support costs which may not be able to be passed on to the customer. In some instances, Intevac is dependent upon a sole supplier or a limited number of suppliers, or has qualified only a single or limited number of suppliers, for complex components or sub-assemblies utilized in its products. Any of these factors could adversely affect Intevac's business.

The Equipment Division is subject to rapid technical change.

Intevac's ability to remain competitive requires substantial investments in research and development. The failure to develop, manufacture and market new systems, or to enhance existing systems, would have an

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adverse effect on Intevac's business. In the past, Intevac has experienced delays from time to time in the introduction of, and technical difficulties with, some of its systems and enhancements. Intevac's success in developing and selling equipment depends upon a variety of factors, including accurate prediction of future customer requirements, technology advances, cost of ownership, introduction of new products on schedule, cost-effective manufacturing and product performance in the field. Intevac's new product decisions and development commitments must anticipate continuously evolving industry requirements significantly in advance of sales. Any failure to accurately predict customer requirements and to develop new generations of products to meet those requirements would have an adverse effect on Intevac's business.

The Photonics Division does not yet generate a significant portion of its revenues from product sales.

To date the activities of the Photonics Division have concentrated on the development of its technology and prototype products that demonstrate this technology. Revenues have been derived primarily from research and development contracts funded by the United States Government and its contractors. The Company continues to develop standard photonics products for sale to military and commercial customers. The Photonics Division will require substantial further investment in sales and marketing, in product development and in additional production facilities to support the planned transition to volume sales of photonics products to military and commercial customers. There can be no assurance that the Company will succeed in these activities and generate significant increases in sales of products based on its photonics technology.

The sales of our equipment products are dependent on substantial capital investment by our customers.

The majority of our Equipment revenues have historically come from the sale of equipment used to manufacture thin-film disks, and to a lesser extent, from the sale of equipment used to manufacture flat panel displays. The purchase of Intevac's systems, along with the purchase of other related equipment and facilities, requires extremely large capital expenditures by our customers. These costs are far in excess of the cost of the Intevac systems. The magnitude of such capital expenditures requires that our customers have access to large amounts of capital and that they are willing to invest that capital over long periods of time to be able to purchase our equipment. Some of our customers, particularly those that purchase our disk manufacturing products, may not be willing, or able, to make the magnitude of capital investment required to purchase our products.

The disk drive industry has been severely impacted by excess capacity since 1997.

Intevac derives a significant proportion of its revenues from sales of equipment to manufacturers of computer disk drives and disk drive components. The disk drive industry has experienced a long period of over-supply and intensely competitive pricing. Since 1997, many of the manufacturers of hard disk drives and their component suppliers have reported substantial losses. Some of these manufacturers have gone out of business. Others have been acquired by their competitors. Accordingly, the number of potential customers for Intevac's disk equipment

products has been reduced. As a result of these factors, Intevac has experienced significant reductions in its quarterly revenues, and has incurred quarterly losses, since the third quarter of 1998. Additionally, the financial strength of the industry has deteriorated which subjects Intevac to increased credit risk on its accounts receivable. Intevac is not able to accurately predict when the industry conditions that have depressed our disk equipment sales will become more favorable.

Demand for capital equipment is cyclical.

Intevac's Equipment Division sells capital equipment to capital intensive industries, which sell commodity products such as disk drives and flat panel displays. These industries operate with high fixed costs. When demand for these commodity products exceeds capacity, demand for new capital equipment such as Intevac's tends to be amplified. When supply of these commodity products exceeds capacity, demand for new capital equipment such as Intevac's tends to be depressed. The cyclical nature of the capital equipment industry means that in some years, such as 1997, sales of new systems by the Company will be unusually high, and that in other years, such as 2000, sales of new systems by the Company will be severely depressed. Failure to anticipate, or respond quickly to the industry business cycle could have an adverse effect on Intevac's business.

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Rapid increases in areal density are reducing the number of thin-film disks required per disk drive.

Over the past few years the amount of data that can be stored on a single thin-film computer disk has been increasing at approximately 100% per year. Although the number of disk drives produced has continued to increase each year, the growth in areal density has resulted in a reduction in the number of disks required per disk drive. The result has been that the number of thin-film disks used worldwide has not grown significantly since 1997. Without an increase in the number of disks required, Intevac's disk equipment sales are largely limited to upgrades of existing capacity, rather than capacity expansion. While the rapidly falling cost of storage per gigabyte is leading to new applications for disk drives beyond the traditional computer market, it is not clear to what extent the demand from these new applications will be offset by further declines in the average number of disks required per disk drive.

Our competitors are large and well financed and competition is intense.

Intevac experiences intense competition in the Equipment Division. For example, Intevac's equipment products experience competition worldwide from competitors including Anelva Corporation, Applied Films Corporation, Ulvac Japan, Ltd. and Unaxis Holdings, Ltd., each of which have sold substantial numbers of systems worldwide. Anelva, Ulvac and Unaxis all have substantially greater financial, technical, marketing, manufacturing and other resources than Intevac. There can be no assurance that Intevac's competitors will not develop enhancements to, or future generations of, competitive products that will offer superior price or performance features or that new competitors will not enter Intevac's markets and develop such enhanced products.

Given the lengthy sales cycle and the significant investment required to integrate equipment into the manufacturing process, Intevac believes that once a manufacturer has selected a particular supplier's equipment for a specific application, that manufacturer generally relies upon that supplier's equipment and frequently will continue to purchase any additional equipment for that application from the same supplier. Accordingly, competition for customers in the equipment industry is intense, and suppliers of equipment may offer substantial pricing concessions and incentives to attract new customers or retain existing customers.

