

Form PTO-1594

RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE

(Rev. 03/01)

TRADEMARKS ONLY

U.S. Patent & Trademark Office

OMB No. 0651-0027 (exp. 5/31/2002)

To The Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof:

<p>1. Name of conveying party(ies): Foothill Capital Corporation</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-California <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Escort Inc.</u> Internal Address: _____ Street Address: <u>5440 West Chester Rd</u> City: <u>West Chester</u> State: <u>OH</u> Zip: <u>45069</u></p> <p><input type="checkbox"/> Individual(s) Citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Limited Partnership _____ <input checked="" type="checkbox"/> Corporation-State <u>Illinois</u> Other _____ if assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input checked="" type="checkbox"/> Other <u>Release of Mortgage</u></p> <p>Execution Date: <u>April 7, 1997</u></p>	<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s)</p> <p>B. Trademark Registration No.(s)</p> <p>See Attached List</p> <p>Additional number(s) attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Sarah Otte Graber</u> Internal Address: <u>Wood, Herron & Evans, L.L.P.</u> <u>2700 Carew Tower</u> Street Address: <u>441 Vinc Street</u> City: <u>Cincinnati</u> State: <u>Ohio</u> Zip: <u>45202</u></p>	<p>6. Total number of applications and trademarks involved: <u>6</u></p> <p>7. Total fee (37 CFR 3.41): \$ <u>165.00</u> <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account if deficiencies occur</p> <p>8. Deposit Account number: <u>23-3000</u> (Attach duplicate copy of this page if paying by deposit account)</p>

DO NOT USE THIS SPACE

9. Statement and Signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Sarah Otte Graber 

Name of Person Signing Signature

7/21/03

Date

Total number of pages including cover sheet, attachments, and document: 18

CH \$165.00 233000 1127831

Trademark Schedule
Release of Mortgage by Foothill Capital Corporation

<u>MARK</u>	<u>REG. NO.</u>
ESCORT	1,127,831
ESCORT	1,338,929
CINCINNATI MICROWAVE	1,351,455
PASSPORT	1,352,568
SOLO	1,552,646
SMARTSHIELD	2,139,969

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED

1997 APR -7 AM 11:15

In re)	Case No. 97-10882
)	500 N. LEXINGTON BLVD CINCINNATI, OHIO 45215
CINCINNATI MICROWAVE, INC.,)	Chapter 11
)	
)	Hon. Burton Perlman, Judge
Debtor.)	
)	

**ORDER (A) AUTHORIZING SALE OF ASSETS
PURSUANT TO 11 U.S.C. § 363(b);
(B) APPROVING ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; (C) APPROVING FORM OF NOTICE**

This cause coming to be heard upon the Debtor's Motion for Order (A) Granting Authority to Sell Assets pursuant to 11 U.S.C. § 363(b); (B) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases; (C) Establishing Auction Procedures; (D) Setting a Hearing Date on Sale; and (E) Approving Form of Notice (the "Motion") filed by Cincinnati Microwave, Inc., debtor and debtor-in-possession in the above-captioned and numbered cases (the "Debtor"), pursuant to sections 105(a), 363(b) and (f), 365, 1107 and 1108, and Rules 2002, 6004, 6006, 9007 and 9014¹; this Court having on March 21, 1997 entered the Order (A) Granting Authority to Sell Assets pursuant to 11 U.S.C. § 363(b); (B) Establishing Auction Procedures; (C) Setting a Hearing Date on Sale; and (D) Approving Form of Notice (the "Sales Procedures Order"); on April 7, 1997, pursuant to the Sales Procedures Order, the Debtor having held a public sale of substantially

¹ Unless otherwise noted, references to "section ____" are to sections of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, and references to "Rule ____" are to the Federal Rules of Bankruptcy Procedure.

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TRADEMARK J.
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all of its assets and the Court having held a hearing to approve the sale of those assets; and the Court being fully advised in these premises,

**BASED UPON THE RECORD MADE AT THE HEARING, THE COURT
MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Jurisdiction

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. § 1334. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Procedural Background

2. On February 14, 1997 (the "Petition Date"), the Debtor commenced its reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

3. The Debtor is continuing to operate its business and manage its properties pursuant to sections 1107 and 1108.

Debtor's Business Background

4. The Debtor is an Ohio corporation that maintains its corporate headquarters and principal place of business at One Microwave Plaza, Cincinnati, Ohio.

