

ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

NET2000 COMMUNICATIONS INC., et al.,

Debtors.

Chapter 11

Case Nos. 01-11324 (MFW)
through 01-11334 (MFW)

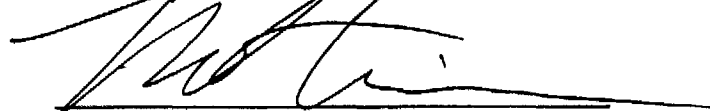
Jointly Administered

**NOTICE OF FILING OF ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), (f) AND
(m), 365(a) AND 1146(c), AND FED. R. BANKR. P. 2002 AND 6004: (A)
APPROVING PURCHASE AGREEMENT BETWEEN THE DEBTORS AND
CAVALIER EAST, L.L.C.; (B) AUTHORIZING SALE OF ASSETS FREE AND
CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES; (C) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND (D) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on December 21, 2001, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed their proposed Order Under 11 U.S.C. §§ 105(A), 363(B), (F) And (M), 365(A) And 1146(C), And Fed. R. Bankr. P. 2002 And 6004: (A) Approving Purchase Agreement Between The Debtors And Cavalier East, L.L.C.; (B) Authorizing Sale Of Assets Free And Clear Of All Liens, Claims And Encumbrances; (C) Authorizing The Assumption And Assignment Of Certain Executory Contracts And (D) Granting Related Relief (the "Sale Order"), a copy of which is attached hereto as Exhibit A. A black-lined copy of the Sale Order reflecting changes from the order initially attached to the Motion is attached hereto as Exhibit B.

Dated: Wilmington, Delaware
December 21, 2001

MORRIS NICHOLS ARSHT & TUNNELL



Robert J. Dehney (No. 3578)
Michael G. Busenkell (No. 3933)
Michael G. Wilson (No. 4022)
1201 North Market Street
P.O. Box 1347
Wilmington, Delaware 19899-1347
(302) 658-9200

Counsel for Net2000 Communications, Inc., et al.,
Debtors and Debtors-In-Possession

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EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:

NET2000 COMMUNICATIONS, INC., et al.,

Debtors.

Chapter 11

Case No. 01-11324 (MFW)

Jointly Administered

ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), (f) AND (m), 365(a) AND 1146(c), AND FED. R. BANKR. P. 2002 AND 6004: (A) APPROVING PURCHASE AGREEMENT BETWEEN THE DEBTORS AND CAVALIER EAST, L.L.C.; (B) AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND (D) GRANTING RELATED RELIEF (REGARDING D.I. 16)

UPON CONSIDERATION of the above-captioned debtors and debtors in possession's (the "Debtors") Motion for an Order (A) Fixing Dates, Times and Place of Hearings to Consider Further Orders Pursuant to Sections 105, 363(b), 363(f), 363(m), 365 and 1146(c) of the Bankruptcy Code and Fed. R. Bankr. P. 2002, 6004, 6006, 9006, 9007 and 9008; (B) Authorizing Debtors to Sell (the "Asset Sale" or "Sale") Assets (the "Acquired Assets") Free and Clear of All Liens and Claims to Cavalier East, L.L.C. ("Cavalier") or any Higher and Better Bidder Pursuant to the Terms of an Asset Purchase Agreement Dated November 15, 2001; (C) Approving a Break-Up Fee and Certain Bidding Procedures; (D) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (the "Executory Contracts") in Connection with the Sale, (E) Fixing Manner and Extent of Notice of Such Auction and Hearings; and (F) Granting Related Relief (the "Motion"); and the Court having held a hearing on the Motion on December 20, 2001 (the "Hearing"); and it appearing that the relief requested

by the Motion is in the best interests of the Debtors and their estates; and good cause appearing therefor:

IT IS HEREBY FOUND and CONCLUDED THAT:¹

A. The Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (M), (N) and (O). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

C. Adequate and sufficient notice of the Motion, the Hearing, the Asset Sale, and the assumption and assignment of the Executory Contracts has been provided in accordance with 11 U.S.C. §§ 102(l) and 363 and Bankruptcy Rules 2002 and 6004; such notice was good and sufficient and appropriate under the circumstances; and no other or further notice of the Motion, the Hearing, the Asset Sale or the assumption and assignment of the Executory Contracts is or shall be required.

D. Upon entry of this Order, each selling Debtor (i) has full corporate power and authority to execute the Asset Purchase Agreement dated November 15, 2001 (the "Agreement"), by and among the Debtors and Cavalier (the "Purchaser") and all other documents contemplated thereby, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Agreement and (iii) has taken all corporate action necessary to authorize and approve the Agreement and the consummation by such selling

¹ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

Debtor of the transactions contemplated thereby. No other consents or approvals are required for the Debtors to consummate such transactions.

E. Approval of the Agreement and consummation of the Asset Sale at this time are in the best interests of the Debtors, their creditors, their estates, and other parties in interest.

F. The Debtors have demonstrated both (i) good, sufficient, and sound business purpose and justification and (ii) compelling circumstances for the Asset Sale pursuant to 11 U.S.C. § 363(b) prior to, and outside of, a plan of reorganization in that, among other things, the prompt consummation of the Asset Sale is the only way to maximize the value of the Acquired Assets for the Debtors' estates and creditors and other parties in interest.