Business interruptions could adversely affect our business.

Intevac's operations are vulnerable to interruption by fire, earthquake, power loss, telecommunications failure and other events beyond our control. The Company's facility in California is currently subject to electrical blackouts as a consequence of a shortage of available electrical power. In the event these blackouts continue or increase in severity, they could disrupt the operations of the facility. Additionally, the cost of electricity and natural gas has increased significantly. Such cost increases and any further cost increases will impact the Company's profitability.

Competition is intense for employees in northern California.

Intevac's operating results depend in significant part upon its ability to retain and attract qualified management, engineering, marketing, manufacturing, customer support, sales and administrative personnel. Competition in northern California for such personnel is intense. The cost of living in northern California is also extremely high, which further increases the cost and difficulty of recruiting new employees. There can be no assurance that Intevac will be successful in attracting new employees and retaining its staff. The failure to attract and retain such personnel could have an adverse effect on Intevac's business.

A portion of our sales are to international customers.

Sales and operating activities outside of the United States are subject to certain inherent risks, including fluctuations in the value of the United States dollar relative to foreign currencies, tariffs, quotas, taxes and other market barriers, political and economic instability, restrictions on the export or import of technology, potentially limited intellectual property protection, difficulties in staffing and managing international operations and potentially adverse tax consequences. Intevac earns a significant portion of its revenue from

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international sales, and there can be no assurance that any of these factors will not have an adverse effect on Intevac's business.

Intevac generally quotes and sells its products in US dollars. However, for some Japanese customers, Intevac quotes and sells its products in Japanese Yen. Intevac, from time to time, enters into foreign currency contracts in an effort to reduce the overall risk of currency fluctuations to Intevac's business. However, there can be no assurance that the offer and sale of products in foreign denominated currencies, and the related foreign currency hedging activities will not adversely affect Intevac's business.

Intevac's two principal competitors for disk sputtering equipment are based in foreign countries and have cost structures based on foreign currencies. Accordingly, currency fluctuations could cause Intevac's products to be more, or less, competitive than its competitors' products. Currency fluctuations will decrease, or increase, Intevac's cost structure relative to those of its competitors, which could impact Intevac's gross margins.

Our operating results fluctuate significantly.

Over the last ten quarters Intevac's operating loss as a percentage of net revenues has fluctuated from approximately (79%) to (8%) of net revenues. Over the same period sales per quarter have fluctuated between \$13.8 million and \$5.9 million. Intevac anticipates that its sales and operating margins will continue to fluctuate. As a result, period-to-period comparisons of its results of operations are not necessarily meaningful and should not be relied upon as indications of future performance.

Intevac's stock price is volatile.

Intevac's stock price has experienced both significant increases in valuation, and significant decreases in valuation, over short periods of time. Intevac believes that factors such as announcements of developments related to Intevac's business, fluctuations in Intevac's operating results, failure to meet securities analysts' expectations, general conditions in the disk drive and thin-film media manufacturing industries and the worldwide economy, announcements of technological innovations, new systems or product enhancements by Intevac or its competitors, fluctuations in the level of cooperative development funding, acquisitions, changes in governmental regulations, developments in patents or other intellectual property rights and changes in Intevac's relationships with customers and suppliers could cause the price of Intevac's Common Stock to continue to fluctuate substantially. In addition, in recent years the stock market in general, and the market for small capitalization and high technology stocks in particular, has experienced extreme price fluctuations which have often been unrelated to the operating performance of affected companies. Any of these factors could adversely affect the market price of Intevac's Common Stock.

Intevac routinely evaluates acquisition candidates and other diversification strategies.

Intevac has completed multiple acquisitions as part of its efforts to grow and diversify its business. For example, Intevac's business was initially acquired from Varian Associates in 1991. Additionally, Intevac acquired its current gravity lubrication, CSS test equipment and rapid thermal processing product lines in three separate acquisitions. Intevac also acquired its RPC electron beam processing business in late 1997, and after two years initiated plans to close this business. Intevac intends to continue to evaluate new acquisition candidates and diversification strategies. Any acquisition will involve numerous risks, including difficulties in the assimilation of the acquired company's employees, operations and products, uncertainties associated with operating in new markets and working with new customers, and the potential loss of the acquired company's key employees. Additionally, unanticipated expenses may be incurred relating to the integration of technologies, research and development, and administrative functions. Any future acquisitions may result in potentially dilutive issuance of equity securities, acquisition related write-offs and the assumption of debt and contingent liabilities. Any of the above factors could adversely affect Intevac's business.

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Thin-film disks could be replaced by a new technology.

Intevac believes that thin-film disks will continue to be the dominant medium for data storage for the foreseeable future. However, it is possible that competing technologies may at some time reduce the demand for thin-film disks, which would adversely affect Intevac's disk equipment business.

Intevac's business is dependent on its intellectual property.

There can be no assurance that:

- any of Intevac's patent applications will be allowed or that any of the allowed applications will be issued as patents, or
- any patent owned by Intevac will not be invalidated, deemed unenforceable, circumvented or challenged, or
- the rights granted under our patents will provide competitive advantages to Intevac, or
- any of Intevac's pending or future patent applications will be issued with claims of the scope sought by Intevac, if at all, or
- others will not develop similar products, duplicate Intevac's products or design around the patents owned by Intevac, or
- foreign patent rights, intellectual property laws or Intevac's agreements will protect Intevac's intellectual property rights.