5. The Debtor designs, manufactures and markets ultrahigh frequency and microwave wireless communications products, including radar warning devices, digital spread spectrum cordless telephones and wireless data modems. The Debtor markets its products both under the "ESCORT" brand name through direct advertising and as an Original Equipment Manufacturer (OEM) supplier.

Debtor's Financing

6. As of the Petition Date, the Debtor was indebted to Foothill Capital Corporation ("Foothill") in the principal amount of \$3,774,999.98, plus accrued interest in the amount of \$16,044.49, plus accrued attorneys' fees and other expenses as allowable. Foothill holds a first and validly perfected security interest in and to substantially all of the Debtor's assets, including but not limited to real estate, machinery and equipment, inventory, accounts receivable and general intangibles.

7. On February 14, 1997 this Court entered an Interim Financing Order (the "Interim Order") authorizing the Debtor to borrow money on a secured basis and to obtain certain other financial accommodations from Foothill in accordance with the terms and conditions of the Interim Order. The Interim Order provided sufficient funds to enable the Debtor to effectuate an orderly liquidation of its business and assets, enabling the Debtor to convert existing raw materials and work in process to finished goods. However, the Interim Order did not provide available funds, for example, to enable the Debtor to purchase new raw materials.

8. On February 26, 1997, the Court entered its Order Modifying Interim Financing Order which, among other things, modified the Interim Order to permit the Debtor to borrow funds sufficient to purchase new raw materials and extend its radar detector-related production schedule into April, 1997.

9. On March 21, 1997, the Court entered the Financing Order as a final order authorizing the Debtor to borrow money on a secured basis and to obtain other financial accommodations from Foothill in accordance with the terms thereof.

10. To avoid the erosion of the value of the Debtor's radar detector business during the time it takes to conclude the Sale, the Debtor and Escort Acquisition Corp., an Illinois corporation ("EAC"), entered into an interim post-petition debtor in possession credit facility (the "EAC DIP Credit Facility"), which allowed the Debtor to borrow funds necessary to obtain needed advertising, maintain the value of its radar detector business as an ongoing business through the Sale and make certain other permitted payments to key employees. On March 21, 1997, this Court entered the Stipulation and Interim Order (1) Authorizing Debtor-in-Possession to Incur Additional Post-Petition Indebtedness and (2) Granting Security Interest and Priority Pursuant to 11 U.S.C. Section 364 (the "EAC DIP Order"), which approved the EAC DIP Credit Facility.

Terms of the Proposed Sale to EAC

11. The Debtor has received an offer from EAC to purchase substantially all of the Debtor's assets (described below) (the "Purchased Assets") and assume certain of the Debtor's executory contracts and unexpired leases related to the Purchased Assets (the "Assumed Contracts and Leases") for a base purchase price of \$10,900,000, plus funds advanced under the EAC DIP Credit Facility, which as of April 4, 1997 amounted to \$403,446.48. Accordingly, as of April 4, 1997, EAC's proposed base purchase price was \$11,303,446.48. Effective as of March 21, 1997, the Debtor and EAC entered into that certain Asset Purchase Agreement (as amended by Amendment dated April 2, 1997 and Amendment No. 2 dated April 7, 1997, the "Purchase Agreement"), a copy of which (without amendments) was attached to the Motion as Exhibit A. Pursuant to Amendment

No. 2, the purchase price was reduced by \$55,000 to \$11,248,446.48, subject to adjustments provided in the Purchase Agreement.

12. Pursuant to the Sales Procedure Order and the terms of the Purchase Agreement, the Debtor has offered to sell the following Purchased Assets²:

(a) the owned real property, and all plants, buildings, fixtures and other improvements located at One Microwave Plaza, Cincinnati, Ohio and all easements, licenses, rights of way, permits and all appurtenances to such property (collectively, the "Real Estate");

(b) certain identified machinery, equipment (including office equipment), trade fixtures, tools, dies and furniture;

(c) certain identified inventory, including work in process, semi-finished and finished goods, raw materials, promotional materials, replacement and spare parts, packaging materials, operating supplies, and returned or repossessed goods;

(d) certain identified intellectual property related to the Purchased Assets, including, without limitation, goodwill associated therewith, licenses and sublicenses granted and obtained with respect thereto, rights to protection of interests therein, tradenames, servicemarks or trademarks, logos, designs, drawings, formulae, copyrights, patents, telephone numbers, the right to use all existing post office box numbers used by the Debtor, and the names "Solo", "Passport" and "Escort";

