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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	
	:	Chapter 11 Case Nos.
	:	
RHYTHMS NETCONNECTIONS INC., <i>et al.</i> ,	:	01- 14283 (BRL) through
	:	01- 14287 (BRL)
	:	
Debtors.	:	(Jointly Administered)
	:	

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**NOTICE OF AUCTION PROCEDURES,  
AUCTION DATE AND SALE HEARING**

PLEASE TAKE NOTICE THAT, on **September 11, 2001**, Rhythms

NetConnections Inc. and certain of its direct subsidiaries, as debtors and debtors in possession (collectively, the "Company" or "Debtors") will conduct an auction ("Auction") for (i) an investment necessary to accomplish a stand-alone reorganization of the Company (the "Reorganization Bid"), (ii) a sale of the Company or all or substantially all of the assets (the "Assets") of the Company, which consist of telecommunications equipment, real estate assets, and other property (the "Going Concern Assets Bid") or (iii) a sale of select assets of the Company (the "Select Assets Bid").<sup>1</sup>

<sup>1</sup> The Debtors reserve the right to accept a Reorganization Bid at any time throughout the sale process. Such Reorganization Bid may be submitted on any form acceptable to the Debtors. An accepted Reorganization Bid will be implemented by the Debtors through a chapter 11 plan of reorganization.

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PLEASE TAKE FURTHER NOTICE THAT, the Auction will be conducted in accordance with the auction procedures annexed hereto as Exhibit "A" (the "Auction Procedures") that were approved by order of the United States Bankruptcy Court for the Southern District of New York dated August 8, 2001.

PLEASE TAKE FURTHER NOTICE THAT, in accordance with the Auction Procedures (a) interested parties will have the opportunity to make competing offers for a Reorganization Bid, Going Concern Assets Bid, or Select Assets Bid and (b) the Debtors will select the highest or best bid for an investment in the Company, or the sale of the Company or the Assets and thereafter seek Bankruptcy Court approval of such bid.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Auction Procedures, any bidder desiring to submit a bid at the Auction (a "Bid") shall send a letter indicating its interest in bidding addressed to the Debtors, the Debtors' counsel and the Debtors' financial advisors, as set forth in the Auction Procedures. The Debtors will qualify interested parties that (1) sign a confidentiality agreement, and (2) provide the requisite financial and other information (a "Qualified Bidder"). A Qualified Bidder may make a "Qualified Bid" by delivering a bid in writing to the Debtors, together with a certified check or wire transfer payable to Rhythms NetConnections Inc. in the amount equal to 5% of the total proposed purchase price, and by delivering a copy of such bid to (i) the attorneys and advisors for the Debtors; and (ii) the attorneys and advisors for the Committee, as set forth in the Auction Procedures, so that such Bid and copies thereof are actually received by no later than 11:00 a.m. (local time) on Friday, September 7, 2001.

**THE AUCTION PROCEDURES CONTAIN DETAILED REQUIREMENTS FOR THE SUBMISSION OF ALL BIDS AND SHOULD BE REVIEWED CAREFULLY.**

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Auction Procedures, the Auction will be conducted at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, 25<sup>th</sup> Floor, New York, New York 10153, on September 11, 2001 at 11:00 a.m. Any person seeking to participate as a bidder at the Auction must comply with the Auction Procedures.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Auction Procedures, objections to any relief requested by the Sale Motion, except objections relating to the adequate assurance of future performance of any unexpired leases to be assumed and assigned under section 365 of the Bankruptcy Code, shall be set forth in writing and state with particularity the grounds for such objections or other statements of position and shall be served so as to be actually received by 4:00 p.m. on September 13, 2001.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Auction Procedures, objections relating solely to the adequate assurance of future performance of any unexpired leases to be assumed and assigned under section 365 of the Bankruptcy Code and any cure amounts thereunder shall be served and filed within 10 days after receiving notice of the identity the purchaser of the Company or its Assets.