Failure to protect Intevac's intellectual property rights could have an adverse effect upon Intevac's business.

From time to time Intevac has received claims that it is infringing third parties' intellectual property rights. There can be no assurance that third parties will not in the future claim infringement by Intevac with respect to current or future patents, trademarks, or other proprietary rights relating to Intevac's disk sputtering systems, flat panel manufacturing equipment or other products. Any present or future claims, with or without merit, could be time-consuming, result in costly litigation, cause product shipment delays or require Intevac to enter into royalty or licensing agreements. Such royalty or licensing agreements, if required, may not be available on terms acceptable to Intevac, or at all. Any of the foregoing could have an adverse effect upon Intevac's business.

\$41 Million of convertible notes are outstanding and will mature in 2004.

In connection with the sale of \$57.5 million of its 6 1/2% Convertible Subordinated Notes Due 2004 (the "Convertible Notes") in February 1997, Intevac incurred a substantial increase in the ratio of long-term debt to total capitalization (shareholders' equity plus long-term debt). During 1999 Intevac spent \$9.7 million in cash to repurchase \$16.3 million of the Convertible Notes. The \$41.2 million of the Convertible Notes that remain outstanding as of June 30, 2001 commit Intevac to substantial principal and interest obligations. The degree to which Intevac is leveraged could have an adverse effect on Intevac's ability to obtain additional financing for working capital, acquisitions or other purposes and could make it more vulnerable to industry downturns and competitive pressures. Intevac's ability to meet its debt service obligations will be dependent on Intevac's future performance, which will be subject to financial, business and other factors affecting the operations of Intevac, many of which are beyond its control.

Intevac uses hazardous materials.

Intevac is subject to a variety of governmental regulations relating to the use, storage, discharge, handling, emission, generation, manufacture, treatment and disposal of toxic or other hazardous substances, chemicals, materials or waste. Any failure to comply with current or future regulations could result in substantial civil penalties or criminal fines being imposed on Intevac or its officers, directors or employees, suspension of production, alteration of its manufacturing process or cessation of operations. Such regulations

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could require Intevac to acquire expensive remediation or abatement equipment or to incur substantial expenses to comply with environmental regulations. Any failure by Intevac to properly manage the use, disposal or storage of, or adequately restrict the release of, hazardous or toxic substances could subject Intevac to significant liabilities.

A majority of the Common Stock outstanding is controlled by the directors and executive officers of Intevac.

Based on the shares outstanding on June 30, 2001, the present directors and their affiliates and executive officers, in the aggregate, beneficially own a majority of the outstanding shares of Common Stock. As a result, these shareholders, acting together, are able to effectively

control all matters requiring approval by the shareholders of Intevac, including the election of a majority of the directors and approval of significant corporate transactions.

Item 3. *Quantitative and Qualitative Disclosures About Market Risk*

Interest rate risk. The Company's exposure to market risk for changes in interest rates relates primarily to the Company's investment portfolio. The Company does not use derivative financial instruments in its investment portfolio. The Company places its investments with high quality credit issuers and, by policy, limits the amount of credit exposure to any one issuer. Short-term investments typically consist of investments in commercial paper and market auction rate bonds.

The table below presents principal amounts and related weighted-average interest rates by year of maturity for the Company's investment portfolio and debt obligations.

	2001	2002	2003	2004	2005	Beyond	Total	Fair Value	
	(in thousands)								
Cash equivalents									
Variable rate	\$23,028	—	—	—	—	—	\$23,028	\$23,028	
Average rate	4.05%	—	—	—	—	—			
Long-term debt									
Fixed rate	—	—	—	\$41,245	—	—	\$41,245	\$23,613	
Average rate	6.50%	6.50%	6.50%	6.50%	—	—			

Foreign exchange risk. From time to time, the Company enters into foreign currency forward exchange contracts to economically hedge certain of its anticipated foreign currency transaction, translation and re-measurement exposures. The objective of these contracts is to minimize the impact of foreign currency exchange rate movements on the Company's operating results. At June 30, 2001, the Company had no foreign currency forward exchange contracts.

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PART II. OTHER INFORMATION

Item 1. *Legal Proceedings*

On June 12, 1996 two Australian Army Black Hawk Helicopters collided in midair during nighttime maneuvers. Eighteen Australian servicemen perished and twelve were injured. The Company was named as a defendant in a lawsuit related to this crash. The lawsuit was filed in Stamford, Connecticut Superior Court on June 10, 1999 by Mark Durkin, the administrator of the estates of the deceased crewmembers, the injured crewmembers and the spouses of the deceased and/or injured crewmembers. Included in the suit's allegations are assertions that the crash was caused by defective night vision goggles. The suit names three US manufacturers of military night vision goggles, of which Intevac was one. The suit also names the manufacturer of the pilot's helmets, two manufacturers of night vision system test equipment and the manufacturer of the helicopter. The suit claims damages for 13 personnel killed in the crash, 5 personnel injured in the crash and spouses of those killed or injured.

It is known that the Australian Army established a Board of Inquiry to investigate the accident and that the Board of Inquiry concluded that the accident was not caused by defective night vision goggles. Preliminary investigations lead the Company to believe that it has meritorious defenses against the Durkin suit. However, there can be no assurance that the resolution of the suit will not have a material adverse effect on the Company's business, operating results and financial condition.