(e) all rights (including but not limited to any purchase options and the right to negotiate with the other party to the contract) existing under the leases, contracts, executory contracts, licenses, permits, distribution arrangements, sales and purchase agreements, purchase and sale orders, other agreements and other business arrangements identified on Schedule 5 to the Purchase Agreement;

(f) certain identified office supplies, production supplies, spare parts, other miscellaneous supplies, and other tangible property of any kind;

(g) certain prepayments and prepaid expenses;

² This list of Purchased Assets and the list of Excluded Assets in the following paragraph are qualified by the exact terms of the Purchase Agreement. In the case of any inconsistency between the description herein and the Purchase Agreement, the Purchase Agreement controls.

(h) certain identified lists, records and other information pertaining to accounts, personnel and referral sources, all lists and records pertaining to suppliers and customers, and all books and records of every kind (including, without limitation, those evidenced by computer) relating to the Debtor's business, except those books and records specifically set forth in the Excluded Assets; and

(i) certain identified permits, licenses, certifications and approvals from all permitting, licensing, accrediting and certifying agencies, and the rights to all data and records held by such permitting, licensing and certifying agencies.

13. Expressly excluded from the Purchased Assets (collectively, the "Excluded Assets") are: (a) all cash on hand and in banks and cash equivalents (including marketable securities and short term investments); (b) all trade and other accounts receivable and rights to the payment of money; (c) all causes of actions, choses in action and rights of recovery, including, without limitation, avoidance actions of the Debtor under sections 547-553; (d) tax refunds and tax attributes; (e) the corporate charter, seals, minute books, stock transfer books and other documents relating to the organization, maintenance and existence of the Debtor as a corporation; (f) the assets related to the Debtor's cordless telephone business (the "Phone Assets"); (g) the assets related to the Debtor's wireless data modem business (the "Modem Assets"); (h) the name "Cincinnati Microwave"; (i) all settlement proceeds or monetary recovery in favor of the Debtor for infringement by the defendants which occurred prior to Closing ³ arising under the certain litigation styled Cincinnati Microwave, Inc. v. Whistler Corporation of Massachusetts and Dynatech Corporation, Case No. C-1-96-647, pending in the United States District Court for the Southern District of Ohio (the "Whistler Claims"); (j)

³ Capitalized terms not defined herein shall have the meaning ascribed to them in the Purchase Agreement.

all deposits and prepaid items owed to the Debtor except for such items related to the Purchased Assets; and (k) all assets related to the Guardian Technologies business.

Notice

14. On or about March 21, 1997, the Debtor provided notice of the Motion and hearing to all creditors, parties-in-interest and counsel of record, including United States Trustee, the Internal Revenue Service, the individual members of the Unsecured Creditors' Committee and any party claiming a security interest in the Purchased Assets. Such notice constitutes appropriate and adequate notice to all parties and is in compliance with Fed. R. Bankr. P. 2002, 6004, 6006 and 9014. No notice was required to be given to equity security holders.

Objections; Other Bidders

15. In response to the Motion and the notice thereof, the Debtor has received objections to the proposed sale from Whistler Corporation of Massachusetts and Dynatech Corporation and from Telogy Corporation. No other objection to the proposed sale has been filed.

16. In response to the Motion, the notice thereof, and the Sales Procedure Order, the Debtor has received no offers to purchase the Purchased Assets other than EAC's offer. Accordingly, because no party exceeded EAC's bid, EAC's bid was and is the highest and best bid for the Purchased Assets.

Justification for Sale

17. The Debtor has established sound business justifications in support of the proposed sale. After considering the circumstances herein, the Court has determined that the

sales procedures and EAC's offer present the best opportunity for this estate to realize the highest distribution possible to all creditors.

18. The Debtor has carried the burden of demonstrating that the proposed sale will aid the Debtor's liquidation or reorganization and that the Debtor has met the standards set out in In re Lionel Corp., 722 F.2d 1063, 1071 (2d. Cir. 1983).

19. The transactions contemplated in the Motion, as approved and implemented herein, are in compliance with and satisfy all applicable provisions of the Bankruptcy Code, including but not limited to sections 363(b), (f) and (o) and 365. The terms and conditions of the sale of the Purchased Assets and the other transactions approved by this Order are fair and reasonable.