G. The Agreement was negotiated, proposed and entered into by the Debtors and the Purchaser without collusion, in good faith, and from arm's - length bargaining positions. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Agreement to be avoided under 11 U.S.C. § 363(n).

H. The Purchaser is a good faith purchaser under 11 U.S.C. § 363(m) and, as such, is entitled to all of the protections afforded thereby. The Purchaser will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transactions contemplated by the Agreement at any time after the entry of this Sale Order.

I. The consideration provided by the Purchaser for the Acquired Assets pursuant to the Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Acquired Assets, (iii) will provide a greater recovery for creditors than would be provided by any other practical available alternative and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States.

J. The Asset Sale must be approved and consummated promptly in order to preserve the value of the Acquired Assets as a going concern.

K. A prompt transfer of customer lists, network equipment, service authorizations and other assets from the Debtors to the Purchaser is required in order to prevent interruption of critical telecommunication services to affected customers, avoid dissipation of the customer base and otherwise preserve value for creditors.

L. The transfer of the Acquired Assets to the Purchaser will be a legal, valid and effective transfer of the Acquired Assets and will vest the Purchaser with all right, title and interest of the Debtors to the Acquired Assets free and clear of all (i) mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, claims, judgments, demands, easements, charges, encumbrances, defects, security interests, options, rights of first refusal, and restrictions of all kind including any right of set-off (collectively, "Interests") and (ii) all debts arising under or out of, in connection with, or in any way relating to, any acts of the Debtors, claims (as that term is defined in section 101 (5) of the Bankruptcy Code), rights or causes of action (whether in law or in equity, including, but not limited to, any rights or causes of action based on theories of transferee or successor liability under any law, statute, rule, or regulation of the United States, any state, territory, or possession thereof), obligations, demands, guaranties, rights, contractual commitments, restrictions, interests and matters of any kind or nature whatsoever, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, understanding, law, equity or otherwise (collectively, "Claims"), other than as set forth in the Agreement, and if the assignment of the Acquired Assets could not be made under section 363 of the Bankruptcy Code.

M. The Purchaser would not have entered into the Agreement and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtors, their estates, and their creditors, if the sale of the Acquired Assets to the Purchaser and the assignment of the Executory Contracts to the Purchaser were not free and clear of all Claims and Interests or any kind or nature whatsoever (other than as set forth in the Agreement), or if the Purchaser would, or in the future could, be liable for any of the Claims and Interests, other than as set forth in the Agreement.

N. The Debtors may sell the Acquired Assets free and clear of all Claims and Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in 11 U.S.C. § 363(f)(1)-(5) has been satisfied. Those (i) holders of Claims and Interests and (ii) non-debtor parties to Executory Contracts and unexpired leases who did not object to the Asset Sale or the Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of Claims and Interests and (ii) non-debtor parties to Executory Contracts who did object, if any, fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Claims or Interests, if any, attach to the cash proceeds of the Asset Sale ultimately attributable to the property against or in which they assert a Claim or Interest.

O. Except as set forth on the record at the Hearing on the Motion and in the Agreement and this Order, the (i) transfer of the Acquired Assets to the Purchaser and (ii) assumption and assignment of the Executory Contracts will not subject the Purchaser to any liability whatsoever with respect to the operation of the business prior to the Closing Date. The Asset Sale is a sale in contemplation of a plan and, accordingly, a transfer pursuant to 11 U.S.C. § 1146(c), which shall not be taxed under any law imposing a stamp tax or similar tax.

P. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Executory Contracts to the Purchaser in connection with the consummation of the Asset Sale, and the assumption and assignment of the Executory Contracts is in the best interests of the Debtors, their estates and creditors. The Executory Contracts being assigned to the Purchaser are an integral part of the business being purchased by the Purchaser and, accordingly, such assumption and assignment of Executory Contracts are reasonable, enhance the value of the Debtors' estates and do not constitute unfair discrimination.

Q. The Purchaser has provided adequate assurance to any objecting party of (i) its ability to cure any default existing prior to the date hereof under any of the Executory Contracts within the meaning of 11 U.S.C. § 365(b)(1)(A), (ii) its ability to compensate any party other than the Debtors for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Executory Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(B) and (iii) adequate assurance of future performance of and under the Executory Contracts within the meaning of 11 U.S.C. § 365(b)(1)(C).

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, if any, hereby are overruled on the merits.
3. The Agreement and all of the terms and conditions thereof, except as set forth on the record, are hereby approved.

4. Pursuant to 11 U.S.C. § 363(b), the Debtors are authorized to consummate the Asset Sale, pursuant to and in accordance with the approved terms and conditions of the Agreement.

5. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate and implement, the Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Agreement, and to take all further actions as may be requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to possession, the Acquired Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Agreement.

6. Pursuant to 11 U.S.C. §§ 105(a) and 363(f), the Acquired Assets shall be transferred to the Purchaser, and upon consummation of the Agreement (the "Closing") shall be, free and clear of all Claims and Interests of any kind or nature whatsoever, other than as set forth in the Agreement, with all such Claims and Interests of any kind or nature whatsoever to attach to the net proceeds of the Asset Sale in the order of their priority, with the same validity, force and effect which they now have as against the Acquired Assets, subject to any claim and defenses the Debtors may possess with respect thereto.