On June 12, 2001 the Company filed a complaint in Santa Clara County Superior Court, State of California, against Intarsia Corporation (the "Santa Clara County action"). The complaint alleges causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, quantum meruit and promissory estoppel arising out of Intarsia's cancellation of an order for a customized sputtering system. On May 15, 2001, Intarsia had previously filed a complaint against the Company in Alameda County Superior Court, State of California (the "Alameda County action"). Intarsia's complaint alleges causes of action for money had and received and negligent misrepresentation. The suit relates to Intarsia's initial payment for its order for the customized sputtering system which is the subject of the Santa Clara County action. Intarsia has agreed to transfer the Alameda County action to Santa Clara County, where the two actions will likely be coordinated or consolidated into one action. The Company intends to vigorously defend Intarsia's suit.

On June 29, 2001, the Company filed in the Santa Clara County action an Application for Right to Attach Order and Order for Issuance of Writ of Attachment (the "Application") seeking to attach certain of Intarsia's assets in the amount of \$552,586. Prior to the Court ruling on the

Application, the Company and Intarsia entered into a stipulation whereby Intarsia granted to the Company a first priority lien and security interest in certain unencumbered equipment owned by Intarsia valued at \$552,654.

The Company does not believe, based upon current information, that the outcome of the litigation will have a material adverse impact on the Company's business, operating results and financial condition.

Item 2. Changes in Securities

None.

Item 3. Defaults upon Senior Securities

None.

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Item 4. Submission of Matters to a Vote of Security-Holders

The Company's annual meeting of shareholders was held May 15, 2001. The following actions were taken at this meeting:

	Affirmative Votes	Negative Votes	Votes Withheld	Abstentions and Broker Non-Votes
(a) Election of Directors				
Norman H. Pond	10,256,045	991,815	—	686,808
Edward Durbin	11,241,335	6,525	—	686,808
Robert D. Hempstead	11,231,300	16,560	—	686,808
David N. Lambeth	11,241,385	6,475	—	686,808
H. Joseph Smead	11,241,107	6,753	—	686,808
(b) Ratification of Grant Thornton LLP as independent auditors	11,241,904	3,500	—	689,264

Item 5. Other Information

None.

Item 6. Exhibits and Reports on Form 8-K

(a) The following exhibits are filed herewith:

Exhibit Number	Description
3.2	Revised Bylaws of the Registrant

(b) Reports on Form 8-K:

None.

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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.

INTEVAC, INC.

Date: August 13, 2001

By: /s/ AJIT RODE

Ajit Rode
Chief Executive Officer
(Principal Executive Officer)

Date: August 13, 2001

By: /s/ CHARLES B. EDDY III

Charles B. Eddy III
Vice President, Finance and Administration,
Chief Financial Officer, Treasurer and Secretary
(Principal Financial and Accounting Officer)

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EXHIBIT INDEX

Exhibit Number	Description
3.2	Revised Bylaws of the Registrant

EXHIBIT 3.2

BYLAWS

OF

INTEVAC, INC.

Revised Bylaws Adopted July 19, 2001

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BYLAWS
OF
INTEVAC, INC.

ARTICLE I

OFFICES

Section 1. **PRINCIPAL OFFICES.** The Board of Directors shall fix the location of the principal executive office of the corporation at any place within or outside the State of California. If the principal executive office is located outside this state, and the corporation has one or more business offices in this state, the Board of Directors shall fix and designate a principal business office in the State of California.

Section 2. **OTHER OFFICES.** The Board of Directors may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to do business.

ARTICLE II

MEETINGS OF SHAREHOLDERS

Section 1. **PLACE OF MEETINGS.** Meetings of shareholders shall be held at any place within or outside the State of California designated by the Board of Directors. In the absence of any such designation, shareholders' meetings shall be held at the principal executive office of the corporation.

Section 2. **ANNUAL MEETING.** The annual meeting of shareholders shall be held each year on such date and at a time designated by the Board of Directors. At each annual meeting Directors shall be elected, and any other proper business may be transacted.

Section 3. **SPECIAL MEETING.** A special meeting of the shareholders may be called at any time by the Board of Directors, or by the chairman of the Board, or by the president, or by one or more shareholders holding shares in the aggregate entitled to cast not less than ten percent (10%) of the votes at that meeting.

If a special meeting is called by any person or persons other than the Board of Directors, the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the chairman of the Board, the president, any vice president, or the secretary of the corporation. The officer receiving the request shall cause notice to be promptly given to the shareholders entitled to vote, in accordance with the provisions of

Sections 4 and 5 of this Article II, that a meeting will be held at the time requested by the person or persons calling the meeting, not less than thirty-five (35) nor more than sixty (60) days after the receipt of the request. If the notice is not given within twenty (20) days after receipt of the request, the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 3 shall be construed as limiting, fixing or affecting the time when a meeting of shareholders called by action of the Board of Directors may be held.

Section 4. NOTICE OF SHAREHOLDERS' MEETINGS. All notices of meetings of shareholders shall be sent or otherwise given in accordance with Section 5 of this Article II not less than ten (10) (or, if sent by third-class mail, thirty (30) days) nor more than sixty (60) days before the date of the meeting. The notice shall specify the place, date and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, or (ii) in the case of the annual meeting, those matters which the Board of Directors, at the time of giving the notice, intends to present for action by the shareholders. The notice of any meeting at which Directors are to be elected shall include the name of any nominee or nominees whom, at the time of notice, management intends to present for election.