20. EAC's offer, as approved herein, is the highest and best offer for the Purchased Assets. The aggregate purchase price offered by EAC constitutes full and adequate consideration and reasonably equivalent value for the Purchased Assets.

21. The transfer of the Purchased Assets on the Closing and the Real Estate Closing to EAC, as purchaser, for the consideration set forth above is in the best interest of the Debtor's estate, its creditors and all parties-in-interest.

Good Faith

22. The transfer of the Purchased Assets to EAC represents an arms'-length transaction and has been negotiated in good faith between the parties. EAC, as transferee of the Debtor's property, is a good faith purchaser under section 363(m) and, as such, is entitled to the full protection of section 363(m).

Sale Free and Clear of Liens, Claims and Encumbrances

23. Subject to the Permitted Exceptions under the Purchase Agreement, the Debtor may sell the Purchased Assets free and clear of all liens, claims and encumbrances (collectively defined as "Claims" in paragraph e below) pursuant to section 363(f).

BASED UPON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

(a) The Motion is hereby approved.

(b) The Purchase Agreement and the terms and conditions contained therein are hereby approved in their entirety. The Debtor is hereby authorized and directed to execute, deliver, implement and fully perform the Purchase Agreement, together with all additional instruments and documents which may be reasonably necessary, convenient or desirable in implementing the Purchase Agreement, and to take all further actions (including any prorations, adjustments and the like provided for in the Purchase Agreement) as may be necessary or appropriate in performing the obligations as contemplated by the Purchase Agreement. The Debtor's authorization to perform the Purchase Agreement shall not require board of director approval or any other approvals. All objections to the Motion that were not withdrawn or settled on the record are overruled.

(c) Pursuant to section 365, the Debtor is authorized and directed to assume and assign its right, title and interest in and to the Assumed Contracts and Leases to EAC. The Debtor is hereby authorized and directed (subject to the provisions of paragraphs s and t, below) to take such necessary actions to cure all defaults under the Assumed Contacts and

Leases. EAC shall not be liable for any claim under the Assumed Contracts and Leases that accrued prior the date of the assignment of such contract or lease.

(d) Subject to the fulfillment of the terms and conditions of the Purchase Agreement, at the Closing the Debtor shall sell, transfer, assign and convey to EAC all of the Debtor's rights, title and interest in and to the Purchased Assets (except the Real Estate) and the Assumed Contracts and Leases and, at the Real Estate Closing, the Debtor shall sell, transfer, assign and convey to EAC the Real Estate. The Debtor is authorized, empowered and hereby directed to deliver bills of sale, assignments and other such documentation that may be necessary or requested by EAC to evidence the transfers required herein.

(e) This order is and shall be effective as a determination that, upon the Closing and the Real Estate Closing, all Claims (as defined below) existing as to the Purchased Assets conveyed to EAC at such closing have been and are adjudged and declared to be unconditionally released, discharged and terminated, with such Claims attaching to the net proceeds of the Sale. The transfer of the Purchased Assets and Assumed Contracts and Leases to EAC as of the Closing and the Real Estate Closing shall be free and clear of any and all liens, claims, encumbrances, charges and interests thereon and thereagainst of whatever type or description (except for Permitted Exceptions under the Purchase Agreement), including but not limited to mortgages, security interests, pledges, judgments, leases, subleases, licenses, options, easements, deeds of trust, conditional sales agreements, title retention arrangements intended as security, interests of consignment creditors, and other claims and interests (all such claims and interests described in this paragraph shall be referred to as "Claims"), having arisen, existed or accrued prior to and through the Closing

or the Real Estate Closing, as the case may be, whether direct or indirect, absolute or contingent, choate or inchoate, fixed or contingent, matured or unmatured, liquidated or unliquidated, voluntarily incurred or arising by operation of law, of, by or against the Debtor or the Purchased Assets, but excepting as to the Assumed Contracts and Leases claims and liabilities thereunder arising after the assignment of such contract or lease.

(f) Neither the purchase of the Purchased Assets by EAC, nor the subsequent operation by EAC of any business previously operated by the Debtor, shall cause EAC to be deemed a successor in any respect to the Debtor's business within the meaning of any revenue, pension, ERISA, tax, labor or environmental law, rule or regulation or under any products liability law with respect to the Debtor's liability.

(g) EAC shall have no liability or obligation under the WARN Act (29 U.S.C. § 2101 et seq.) or the Comprehensive Environmental Response Compensation and Liability Act or any state or local environmental law by virtue of EAC's purchase of the Purchased Assets.