7. Except as expressly permitted or otherwise specifically provided by the Agreement or this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Claims and Interests of any kind or nature whatsoever against or in the Debtors or the Acquired Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or

out of, in connection with, or in any way relating to, the Debtors, the Acquired Assets, the operation of the Debtors' business prior to the Closing Date, or the transfer of the Acquired Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, its property, its officers, directors or shareholders, or the Acquired Assets, such persons' or entities' Claims and Interests. This Sale Order shall be binding on the Debtors and their estates, including any conversion of these cases, any successor Chapter 7 estates and any Chapter 7 trustee appointed over these Debtors.

8. The transfer of the Acquired Assets to the Purchaser pursuant to the Purchase Agreement constitutes a legal, valid, and effective transfer of the Acquired Assets, and shall vest, upon the occurrence of the Closing, the Purchaser with all right, title, and interest of the Sellers in and to the Acquired Assets free and clear of all Claims and Interests of any kind or nature whatsoever, other than as set forth in the Agreement.

9. Pursuant to 11 U.S.C. §§ 105(a) and 365, and subject to and conditioned upon the Closing of the Asset Sale, the Debtors' assumption and assignment to the Purchaser, and the Purchaser's assumption on the terms set forth in the Agreement, of the Executory Contracts is hereby approved, and the requirements of 11 U.S.C. § 365(b)(1) with respect thereto are hereby deemed satisfied.

10. The Debtors are hereby authorized and directed in accordance with 11 U.S.C. §§ 105(a) and 365 to (a) assume and assign to the Purchaser, effective upon the Closing of the Asset Sale, the Executory Contracts free and clear of all Claims and Interests of any kind or nature whatsoever and (b) execute and deliver to the Purchaser such documents or other instruments as may be necessary to assign and transfer the Executory Contracts to the Purchaser.

11. The Executory Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to 11 U.S.C. § 365(k), the Debtors shall be relieved from any further liability with respect to the Executory Contracts after such assignment to and assumption by the Purchaser.

12. All defaults or other obligations of the Debtors under the Executory Contracts arising or accruing prior to the date of this Sale Order (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be deemed cured at the Closing of the Asset Sale. The counterparties to such Executory Contracts shall only be entitled to (i) the cure payment set forth in the Notice of Debtors Intent to Potentially Assume and Assign Unexpired Lease or Executory Contract and Proposed Cure Amounts (the "Assignment Notice") filed contemporaneously with the Motion or (ii) if a counterparty has filed a timely objection to the cure amount proposed in the Assignment Notice, such cure amount as may be agreed to among the Debtors, the Purchaser and the objecting counterparty or if no such agreement can be reached, a cure payment as set forth in a final and nonappealable order of this Court.

13. Each non-Debtor party to an Assumed Contract is forever barred, estopped, and permanently enjoined from asserting against the Debtors or the Purchaser, or the property of either of them, any default existing as of the date of the Hearing if such default was not raised or asserted prior to or at the Hearing.

14. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtors' and Purchaser's rights to enforce every term and condition of the Executory Contracts.

15. The consideration provided by the Purchaser for the Acquired Assets under the Agreement shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia.

16. The consideration provided by the Purchaser for the Acquired Assets under the Agreement is fair and reasonable and may not be avoided under § 363(n) of the Bankruptcy Code.

17. On the date of the Closing of the Sale (the "Closing Date"), each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Claim against or Interests in the Acquired Assets, if any, as such Claims or Interests may have been recorded or may otherwise exist.

18. This Sale Order (a) shall be effective as a determination that, on the Closing Date, all Claims and Interests of any kind or nature whatsoever existing as to the Acquired Assets prior to the Closing have been unconditionally released, discharged and terminated (other than as set forth in the Agreement), and that the conveyance described in decretal paragraph 6 hereof has been effected, and (b) shall be binding upon and shall govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all

other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Acquired Assets.

19. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement.

20. Notwithstanding any other state legal or regulatory requirements, to the extent applicable, the Debtors are hereby ordered to immediately transfer the customers and other assets subject to the Agreement to the Purchaser as of the earlier of (i) the date of this order or (ii) to the extent applicable, the receipt of all requisite approvals of the Federal Communications Commission for the discontinuance of service by the Debtors and transfer of affected customers to the Purchaser.

21. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Claims against or Interests in the Acquired Assets shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims or Interests which the person or entity has with respect to the Debtors or the Acquired Assets or otherwise, then (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Acquired Assets and (b) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence

of the release of all Claims against or Interests in the Acquired Assets of any kind or nature whatsoever.

22. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Acquired Assets are hereby directed to surrender possession of such Acquired Assets to the Purchaser on the Closing Date. To the extent that the Purchaser is unable to accept necessary deliveries at the Closing or by December 31, 2001, based upon issues of regulatory and or network transition, the Debtors are authorized to negotiate with Cavalier for a management agreement, subject to further notice, hearing and approval by this Court, to preserve to the Debtors and to Cavalier the benefits contemplated in the Asset Sale approved herein.