PLEASE TAKE FURTHER NOTICE THAT, the Bankruptcy Court will hold a hearing on September 17, 2001 at 10:00 a.m. to consider and approve the Debtors' selection of the highest or best bid for the sale of the Company or its Assets. The hearing may be adjourned from time to time without further notice except by announcement of the adjourned date or dates at the hearing or any adjournment thereof.

PLEASE TAKE FURTHER NOTICE THAT, that all requests for information concerning the Company or its Assets should be in writing directed to: Richard F. NeJame,

Lazard Freres & Co., LLC, 20 Rockerfeller Plaza, 61st Floor, New York, New York 10020,

Telephone No.: (212) 632-1510, Facsimile: (212) 332-1748.

Dated: August 10, 2001



Paul M. Basta, Esq. (PB 4434)

**WEIL, GOTSHAL & MANGES LLP**

Attorneys for Debtors and

Debtors in Possession

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Exhibit A

## EXHIBIT A

### AUCTION PROCEDURES

The following procedures (the "Auction Procedures") shall govern the sale or other disposition at auction (the "Auction") of all or substantially all of the Debtors' Assets (the "Assets") pursuant to the Motion of Debtors dated August 1, 2001 for an Order Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code Approving, among other things, the Sale of All or Substantially All of the Debtors' Assets (the "Sale Motion"). These Auction Procedures have been approved and authorized by order dated August 8, 2001 (the "Bidding Procedures Order") of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in the chapter 11 cases of Rhythms NetConnections Inc. and certain of its direct subsidiaries (collectively, the "Company" or "Debtors").

#### 1. Assets to be Sold

The Debtors shall consider bids for (i) an investment necessary to accomplish a stand-alone reorganization of the Company (the "Reorganization Bid"), (ii) a sale of the Company or all or substantially all of the assets (the "Assets") of the Company (the "Going Concern Assets Bid") or (iii) a sale of select assets of the Company (the "Select Assets Bid", together with the Reorganization Bid and Going Concern Assets Bid, the "Bids"), and thereafter to sell all or substantially all of their Assets as a whole to one bidder or in parts to more than one bidder.<sup>1</sup>

#### 2. Mailing the Auction and Hearing Notice

On a date no later than three (3) business days following entry of the Bidding Procedures Order, the Debtors shall mail the Auction and Hearing Notice by first class mail, postage prepaid, to (a) all potential interested parties identified by the Debtors or their agent, (b) Lazard Freres & Co., LLC ("Lazard"), (c) the Office of the United States Trustee, (d) counsel to the Ad Hoc Committee of the Debtors' noteholders, (e) the parties in interest who have requested notice pursuant to Bankruptcy Rule 2002, (f) all known entities holding or asserting a security interest in or lien against any of the Assets, (g) the parties to the Debtors' material executory contracts and unexpired leases that the Debtors believe may be subject to assumption and assignment (or rejection), (h) all taxing authorities whose rights may be affected by the sale of the Assets, and (i) all government agencies required to receive notice of proceedings under the Bankruptcy Rules and other

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<sup>1</sup> The Debtors reserve the right to accept a Reorganization Bid at any time throughout the sale process. Such Reorganization Bid may be submitted on any form acceptable to the Debtors. An accepted Reorganization Bid will be implemented by the Debtors through a chapter 11 plan of reorganization.

regulatory rules. All other creditors of the Debtors and shareholders will receive notice by publication in the Wall Street Journal, National Edition.

3. Indication of Interest

The Debtors shall send a form of confidentiality agreement to any person indicating an interest in participating in the Auction and requesting information about the Company or its Assets who has not previously signed a confidentiality agreement.

4. Selection of Qualified Bidders

Potential purchasers shall be required to complete and execute the confidentiality agreement and provide the Debtors with their financial qualifications and such other information the Debtors may reasonably request. Prior to the Auction, the Debtors and Lazard must qualify potential bidders according to their financial qualifications which includes, *inter alia*, an examination of potential bidders' current financial statements and their ability to consummate the purchase of the Assets ("Qualified Bidders"). Qualified Bidders will be allowed to perform reasonable due diligence on the Assets, including reasonable access to the books, records and executives of the Debtors. Any interested bidders should contact Richard F. NeJame at Lazard Freres & Co., LLC, 20 Rockerfeller Plaza, 61st Floor, New York, New York 10020, Telephone No.: (212) 632-1510, Facsimile: (212) 332-1748, to seek to become Qualified Bidders and, thereafter, to request information in connection with their due diligence.