If action is proposed to be taken at any meeting for approval of (i) a contract or transaction in which a Director has a direct or indirect financial interest, pursuant to Section 310 of the Corporations Code of California (the "Code"), (ii) an amendment of the Articles of Incorporation, pursuant to Section 902 of that Code, (iii) a reorganization of the corporation, pursuant to Section 1201 of that Code, (iv) a voluntary dissolution of the corporation, pursuant to Section 1900 of that Code, or (v) a distribution in dissolution other than in accordance with the rights of outstanding preferred shares, pursuant to Section 2007 of that Code, the notice shall also state the general nature of that proposal.

Section 5. MANNER OF GIVING NOTICE; AFFIDAVIT OF NOTICE. Notice of any meeting of shareholders shall be given either personally or by first-class mail (unless the corporation has 500 or more shareholders determined as provided by the California Corporations Code on the record date for the meeting, in which case notice may be sent by third-class mail) or telegraph or other written communication, charges prepaid, addressed to the shareholder at the address of that shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice. If no such address appears on the corporation's books or is given, notice shall be deemed to have been given if sent to that shareholder by first-class mail or telegraphic or other written communication to the corporation's principal executive office, or if published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of written communication.

If any notice addressed to a shareholder at the address of that shareholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the shareholder at that address, all future notices or reports shall be deemed to have been duly given without further mailing

if these shall be available to the shareholder on written demand of the shareholder at the principal executive office of the corporation for a period of one year from the date of the giving of the notice.

Any affidavit of the mailing or other means of giving any notice of any shareholders' meeting shall be executed by the secretary, assistant secretary, or any transfer agent of the corporation giving the notice, and shall be filed and maintained in the minute book of the corporation.

Section 6. QUORUM. The presence in person or by proxy of the holders of a majority of the shares entitled to vote at any meeting of shareholders shall constitute a quorum for the transaction of business. The shareholders present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

Section 7. ADJOURNED MEETING; NOTICE. Any shareholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the shares represented at that meeting, either in person or by proxy, but in the absence of a quorum, no other business may be transacted at that meeting, except as provided in Section 6 of this Article II.

When any meeting of shareholders, either annual or special, is adjourned to another time or place; notice need not be given of the adjourned meeting if the time and place are announced at a meeting at which the adjournment is taken, unless a new record date for the adjourned meeting is fixed, or unless the adjournment is for more than forty-five (45) days from the date set for the original meeting, in which case the Board of Directors shall set a new record date. Notice of any such adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 4 and 5 of this Article II. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

Section 8. VOTING. The shareholders entitled to vote at any meeting of shareholders shall be determined in accordance with the provisions of Section 11 of this Article II, subject to the provisions of Sections 702 to 704, inclusive, of the Corporations Code of California (relating to voting shares held by a fiduciary, in the name of a corporation, or in joint ownership).

The voting at all meetings of shareholders need not be by ballot, but any qualified shareholder before the voting begins may demand a stock vote whereupon such stock vote shall be taken by ballot, each of which shall state the name of the shareholder voting and the number of shares voted by such shareholder, and if such ballot be cast by a proxy, it shall also state the name of such proxy.

At any meeting of the shareholders, every shareholder having the right to vote shall be entitled to vote in person, or by proxy appointed in a writing subscribed by such shareholder and bearing a date not more than eleven (11) months prior to said meeting, unless the writing states that

it is irrevocable and is held by a person specified in Section 705(e) of the California Corporations Code, in which event it is irrevocable for the period specified in said writing.

Except as otherwise provided in the Articles of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of shareholders. No shareholder shall be entitled to cumulate such shareholder's votes for any Director. The preceding sentence of this provision shall become effective only when the Corporation becomes a listed corporation within the meaning of Section 301.5 of the California Corporations Code.

Section 9. WAIVER OF NOTICE OR CONSENT BY ABSENT SHAREHOLDERS. The transactions of any meeting of shareholders, either annual or special, however called and noticed, and wherever held, shall be as valid as though a meeting had been duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each person entitled to vote, who was not present in person or by proxy, signs a written waiver of notice or a consent to a holding of the meeting, or an approval of the minutes. The waiver of notice or consent need not specify either the business to be transacted or the purpose of any annual or special meeting of shareholders, except that if action is taken or proposed to be taken for approval of any of those matters specified in the second paragraph of Section 4 of this Article II, the waiver of notice or consent shall state the general nature of the proposal. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting if that objection is expressly made at the meeting.

Section 10. SHAREHOLDER ACTION. Any action required or permitted to be taken by the holders of the Common Stock or Preferred Stock of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders other than a written consent at such a meeting.

Section 11. RECORD DATE FOR SHAREHOLDER NOTICE, VOTING, AND GIVING CONSENTS. For purposes of determining the shareholders entitled to give consent to corporate action without a meeting, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of any such meeting, and in this event only shareholders of record on the date so fixed are entitled to notice and to vote or to give consents, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in California General Corporations Law.

If the Board of Directors does not so fix a record date:

(a) The record date for determining shareholders entitled to notice of or to a vote at a meeting of shareholders shall be at the close of business on the business date next preceding the

day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(b) The record date for determining shareholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto, or the sixtieth (60th) day before the date of such other action, whichever is later.

Section 12. PROXIES. Every person entitled to vote for Directors or on any other matter shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the secretary of the corporation. A proxy shall be deemed signed if the shareholder's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the shareholder or the shareholder's attorney in fact. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) revoked by the person executing it, before the vote pursuant to that proxy, by a writing delivered to the corporation stating that the proxy is revoked, or by a subsequent proxy executed by, or attendance at the meeting and voting in person by, the person executing the proxy; or (ii) written notice of the death or incapacity of the maker of that proxy is received by the corporation before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Sections 705(e) and 705(f) of the Corporations Code of California.