23. The Purchaser shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Acquired Assets other than as set forth in the Agreement. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein and in the Agreement, the Purchaser and its officers, directors, managers and shareholders shall not be liable for any Claims against the Debtors or any of their predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the business prior to the Closing Date.

24. Under no circumstances shall the Purchaser be deemed a successor of or to the Debtors for any Claim or Interest against or in the Debtors or the Acquired Assets of any

kind or nature whatsoever. All persons holding Claims or Interests against or in the Debtors or the Acquired Assets of any kind or nature whatsoever shall be forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Claims or Interests of any kind or nature whatsoever against the Purchaser, its property, its successors and assigns, or the Acquired Assets with respect to any Claim or Interest of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtors, their estates, officers, directors, shareholders or the Acquired Assets. Following the Closing Date, no holder of a Claim against or Interest in the Debtors shall interfere with the Purchaser's title to or use and enjoyment of the Acquired Assets based on or related to such Claim or Interest, or any actions that the Debtors may take in their Chapter 11 cases.

25. This Court retains exclusive jurisdiction to enforce and implement the terms and provisions of the Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection with them in all respects, including but not limited to, retaining jurisdiction to (a) compel delivery of the Acquired Assets to the Purchaser, (b) resolve any disputes arising under or related to the Agreement, except as otherwise provided therein, (c) interpret, implement, and enforce the provisions of this Sale Order and (d) protect the Purchaser against any Claims against or Interests in the Debtors or the Acquired Assets, of any kind or nature whatsoever.

26. The transactions contemplated by the Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Asset Sale shall not affect the validity of the Asset Sale to the Purchaser, unless such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good

faith of the Acquired Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

27. The approved terms and provisions of the Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, and their creditors, the Purchaser, and their respective affiliates, successors and assigns and any affected third parties including, but not limited to, all persons asserting a Claim against or Interest in the Acquired Assets to be sold to the Purchaser pursuant to the Agreement notwithstanding any subsequent appointment of any trustee, responsible person, estate administrator, representative or similar person (a "Responsible Person") for or in connection with any of the Debtors' estates or affairs in these cases or in any subsequent case(s) under the Bankruptcy Code involving any of the Debtors, as to which Responsible Person(s) such terms and provisions likewise shall be binding in all respects.

28. The failure specifically to include any particular provisions of the Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety as clarified or amended on the record.

29. The Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates or does not conflict with the Bankruptcy Code.

30. The transfer of the Acquired Assets pursuant to the Asset Sale is a transfer pursuant to section 1146(c) of the Bankruptcy Code, and accordingly shall not be taxed under any law imposing a stamp tax or similar tax.

31. At the closing, the Debtors are authorized and directed to make the following disbursements from the sale proceeds, (i) payment of all accrued, but unpaid, amounts itemized in the Budget attached to the Final Order approving the use of cash collateral and Debtors-in-Possession financing as of the date of the closing, (ii) payment of Jefferies & Company, Inc.'s fee pursuant to their contract, (iii) payment of all proposed cure amounts for the Executory Contracts to which there was no objection filed by the non-debtor party to such Executory Contracts, (iv) funding of an escrow (the "Cure Escrow") account in an amount sufficient to pay all asserted cure amounts for any Executory Contracts to which there was an objection to the proposed cure amount asserted by the non-debtor party to such Executory Contract, (v) funding of the second portion of the Employee Severance Program, (v) funding of a reserve account (in an amount to be determined by the Debtors and the Agent) for post closing wind-down expenses, (vi) payment to the Postpetition Agent on behalf of the Postpetition Lenders the amounts advanced and outstanding under the Postpetition Credit Agreement, and (vii) payment to the Prepetition Agent on behalf of the Prepetition Lenders any remaining sale proceeds, including any proceeds remaining in the Cure Escrow after resolution of all objections to cure amounts and the payment of such amounts. The Debtors are further authorized and directed to assign their interest in the Cavalier note in the amount of \$10,000,000 and related security agreement for the Debtors' accounts receivable to the Prepetition Agent on behalf of the Prepetition Lenders.

32. The ten day stay of this Sale Order under Federal Rule of Bankruptcy Procedure 6004(g) is hereby abrogated in accordance with such Rule and this Sale Order shall be effective and enforceable immediately upon entry.

33. The provisions of this Sale Order are nonseverable and mutually dependent.

Dated: Wilmington, Delaware
_____, 2001

UNITED STATES BANKRUPTCY JUDGE

257058v.2

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:

NET2000 COMMUNICATIONS, INC., et al.,

Debtors.