5. Notification of Stalking Horse Agreement.

The Debtors reserve the right to enter into an asset purchase agreement prior to the Auction, subject to higher or better offers at the Auction, with one or more entities (the "Stalking Horse Bidder(s)") to establish a minimum bid for some or all of the Assets (the "Stalking Horse Agreement(s)"), which may contain certain customary terms and conditions, including expense reimbursement and a "break-up fee" not to exceed 3% (as determined in the discretion of the Debtors) of the proposed purchase price of the Assets provided for in the applicable Stalking Horse Agreement (the "Purchase Price").<sup>2</sup>

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<sup>2</sup> In the event the Debtors enter into a stalking horse agreement for a Reorganization Bid, the Debtors shall request that the Court establish appropriate Bidding Protections at that time.

## 6. Form and Content of Bids.

All bids must be in writing and submitted using the applicable Form Agreements<sup>3</sup> executed by the Qualified Bidders and be accompanied by a completed registration form authorizing the Qualified Bidder's representative and counsel to participate in the Auction (together with the Form Agreements, the "Bid Package"). Each Qualified Bidder must submit an executed "clean" version of the applicable Form Agreement, together with a blackline to reflect any proposed changes to the terms and conditions of the bid.<sup>4</sup> If any bid is conditioned on the assumption and assignment of executory contracts and unexpired leases, then such bidder shall be required to provide evidence of its ability to provide adequate assurance of future performance of such contracts or leases along with the bid (an "Adequate Assurance Package").

Bids must be unconditional and not contingent upon any event, including, without limitation, any due diligence investigation, the receipt of financing and any further bidding approval, including from any board of directors, shareholders or otherwise. Bids shall not be shared among the Qualified Bidders. All bids are irrevocable until forty-eight hours after the close of the Auction. All bids shall be accompanied by an earnest money deposit (the "Earnest Money Down Payment") equal to 5% of the total proposed purchase price in the form of a certified check or wire transfer payable to Rhythms NetConnections Inc. The Earnest Money Down Payment should only be sent to the Debtors (and not the other parties to receive copies of the bids). Within 24 hours of the Auction, any Successful Bidders (as defined in section 9 hereof) and any Second Highest Bidder (as defined in section 12 hereof) must supplement the initial Earnest Money Down Payment (through certified check or wire transfer), so that the total deposit equals 10% of the success or second highest bids. Such deposit shall be held by the Debtors, without interest, until such time as the bids are officially rejected by the Debtors.

The bidder shall forfeit the Earnest Money Down Payment if (i) the bidder is determined to be a Qualified Bidder and withdraws or modifies its bid other than as provided herein before the Bankruptcy Court approves the Debtors' selection of the Successful Bidder, or (ii) the bidder is the Successful Bidder and (A) modifies or withdraws the bid without the Debtors' consent before the consummation of the sale contemplated by the Bid (as such term is hereinafter defined), (B) breaches the Bid, (C) breaches its confidentiality agreement. The Earnest Money Down Payment shall be promptly returned to the bidder (i) if the bidder is not determined to be a Qualified Bidder

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<sup>3</sup> A Reorganization Bid may be submitted at any time and on any form acceptable to the Debtors.

<sup>4</sup> While bidders may suggest modifications to the Form Agreements, any such modifications deemed by the Debtors' estates to increase the obligations or burdens upon the Debtors (such as additional conditions) will be factored into the Debtors' consideration of whether to accept such bid.



or (ii) if the bidder is a Qualified Bidder (who has not otherwise forfeited its Earnest Money Down Payment), but is not a Successful Bidder.