Section 13. INSPECTORS OF ELECTION. Before any meeting of shareholders, the Board of Directors may appoint any persons other than nominees for office to act as inspectors of election at the meeting or its adjournment. If no inspectors of election are so appointed, the chairman of the meeting may, and on the request of any shareholder or a shareholder's proxy shall appoint inspectors of election at the meeting. The number of inspectors shall be either one (1) or three (3). If inspectors are appointed at a meeting on the request of one or more shareholders or proxies, the holders of a majority of shares or their proxies present at the meeting shall determine whether one (1) or three (3) inspectors are to be appointed. If any person appointed as inspector fails to appear or fails or refuses to act, the chairman of the meeting may, and upon the request of any shareholder or a shareholder's proxy shall, appoint a person to fill that vacancy.

These inspectors shall:

- (a) Determine the number of shares outstanding and the voting power of each, the shares' represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies;
- (b) Receive votes, ballots, or consents;
- (c) Hear and determine all challenges and questions in any way arising in connection with the right to vote;
- (d) Count and tabulate all votes or consents;

- (e) Determine when the polls shall close;
- (f) Determine the result; and
- (g) Do any other acts that may be proper to conduct the election or vote with fairness to all shareholders.

ARTICLE III

DIRECTORS

Section 1. POWERS. Subject to the provisions of the California General Corporation Law and any limitation in the Articles of Incorporation and these Bylaws relating to action required to be approved by the shareholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors.

Without prejudice to these general powers, and subject to the same limitations, the Directors shall have the power to:

- (a) Select and remove all officers, agents, and employees of the corporation; prescribe any powers and duties for them that are consistent with law, with the Articles of Incorporation, and with these Bylaws; fix their compensation; and require from them security for faithful service.
- (b) Change the principal executive office or the principal business office in the State of California from one location to another; cause the corporation to be qualified to do business in any other state, territory, dependency, or country and conduct business within or without the State of California; and designate any place within or without the State of California for the holding of any shareholders' meeting, or meetings, including annual meetings.
- (c) Adopt, make, and use a corporate seal; prescribe the forms of certificates of stock; and alter the form of the seal and certificates.
- (d) Authorize the issuance of shares of stock of the corporation on any lawful terms, in consideration of money paid, labor done, services actually rendered, debts or securities cancelled, or tangible or intangible property actually received.
- (e) Borrow money and incur indebtedness on behalf of the corporation, and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

Section 2. NUMBER OF DIRECTORS. The number of Directors of the corporation shall be no less than four (4) nor more than seven (7), the exact number of Directors to be fixed from time to time within such limit by a duly adopted resolution of the Board of Directors or shareholders. The exact number of Directors presently authorized shall be six (6) until changed within the limits specified above by a duly adopted resolution of the Board of Directors or shareholders.

Section 3. ELECTION AND TERM OF OFFICE OF DIRECTORS. Directors shall be elected at each annual meeting of the shareholders to hold office until the next annual meeting. Each Director, including a Director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been qualified and elected.

Section 4. VACANCIES. Vacancies in the Board of Directors may be filled by a majority of the remaining Directors, though less than a quorum, or by a sole remaining Director, except that a vacancy created by the removal of a Director by the vote of the shareholders or by court order may be filled only by the vote of a majority of the shares entitled to vote represented at a duly held meeting at which a quorum is present. Each Director so elected shall hold office until the next annual meeting of the shareholders and until a successor has been elected or qualified.

A vacancy or vacancies in the Board of Directors shall be deemed to exist in the event of death or resignation or removal of any Director, or if the Board of Directors by resolution declares vacant the office of a Director who has been declared of unsound mind, by an order of Court or convicted of a felony, or if the authorized number of Directors is increased, or if the shareholders fail, at any meeting of shareholders at which any Director or Directors are elected, to elect the number of Directors to be voted for at that meeting.

Any Director may resign effective on giving written notice to the chairman of the board, the president, the secretary, or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a Director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.

No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires.

Section 5. PLACE OF MEETINGS AND MEETINGS BY TELEPHONE. Regular meetings of the Board of Directors may be held at any place within or outside the State of California that has been designated from time to time by resolution of the Board. In the absence of such a designation, regular meetings shall be held at the principal executive office of the corporation. Special meetings of the Board shall be held at any place within or outside the State of California that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, at the principal executive office of the corporation. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at the meeting.

Section 6. ANNUAL MEETING. Immediately following each annual meeting of shareholders, the Board of Directors shall hold a regular meeting for the purpose of organization, any desired election of officers, and the transaction of other business. Notice of this meeting shall not be required.

Section 7. OTHER REGULAR MEETINGS. Other regular meetings of the Board of Directors shall be held without call at such time as shall from time to time be fixed by the Board of Directors. Such regular meetings may be held without notice.

Section 8. SPECIAL MEETINGS. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the chairman of the Board or the president or any vice president or the secretary or any two Directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each Director or sent by first class mail or telegram, charges prepaid, addressed to each Director at that Director's address as it is shown on the records of the corporation. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is delivered personally, or by telephone or telegram, it shall be delivered personally or by telephone or to the telegraph company at least forty-eight (48) hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the Director or to a person at the office of the Director who the person giving the notice has reason to believe will promptly communicate it to the Director. The notice need not specify the purpose of the meeting nor the place if the meeting is to be held at the principal executive office of the corporation.