Chapter 11

Case No. 01-11324 (MFW)

Jointly Administered

ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), (f) AND (m), 365(a) AND 1146(c), AND FED. R. BANKR. P. 2002 AND 6004: (A) APPROVING PURCHASE AGREEMENT BETWEEN THE DEBTORS AND CAVALIER EAST, L.L.C. OR ¹ANY HIGHER AND BETTER BIDDER²; (B) AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND (D) ³GRANTING RELATED RELIEF (REGARDING D.I. 16)⁴

UPON CONSIDERATION of the above-captioned debtors and debtors in possession's (the "Debtors") Motion for an Order (A) Fixing Dates, Times and Place of Hearings to Consider Further Orders Pursuant to Sections 105, 363(b), 363(f), 363(m), 365 and 1146(c) of the Bankruptcy Code and Fed. R. Bankr. P. 2002, 6004, 6006, 9006, 9007 and 9008; (B) Authorizing Debtors to Sell (the "Asset Sale" or "Sale") Assets (the "Sale⁵ Acquired⁶ Assets") Free and Clear of All Liens and Claims to Cavalier East, L.L.C. ("Cavalier") or any Higher and Better Bidder Pursuant to the Terms of an Asset Purchase Agreement Dated November 15, 2001; (C) Approving a Break-Up Fee and Certain Bidding Procedures; (D) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (the "Executory Contracts") in Connection with the Sale, (E) Fixing Manner and Extent of Notice of Such Auction and Hearings; and (F) Granting Related Relief (the "Motion"); and the Court having held a hearing on the Motion on December 19,⁷ 20,⁸ 2001 (the "Hearing"); and

it appearing that the relief requested by the Motion is in the best interests of the Debtors and their estates; and good cause appearing therefor:

IT IS HEREBY FOUND and CONCLUDED THAT:¹

A. The Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (M), (N) and (O). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

C. Adequate and sufficient notice of the Motion, the Hearing, the Asset Sale, and the assumption and assignment of the Executory Contracts has been provided in accordance with 11 U.S.C. §§ 102(l) and 363 and Bankruptcy Rules 2002 and 6004; such notice was good and sufficient and appropriate under the circumstances; and no other or further notice of the Motion, the Hearing, the Asset Sale or the assumption and assignment of the Executory Contracts is or shall be required.

D. Upon entry of this Order, each selling Debtor (i) has full corporate power and authority to execute the Asset Purchase Agreement dated November 15, 2001 (the "Agreement"), by and among the Debtors and Cavalier ~~or any higher and better bidder~~¹⁰ (the "Purchaser") and all other documents contemplated thereby, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Agreement and (iii) has taken all corporate action necessary to authorize and approve the Agreement and the

¹ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

consummation by such selling Debtor of the transactions contemplated thereby. No other consents or approvals are required for the Debtors to consummate such transactions.

E. Approval of the Agreement and consummation of the Asset Sale at this time are in the best interests of the Debtors, their creditors, their estates, and other parties in interest.

F. The Debtors have demonstrated both (i) good, sufficient, and sound business purpose and justification and (ii) compelling circumstances for the Asset Sale pursuant to 11 U.S.C. § 363(b) prior to, and outside of, a plan of reorganization in that, among other things, the prompt consummation of the Asset Sale is the only way to maximize the value of the Sale¹¹ Acquired¹² Assets for the Debtors' estates and creditors and other parties in interest.

G. The Agreement was negotiated, proposed and entered into by the Debtors and the Purchaser without collusion, in good faith, and from arm's - length bargaining positions. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Agreement to be avoided under 11 U.S.C. § 363(n).

H. The Purchaser is a good faith purchaser under 11 U.S.C. § 363(m) and, as such, is entitled to all of the protections afforded thereby. The Purchaser will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transactions contemplated by the Agreement at any time after the entry of this Sale Order.

I. The consideration provided by the Purchaser for the Sale¹³ Acquired¹⁴ Assets pursuant to the Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Sale¹⁵ Acquired¹⁶ Assets, (iii) will provide a greater recovery for creditors than would be provided by any other practical available alternative and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States.

J. The Asset Sale must be approved and consummated promptly in order to preserve the value of the Sale¹⁷ Acquired¹⁸ Assets as a going concern.

K. ¹⁹A prompt transfer of customer lists, network equipment, service authorizations and other assets from the Debtors to the Purchaser is required in order to prevent interruption of critical telecommunication services to affected customers, avoid dissipation of the customer base and otherwise preserve value for creditors.²⁰

L. ²¹K.²²The transfer of the Sale²³ Acquired²⁴ Assets to the Purchaser will be a legal, valid and effective transfer of the Sale²⁵ Acquired²⁶ Assets and will vest the Purchaser with all right, title and interest of the Debtors to the Sale²⁷ Acquired²⁸ Assets free and clear of all (i) mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, claims, judgments, demands, easements, charges, encumbrances, defects, security interests, options, rights of first refusal, and restrictions of all kind including any right of set-off²⁹(collectively, "Interests") and (ii) all debts arising under or out of, in connection with, or in any way relating to, any acts of the Debtors, claims (as that term is defined in section 101 (5) of the Bankruptcy Code), rights or causes of action (whether in law or in equity, including, but not limited to, any rights or causes of action based on theories of transferee or successor liability under any law, statute, rule, or regulation of the United States, any state, territory, or possession thereof), obligations, demands, guaranties, rights, contractual commitments, restrictions, interests and matters of any kind or nature whatsoever, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, understanding, law, equity or otherwise (collectively, "Claims"), other than as set forth in the Agreement, and if the assignment of the Acquired Assets could not be made under section 363 of the Bankruptcy Code³⁰.