The Bid must be accompanied by a letter affirmatively setting forth (i) the identity of the bidder (including the authorized representative to attend the Auction), the contact information for such bidder, the identity of the bidder's counsel, and contact information for such bidder's counsel; (ii) the aggregate value of the consideration the bidder proposes to pay under the Bid (which statement of value shall not be binding on the Debtors or the Court), (iii) the form of the Earnest Money Down Payment (i.e., cashier's check or wire transfer) made by the bidder, and (iv) its acknowledgement that such offer shall be irrevocable until the earlier of September 14, 2001, or the date on which the Bankruptcy Court enters an order approving another bidder as the Successful Bidder.

7. Time for Submission of Bids.

All Bid Packages and Adequate Assurance Packages must be submitted in writing so that they are *actually received* by **no later than 11:00 a.m. (local time) on Friday, September 7, 2001** by Rhythms NetConnections Inc., 9100 E. Mineral Circle, Englewood, Colorado 80112, Attn: Office of the President and Office of the Chief Financial Officer, with copies to the following parties: (i) Lazard Freres & Co., LLC, 20 Rockefeller Plaza, 61st Floor, New York, New York 10020, Attn: Richard F. NeJame, (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153-0119, Attn: Paul M. Basta, Esq., (iii) Brownstein, Hyatt & Farber P.C., 410 Seventeenth Street, 22nd Floor, Denver, Colorado 80202, Attn: John L. Ruppert, Esq., (iv) Milbank, Tweed, Hadley & McCloy, LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn: Dennis F. Dunne, Esq., (v) Jefferies & Company, Inc., 650 California Street, 29th Floor, San Francisco, California 94108, Attn: Richard Nevins, and (vi) counsel for any other official statutory committee appointed in the Debtors' cases. Each bidder shall provide 4 copies of the executed Form Agreements (clean and blacklined) and Adequate Assurance Package to Weil, Gotshal & Manges LLP.

8. The Auction.

The Auction shall be conducted at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 on September 11, 2001 at 11:00 a.m. All Qualified Bidders who submit bids in accordance with the Auction Procedures ("Qualified Bids") shall appear in person, or through a duly authorized representative, at the Auction. Only Qualified Bidders will be permitted to participate at the Auction, and Qualified Bidders who have complied with the Auction Procedures may improve their bids at the Auction (such bids, as improved, the "Improved Bids").

9. Selection of Successful Bidder.

After the completion of the Auction, the Debtors shall review and consider each of the Qualified Bids and the Increased Bids. In consultation with the Committee, the Debtors shall determine in the exercise of their reasonable business judgment, which of the Qualified Bids or Increased Bids constitutes the highest or best bid. The bidder making the bid that is selected as the highest or best by the Debtors shall be considered the "Successful Bidder." At the conclusion of the Auction, the Debtors shall inform each of the Actual Bidders of the decision regarding who is the Successful Bidder.

10. Auction Results.

The Debtors will publish the results of the Auction and the highest or best offer(s) by filing a supplement to the Sale Motion with the Bankruptcy Court (the "Supplement"). The Debtors will file the Supplement by no later than September 17, 2001 at 6:00 p.m. Any person interested in receiving a copy of the Supplement may request a copy of the document by contacting Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153-0119, Attn: Jennifer Feldsher, Esq, Telephone: (212) 310-8000, Facsimile: (212) 310-8007 or may obtain a copy of the document on-line at the website of the Bankruptcy Court of the Southern District of New York at <http://ecf.nysb.uscourts.gov>.<sup>5</sup>

11. Objections.

Objections to any relief requested by the Sale Motion, except objections relating solely to the adequate assurance of future performance of the leases to be assumed and assigned under section 365 of the Bankruptcy Code thereunder, shall be set forth in writing and state with particularity the grounds for such objections or other statements of position and shall be electronically filed with the Bankruptcy Court and served upon (i) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153-0119, Attn: Paul M. Basta, Esq., (ii) Brownstein, Hyatt & Farber P.C., 410 Seventeenth Street, 22nd Floor, Denver, Colorado 80202, Attn: John L. Ruppert, Esq., (iii) Milbank, Tweed, Hadley & McCloy, LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn: Dennis F. Dunne, Esq., and (iv) the Office of the United States Trustee, 33 Whitehall