Section 9. QUORUM. A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 11 of this Article III. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, subject to the provisions of Section 310 of the Corporations Code of California (as to approval of contracts or transactions in which a Director has direct or indirect material financial interest), Section 311 of that Code (as to appointment of committee), and Section 317(e) of that Code (as to indemnification of Directors). A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 10. WAIVER OF NOTICE. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice if a quorum is present and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any Director

who attends the meeting without protesting before or at its commencement, the lack of notice to that Director.

Section 11. **ADJOURNMENT.** A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

Section 12. **NOTICE OF ADJOURNMENT.** Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four hours, in which case notice of the adjourned meeting, in the manner specified in Section 8 of this Article II, to the Directors who were not present at the time of the adjournment.

Section 13. **ACTION WITHOUT MEETING.** Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consents shall be filed with the minutes of the proceedings of the Board.

Section 14. **FEES AND COMPENSATION OF DIRECTORS.** Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement of expenses, as may be fixed or determined by resolution of the Board of Directors. This Section 14 shall not be construed to preclude any Director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation for those services.

ARTICLE IV

COMMITTEES

Section 1. **COMMITTEES OF DIRECTORS.** The Board of Directors may, by resolution adopted by a majority of the authorized number of Directors, designate one or more committees, each consisting of two or more Directors, to serve at the pleasure of the Board. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except with respect to:

- (a) the approval of any action which, under the General Corporation Law of California, also requires shareholders' approval or approval of the outstanding shares;
- (b) the filling of vacancies on the Board of Directors or in any committee;
- (c) the fixing of compensation of the Directors for serving on the Board or any committee;
- (d) the amendment or repeal of Bylaws or the adoption of new Bylaws;

(e) a distribution to the shareholders of the corporation, except at a rate or in a periodic amount or within a price range determined by the Board of Directors; or

(f) the appointment of any other committees of the Board of Directors or the members of these committees.

Section 2. MEETINGS AND ACTION OF COMMITTEES. Meetings and action of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these Bylaws, Sections 5 (place of meetings), 7 (regular meetings), 8 (special meetings and notice), 9 (quorum), 10 (waiver of notice), 11 (adjournment), 12 (notice of adjournment), and 13 (action without meeting), with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee; special meetings of committees may also be called by resolution of the Board of Directors; and notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

ARTICLE V

OFFICERS

Section 1. OFFICERS. The officers of the corporation shall be a president, a secretary, and a chief financial officer. The corporation may also have, at the discretion of the Board of Directors, a chairman of the Board, one or more vice presidents, one or more assistant secretaries, one or more chief financial officers, and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article V. Any number of offices may be held by the same person.

Section 2. ELECTION OF OFFICERS. The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article V, shall be chosen by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. SUBORDINATE OFFICERS. The Board of Directors may appoint, and may empower the president to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the Board of Directors may from time to time determine.

Section 4. REMOVAL AND RESIGNATION OF OFFICERS. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the Board of Directors, at any regular or special meeting of the Board, or, except

in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

Section 5. VACANCIES IN OFFICES. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office.

Section 6. CHAIRMAN OF THE BOARD. The chairman of the Board, if such an officer is elected, shall, if present, preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by the Bylaws. If there is no president, the chairman of the Board shall in addition be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 7 of this Article V.

Section 7. PRESIDENT. Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if there be such an officer, the president shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. He shall preside at all meetings of the shareholders and, in the absence of the chairman of the Board, or if there be none, at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the office of president of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws.

Section 8. VICE PRESIDENTS. In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or the Bylaws, and the president, or the chairman of the Board.

Section 9. SECRETARY. The secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees or Directors, and shareholders, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at the Directors' meetings or committee meetings, the number of shares present or represented at shareholders' meetings, and the proceedings.

The secretary shall keep, or cause to be kept, at the principal executive office or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors a share register, or a duplicate share register, showing the names of all shareholders and their addresses, the number and classes of shares held by each, the number and date of certificates issued for the same, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the shareholders and of the Board of Directors required by the Bylaws or ByLaw to be given, and he shall keep the seal of the corporation if one be adopted, in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by the Bylaws.

Section 10. CHIEF FINANCIAL OFFICER. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any Director.

The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the president and Directors, whenever they request it, an account of all of his transactions as chief financial officer and of the financial condition of the corporation, and shall have other power and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 11. APPROVAL OF LOANS TO OFFICERS. */ The Corporation may, upon the approval of the Board of Directors alone, make loans of money or property to, or guarantee the obligations of, any officer of the Corporation or its parent or subsidiary, whether or not a director, or adopt an employee benefit plan or plans authorizing such loans or guaranties provided that (i) the Board of Directors determines that such a loan or guaranty or plan may reasonably be expected to benefit the Corporation, (ii) the Corporation has outstanding shares held of record by 100 or more persons (determined as provided in Section 605 of the California Corporations Code) on the date of approval by the Board of Directors, and (iii) the approval of the Board of Directors is by a vote sufficient without counting the vote of any interested director or directors.

*/ This section is effective only if it has been approved by the shareholders in accordance with Sections 315(b) and 152 of the California Corporations Code.