M. ³¹~~L.~~³² The Purchaser would not have entered into the Agreement and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtors, their estates, and their creditors, if the sale of the Sale³³ Acquired³⁴ Assets to the Purchaser and the assignment of the Executory Contracts to the Purchaser were not free and clear of all Claims and Interests or any kind or nature whatsoever (other than as set forth in the Agreement), or if the Purchaser would, or in the future could, be liable for any of the Claims and Interests, other than as set forth in the Agreement.

N. ³⁵~~M.~~³⁶ The Debtors may sell the Sale³⁷ Acquired³⁸ Assets free and clear of all Claims and Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in 11 U.S.C. § 363(f)(1)-(5) has been satisfied. Those (i) holders of Claims and Interests and (ii) non-debtor parties to Executory Contracts and unexpired leases who did not object to the Asset Sale or the Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of Claims and Interests and (ii) non-debtor parties to Executory Contracts who did object, if any, fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Claims or Interests, if any, attach to the cash proceeds of the Asset Sale ultimately attributable to the property against or in which they assert a Claim or Interest.

O. ³⁹~~N.~~⁴⁰ Except as set forth on the record at the Hearing on the Motion and in the Agreement and this Order, the (i) transfer of the Sale⁴¹ Acquired⁴² Assets to the Purchaser and (ii) assumption and assignment of the Executory Contracts will not subject the Purchaser to any liability whatsoever with respect to the operation of the business prior to the Closing Date. The Asset Sale is a sale in contemplation of a plan and, accordingly, a transfer pursuant to 11 U.S.C. § 1146(c), which shall not be taxed under any law imposing a stamp tax or similar tax.

P. ⁴³~~Q.~~⁴⁴ The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Executory Contracts to the Purchaser in connection with the consummation of the Asset Sale, and the assumption and assignment of the Executory Contracts is in the best interests of the Debtors, their estates and creditors. The Executory Contracts being assigned to the Purchaser are an integral part of the business being purchased by the Purchaser and, accordingly, such assumption and assignment of Executory Contracts are reasonable, enhance the value of the Debtors' estates and do not constitute unfair discrimination.

Q. ⁴⁵~~P.~~⁴⁶ The Purchaser has provided adequate assurance to any objecting party of (i) its ability to cure any default existing prior to the date hereof under any of the Executory Contracts within the meaning of 11 U.S.C. § 365(b)(1)(A), (ii) its ability to compensate any party other than the Debtors for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Executory Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(B) and (iii) adequate assurance of future performance of and under the Executory Contracts within the meaning of 11 U.S.C. § 365(b)(1)(C).

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, if any, hereby are overruled on the merits.
3. The Agreement and all of the terms and conditions thereof, except as set forth on the record, are hereby approved.

4. Pursuant to 11 U.S.C. § 363(b), the Debtors are authorized to consummate the Asset Sale, pursuant to and in accordance with the approved terms and conditions of the Agreement.

5. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate and implement, the Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Agreement, and to take all further actions as may be requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to possession, the Sale⁴⁷ Acquired⁴⁸ Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Agreement.

6. Pursuant to 11 U.S.C. §§ 105(a) and 363(f), the Sale⁴⁹ Acquired⁵⁰ Assets shall be transferred to the Purchaser, and upon consummation of the Agreement (the "Closing") shall be, free and clear of all Claims and Interests of any kind or nature whatsoever, other than as set forth in the Agreement, with all such Claims and Interests of any kind or nature whatsoever to attach to the net proceeds of the Asset Sale in the order of their priority, with the same validity, force and effect which they now have as against the Sale⁵¹ Acquired⁵² Assets, subject to any claim and defenses the Debtors may possess with respect thereto.

7. Except as expressly permitted or otherwise specifically provided by the Agreement or this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Claims and Interests of any kind or nature whatsoever against or in the Debtors or the Sale⁵³ Acquired⁵⁴ Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising

under or out of, in connection with, or in any way relating to, the Debtors, the Sale⁵⁵ Acquired⁵⁶ Assets, the operation of the Debtors' business prior to the Closing Date,⁵⁷ or the transfer of the Sale⁵⁸ Acquired⁵⁹ Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, its property, its officers, directors or shareholders,⁶⁰ or the Sale⁶¹ Acquired⁶² Assets, such persons' or entities' Claims and Interests. This Sale Order shall be binding on the Debtors and their estates, including any conversion of these cases, any successor Chapter 7 estates and any Chapter 7 trustee appointed over these Debtors⁶³.

8. The transfer of the Sale⁶⁴ Acquired⁶⁵ Assets to the Purchaser pursuant to the Purchase Agreement constitutes a legal, valid, and effective transfer of the Sale⁶⁶ Acquired⁶⁷ Assets, and shall vest, upon the occurrence of the Closing,⁶⁸ the Purchaser with all right, title, and interest of the Sellers in and to the Sale⁶⁹ Acquired⁷⁰ Assets free and clear of all Claims and Interests of any kind or nature whatsoever, other than as set forth in the Agreement.