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<sup>5</sup> A Pacer password and Adobe Acrobat Reader, or a compatible application, are needed to view such document. To obtain the Supplement, or any other document in these chapter 11 cases, at the query screen, enter case number 01-14283, then hit "run query", then hit the hyperlink "docket report", then find the document you are interested in viewing and hit the hyperlink next to that document.

Street, New York, New York 10004, so as to be actually received by 4:00 p.m. on September 13, 2001.

Objections relating solely to the adequate assurance of future performance of any unexpired leases to be assumed and assigned under section 365 of the Bankruptcy Code be served and filed within 10 days after receiving notice of the identity of the purchaser of the Company or its Assets.

12. Failure to Consummate Purchase.

If for any reason the Successful Bidder fails to consummate the purchase of the Company, the Assets, or any part thereof, the offeror of the second highest or best bid (the "Second Highest Bidder") will automatically be deemed to have submitted the highest or best bid and to the extent the Second Highest Bidder and the Debtors consent, the Debtors and the Second Highest Bidder are authorized to effect the sale, or any part thereof, to the Second Highest Bidder as soon as is commercially reasonable without further order of the Bankruptcy Court. If such failure to consummate the purchase is the result of a breach by the Successful Bidder, the Earnest Money Down Payment shall be forfeited to the Debtors and the Debtors specifically reserve the right to seek all available damages from the defaulting bidder.

13. Bankruptcy Court Approval of the Successful Bidder

A hearing on the relief requested in the Sale Motion and to confirm the results of the Auction shall be held before the Honorable Burton R. Lifland, United States Bankruptcy Judge, One Bowling Green, New York, New York 10004, Room 623, on September 17, 2001 at 10:00 a.m. Any sale of the Company or the Debtors' Assets is subject to entry of an order of the Bankruptcy Court approving the sale(s).

14. Return of Deposits.

Within ten (10) business days after the entry by the Bankruptcy Court of its order approving the Successful Bidder, the Earnest Money Down Payment submitted by all Qualified Bidders, except (i) the Successful Bidder; (ii) the Second Highest Bidder; and (iii) any bidders that forfeit their Earnest Money Down Payments as set forth in section 6 above, shall be returned.

15. Business Judgment of the Debtors.

The Debtors reserve the right (a) to determine in the reasonable exercise of their business judgment whether the amendments and changes contained in each Bid are

acceptable as terms and conditions to sell; (b) to determine, in the reasonable exercise of their business judgment, which Qualified Bid, if any, is the highest or otherwise best offer; and (c) to reject at any time prior to entry of an order of the Bankruptcy Court approving the Successful Bidder, any bid that the Debtors, in the reasonable exercise of their business judgment, deems to (i) be inadequate or insufficient, or (ii) not to conform with the requirements of the Bankruptcy Code or the Auction Procedures. The Debtors also reserve the right to adjourn the Auction and the Sale Hearing from time to time.

16. Reservation of Rights.

The Debtors, in consultation with the unsecured creditors' committee appointed in the Debtors' chapter 11 cases (the "Committee"), reserve the right to (i) impose additional terms and conditions at or prior to the Auction, (ii) extend the deadlines set forth in the Auction Procedures and/or adjourn the Auction at the Auction and/or the Sale Hearing in open court without further notice, (iii) withdraw any Asset(s) (the "Withdrawn Assets") from sale at any time prior to or during the Auction, to make subsequent attempts to market same, and to request separate hearing(s) by this Court to approve the sale(s) of some or all of the Withdrawn Assets (iv) reject any or all bids if, in the Debtors' reasonable judgment, no bid is for a fair and adequate price, and (v) seek approval of any separate agreement to sell some or all of the Withdrawn Assets at the Sale Hearing.