ARTICLE VI

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

Section 1. INDEMNIFICATION OF DIRECTORS AND OFFICERS. The corporation shall, to the maximum extent and in the manner not prohibited by the Code, indemnify each of its directors and officers against expenses (as defined in Section 317(a) of the Code), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined in Section 317(a) of the Code), arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Article VI, a "director" or "officer" of the corporation includes any person (i) who is or was a director or officer of the corporation, (ii) who is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or (iii) who was a director or officer of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

Section 2. INDEMNIFICATION OF EMPLOYEES AND OTHERS. The corporation shall have the power, to the extent and in the manner not prohibited by the Code, to indemnify each of its employees and agents (other than directors and officers) against expenses (as defined in Section 317(a) of the Code), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined in Section 317(a) of the Code), arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Article VI, an "employee" or "agent" of the corporation (other than a director or officer) includes any person (i) who is or was an employee or agent of the corporation, (ii) who is or was serving at the request of the corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or (iii) who was an employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

Section 3. PAYMENT OF EXPENSES IN ADVANCE. Expenses incurred in defending any civil or criminal action or proceeding for which indemnification is required pursuant to Section 6.1 or for which indemnification is permitted pursuant to Section 6.2 following authorization thereof by the Board of Directors shall be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

Section 4. INDEMNITY NOT EXCLUSIVE. The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding

such office, to the extent that such additional rights to indemnification are authorized in the Articles of Incorporation.

Section 5. **INSURANCE INDEMNIFICATION.** The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation against any liability asserted against or incurred by such person in such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this Article VI.

Section 6. **CONFLICTS.** Unless mandated by the law, or order, judgment or decree of any court of competent jurisdiction, no indemnification or advance shall be made under this Article VI in any circumstance where it appears:

- (1) That it would be inconsistent with a provision of the Articles of Incorporation, these bylaws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

ARTICLE VII

GENERAL CORPORATE MATTERS

Section 1. **RECORD DATE FOR PURPOSES OTHER THAN NOTICE AND VOTING.** For purposes of determining the shareholders entitled to receive payment of any dividend or other distribution or allotment of any rights or entitled to exercise any rights in respect of any other lawful action (other than action by shareholders by written consent without a meeting), the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days before any such action, and in that case only shareholders of record on the date so fixed are entitled to receive the dividends, distribution or allotment of rights or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date so fixed, except as otherwise provided in the California General Corporation Law.

If the Board of Directors does not so fix a record date, the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the applicable resolutions or the sixtieth (60th) day before the date of that action, whichever is later.

Section 2. **CHECKS, DRAFTS, EVIDENCES OF INDEBTEDNESS.** All checks, drafts, or other orders for payment of money, notes, or other evidences of indebtedness, issued in the name of or payable to the corporation, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

Section 3. CORPORATE CONTRACTS AND INSTRUMENTS; HOW EXECUTED. The Board of Directors, except as otherwise provided in the Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation, and this authority may be general or confined to specific instances; and unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to tender it liable for any purpose or for any amount.

Section 4. CERTIFICATES FOR SHARES. A certificate or certificates for shares of the capital stock of the corporation shall be issued to each shareholder when any of these shares are fully paid, and the Board of Directors may authorize the issuance of certificates or shares as partly paid provided that these certificates shall state the amount of the consideration to be paid for them and the amount paid. All certificates shall be signed in the name of the corporation by the chairman of the Board or vice chairman of the Board or the president or vice president and by the chief financial officer or an assistant treasurer or the secretary of any assistant secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be facsimile. In case any officer, transfer agent, or registrar who has signed or show facsimile signature has been placed on a certificate shall have ceased to be that officer, transfer agent, or registrar before that certificate is issued, it may be issued by the corporation with the same effect as if that person were an officer, transfer agent, or registrar at the date of issuance.

Section 5. LOST CERTIFICATES. Except as provided in this Section 5, no new certificates for shares shall be issued to replace an old certificate unless the latter is surrendered to the corporation and cancelled at the same time. The Board of Directors may, in case any share certificate or certificate for any other security is lost, stolen, or destroyed, authorize the issuance of a replacement certificate on such terms and conditions as the Board may require, including provision for indemnification of the corporation secured by a bond or other adequate security sufficient to protect the corporation against any claim that may be made against it, including any expense or liability, on account of the alleged loss, theft, or destruction of the certificate or the issuance of the replacement certificate.

Section 6. REPRESENTATION OF SHARES OF OTHER CORPORATIONS. The chairman of the Board, the president, or any vice president, or any other person authorized by resolution of the Board of Directors or by any of the foregoing designated officers, is authorized to vote on behalf of the corporation any and all shares of any other corporation or corporations, foreign or domestic, standing in the name of the corporation. The authority granted to these officers to vote or represent on behalf of the corporation any and all shares held by the corporation in any other corporation or corporations may be exercised by any of these officers in person or by any person authorized to do so by a proxy duly executed by these officers.

Section 7. CONSTRUCTION AND DEFINITIONS. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California General Corporations Law shall govern the construction of these Bylaws. Without limiting the generality of

this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

ARTICLE VIII

AMENDMENTS

Section 1. AMENDMENT BY SHAREHOLDERS. New Bylaws may be adopted or these Bylaws may be amended or repealed by the vote of holders of a majority of the outstanding shares entitled to vote; provided, however, that if the Articles of Incorporation of the corporation set forth the number of authorized Directors of the corporation, the authorized number of Directors may be changed only by an amendment of the Articles of Incorporation.

Section 2. AMENDMENT BY DIRECTORS. Subject to the rights of the shareholders as provided in Section 1 of this Article VIII, Bylaws, other than a Bylaw or an amendment of a Bylaw changing the authorized number of Directors, may be adopted, amended, or repealed by the Board of Directors.

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