9. Pursuant to 11 U.S.C. §§ 105(a) and 365, and subject to and conditioned upon the Closing of the Asset Sale, the Debtors' assumption and assignment to the Purchaser, and the Purchaser's assumption on the terms set forth in the Agreement, of the Executory Contracts is hereby approved, and the requirements of 11 U.S.C. § 365(b)(1) with respect thereto are hereby deemed satisfied.

10. The Debtors are hereby authorized and directed in accordance with 11 U.S.C. §§ 105(a) and 365 to (a) assume and assign to the Purchaser, effective upon the Closing of the Asset Sale, the Executory Contracts free and clear of all Claims and Interests of any kind or nature whatsoever and (b) execute and deliver to the Purchaser such documents or other instruments as may be necessary to assign and transfer the Executory Contracts to the Purchaser.

11. The Executory Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to 11 U.S.C. § 365(k), the Debtors shall be relieved from any further liability with respect to the Executory Contracts after such assignment to and assumption by the Purchaser.

12. All defaults or other obligations of the Debtors under the Executory Contracts arising or accruing prior to the date of this Sale Order (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be deemed cured at the Closing of the Asset Sale. The counterparties to such Executory Contracts shall only be entitled to (i) the cure payment set forth in the Notice of Debtors Intent to Potentially Assume and Assign Unexpired Lease or Executory Contract and Proposed Cure Amounts (the "Assignment Notice") filed contemporaneously with the Motion or (ii) if a counterparty has filed a timely objection to the cure amount proposed in the Assignment Notice, such cure amount as may be agreed to among the Debtors, the Purchaser and the objecting counterparty or if no such agreement can be reached, a cure payment as set forth in a final and nonappealable order of this Court.

13. Each non-Debtor party to an Assumed Contract is forever barred, estopped, and permanently enjoined from asserting against the Debtors or the Purchaser, or the property of either of them, any default existing as of the date of the Hearing if such default was not raised or asserted prior to or at the Hearing.

14. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtors' and Purchaser's rights to enforce every term and condition of the Executory Contracts.

15. The consideration provided by the Purchaser for the Sale⁷¹ Acquired⁷² Assets under the Agreement shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia⁷³.

16. The consideration provided by the Purchaser for the Sale⁷⁴ Acquired⁷⁵ Assets under the Agreement is fair and reasonable and may not be avoided under § 363(n) of the Bankruptcy Code.

17. On the date of the Closing of the Sale (the "Closing Date"), each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Claim against or Interests in the Sale⁷⁶ Acquired⁷⁷ Assets, if any, as such Claims or Interests may have been recorded or may otherwise exist.

18. This Sale Order (a) shall be effective as a determination that, on the Closing Date, all Claims and Interests of any kind or nature whatsoever existing as to the Sale⁷⁸ Acquired⁷⁹ Assets prior to the Closing have been unconditionally released, discharged and terminated (other than as set forth in the Agreement), and that the conveyance described in decretal paragraph 6 hereof has been effected, and (b) shall be binding upon and shall govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all

other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Sale⁸⁰ Acquired⁸¹ Assets.

19. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement.

20. ⁸²Notwithstanding any other state legal or regulatory requirements, to the extent applicable, the Debtors are hereby ordered to immediately transfer the customers and other assets subject to the Agreement to the Purchaser as of the earlier of (i) the date of this order or (ii) to the extent applicable, the receipt of all requisite approvals of the Federal Communications Commission for the discontinuance of service by the Debtors and transfer of affected customers to the Purchaser.⁸³

21. ⁸⁴~~20.~~⁸⁵ If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Claims against or Interests in the Sale⁸⁶ Acquired⁸⁷ Assets shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims or Interests which the person or entity has with respect to the Debtors or the Sale⁸⁸ Acquired⁸⁹ Assets or otherwise, then (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Sale⁹⁰ Acquired⁹¹ Assets and (b) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded,

shall constitute conclusive evidence of the release of all Claims against or Interests in the Sale⁹² Acquired⁹³ Assets of any kind or nature whatsoever.

22. ⁹⁴~~21.~~⁹⁵ All entities that are presently, or on the Closing Date may be, in possession of some or all of the Sale⁹⁶ Acquired⁹⁷ Assets are hereby directed to surrender possession of such Sale⁹⁸ Acquired⁹⁹ Assets to the Purchaser on the Closing Date, To the extent that the Purchaser is unable to accept necessary deliveries at the Closing or by December 31, 2001, based upon issues of regulatory and or network transition, the Debtors are authorized to negotiate with Cavalier for a management agreement, subject to further notice, hearing and approval by this Court, to preserve to the Debtors and to Cavalier the benefits contemplated in the Asset Sale approved herein¹⁰⁰.

23. ¹⁰¹~~22.~~¹⁰² The Purchaser shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Sale¹⁰³ Acquired¹⁰⁴ Assets other than as set forth in the Agreement. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein and in the Agreement, the Purchaser and its officers, directors, managers and shareholders¹⁰⁵ shall not be liable for any Claims against the Debtors or any of their predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the business prior to the Closing Date.

24. ¹⁰⁶~~23.~~¹⁰⁷ Under no circumstances shall the Purchaser be deemed a successor of or to the Debtors for any Claim or Interest against or in the Debtors or the

Sale¹⁰⁸ Acquired¹⁰⁹ Assets of any kind or nature whatsoever. All persons holding Claims or Interests against or in the Debtors or the Sale¹¹⁰ Acquired¹¹¹ Assets of any kind or nature whatsoever shall be forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Claims or Interests of any kind or nature whatsoever against the Purchaser, its property, its successors and assigns, or the Sale¹¹² Acquired¹¹³ Assets with respect to any Claim or Interest of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtors, their estates, officers, directors, shareholders or the Sale¹¹⁴ Acquired¹¹⁵ Assets. Following the Closing Date, no holder of a Claim against or Interest in the Debtors shall interfere with the Purchaser's title to or use and enjoyment of the Sale¹¹⁶ Acquired¹¹⁷ Assets based on or related to such Claim or Interest, or any actions that the Debtors may take in their Chapter 11 cases.

25. ¹¹⁸~~24.~~¹¹⁹ This Court retains exclusive¹²⁰ jurisdiction to enforce and implement the terms and provisions of the Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection with them in all respects, including but not limited to, retaining jurisdiction to (a) compel delivery of the Sale¹²¹ Acquired¹²² Assets to the Purchaser, (b) resolve any disputes arising under or related to the Agreement, except as otherwise provided therein, (c) interpret, implement, and enforce the provisions of this Sale Order and (d) protect the Purchaser against any Claims against or Interests in the Debtors or the Sale¹²³ Acquired¹²⁴ Assets, of any kind or nature whatsoever.

26. ¹²⁵~~25.~~¹²⁶ The transactions contemplated by the Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Asset Sale shall not affect the validity of the Asset Sale to the Purchaser, unless

such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good faith of the Sale¹²⁷ Acquired¹²⁸ Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

27. ¹²⁹~~26.~~¹³⁰ The approved terms and provisions of the Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, and their creditors, the Purchaser, and their respective affiliates, successors and assigns and any affected third parties including, but not limited to, all persons asserting a Claim against or Interest in the Sale¹³¹ Acquired¹³² Assets to be sold to the Purchaser pursuant to the Agreement notwithstanding any subsequent appointment of any trustee, responsible person, estate administrator, representative or similar person (a "Responsible Person") for or in connection with any of the Debtors' estates or affairs in these cases or in any subsequent case(s) under the Bankruptcy Code involving any of the Debtors, as to which Responsible Person(s) such terms and provisions likewise shall be binding in all respects.

28. ¹³³~~27.~~¹³⁴ The failure specifically to include any particular provisions of the Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety as clarified or amended on the record.

29. ¹³⁵~~28.~~¹³⁶ The Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates or does not conflict with the Bankruptcy Code.

30. ¹³⁷~~29.~~¹³⁸ The transfer of the Sale ¹³⁹Acquired¹⁴⁰ Assets pursuant to the Asset Sale is a transfer pursuant to section 1146(c) of the Bankruptcy Code, and accordingly shall not be taxed under any law imposing a stamp tax or similar tax.

31. ¹⁴¹ At the closing, the Debtors are authorized and directed to make the following disbursements from the sale proceeds, (i) payment of all accrued, but unpaid, amounts itemized in the Budget attached to the Final Order approving the use of cash collateral and Debtors-in-Possession financing as of the date of the closing, (ii) payment of Jefferies & Company, Inc.'s fee pursuant to their contract, (iii) payment of all proposed cure amounts for the Executory Contracts to which there was no objection filed by the non-debtor party to such Executory Contracts, (iv) funding of an escrow (the "Cure Escrow") account in an amount sufficient to pay all asserted cure amounts for any Executory Contracts to which there was an objection to the proposed cure amount asserted by the non-debtor party to such Executory Contract, (v) funding of the second portion of the Employee Severance Program, (v) funding of a reserve account (in an amount to be determined by the Debtors and the Agent) for post closing wind-down expenses, (vi) payment to the Postpetition Agent on behalf of the Postpetition Lenders the amounts advanced and outstanding under the Postpetition Credit Agreement, and (vii) payment to the Prepetition Agent on behalf of the Prepetition Lenders any remaining sale proceeds, including any proceeds remaining in the Cure Escrow after resolution of all objections to cure amounts and the payment of such amounts. The Debtors are further authorized and directed to assign their interest in the Cavalier note in the amount of \$10,000,000 and related security agreement for the Debtors' accounts receivable to the Prepetition Agent on behalf of the Prepetition Lenders.¹⁴²

32. ¹⁴³~~30.~~¹⁴⁴ The ten day stay of this Sale Order under Federal Rule of Bankruptcy Procedure 6004(g) is hereby abrogated in accordance with such Rule and this Sale Order shall be effective and enforceable immediately upon entry.

33. ¹⁴⁵~~31.~~ _____ ¹⁴⁶

The provisions of this Sale Order are nonseverable and mutually dependent.

Dated: Wilmington, Delaware
_____, 2001

UNITED STATES BANKRUPTCY¹⁴⁷ JUDGE

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Document comparison done by DeltaView on Thursday, December 20, 2001 13:44:17

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