(h) Any and all Claims in or against the Purchased Assets shall attach to the net proceeds of the sale of the Purchased Assets with the same force, validity, effect, priority and enforceability as such Claims had prior to such sale. Any issues regarding the extent, validity, perfection, priority and enforceability of such Claims with respect to such proceeds shall be determined by the Court upon proper application at a later date.

(i) EAC in its sole discretion shall be authorized, but not obligated, to employ such of Debtor's employees on a case by case basis as EAC deems appropriate. In no event shall EAC be deemed a successor employee for any purpose. Any Claim of an employee

(BY)

arising on or prior to the Closing or as a result of such employee's termination in conjunction with the transfer of the Purchased Assets and business as provided herein, whether such employee is employed by EAC or not, shall be a Claim against the Debtor and its estate and not against EAC.

(j) Except as expressly assumed in writing by EAC, EAC shall not be deemed to have assumed any "claims" (as that term is defined in section 101(5)) against the Debtor. Under no circumstances shall EAC be deemed a successor of or to the Debtor for any liability of the Debtor (whether direct or indirect, liquidated or unliquidated, choate or inchoate, or contingent or fixed) whatsoever, except as provided in paragraph (e) with respect to the Assumed Contracts and Leases.

(k) All of the Debtor's interests in the Purchased Assets shall be, as of the Closing or the Real Estate Closing, as the case may be, transferred to and vested in EAC. Subject to the fulfillment of the terms and conditions of the Purchase Agreement, as of the Closing or the Real Estate Closing, as the case may be, this Order shall be considered and constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Purchased Assets and/or a bill of sale transferring good and marketable, indefeasible title and interest in the Purchased Assets to EAC. Any and all governmental recording offices and all other parties, persons or entities are hereby directed to accept this Order as such an assignment and/or bill of sale, and, if necessary, this Order shall be accepted for recordation on or after the Closing or the Real Estate Closing, as the case may be, as conclusive evidence of the free and clear, unencumbered transfer of title to the Purchased Assets conveyed to EAC at the particular closing.

(l) The Transfer of the Purchased Assets to EAC pursuant to this Order is exempt from any transfer or stamp tax pursuant to section 1146(c).

(m) If any of the Purchased Assets is in the care or custody of any non-debtor party, such party following the Closing or the Real Estate Closing, as the case may be, shall immediately upon request surrender any such Purchased Assets in its care or custody to EAC.

(n) Upon the Closing or the Real Estate Closing, as the case may be, EAC is hereby granted immediate and unfettered access to the Purchased Assets conveyed in the particular closing, subject with respect to the Real Estate to the terms and conditions of the Purchase Agreement, including by way of example but without limitation, customer lists, mailing lists, outstanding purchase orders, customer order files and computer hardware and software upon which such information may be stored. The Debtor, its employees, officers and directors, and any other party that may have possession or control over items such as keys, lock boxes, security codes, computer access codes, telephone access codes and other similar devices, shall turn over such devices (or control or access to such devices) to EAC immediately upon the Closing or the Real Estate Closing as to the Purchased Assets conveyed in the particular closing, subject with respect to the Real Estate to the terms and conditions of the Purchase Agreement. The Debtor and its officers, agents and employees who have access to and control over any of the Purchased Assets shall cease exercising control over the Purchased Assets (except the Real Estate and the Whistler Litigation to the extent set forth in the Purchase Agreement) upon the Closing, and such parties are enjoined after the Closing from exercising any control and/or interfering with EAC's use, peaceful

enjoyment and control of the Purchased Assets (except the Real Estate) without EAC's consent.

(o) This Court shall have exclusive jurisdiction to implement and enforce the terms and provisions of the Purchase Agreement and this Order, including any disputes relating thereto or with respect to the sale, the proceeds of sale, the transfer and/or assignment and delivery of the Purchased Assets to EAC and EAC's peaceful use and enjoyment thereof after the Closing and the Real Estate Closing, free and clear of any Claims, regardless of whether a plan of reorganization has been confirmed in this case and irrespective of the provisions of any such plan or order confirming such plan.

(p) The terms and provisions of this Order shall be binding in all respects upon the Debtor; its employees, officers, and directors; its creditors; any parties having received notice of these proceedings; any affected third parties and other parties-in-interest; any persons asserting a Claim against or an interest in the Debtor's estate or to any of the Purchased Assets sold, conveyed and assigned pursuant to this Order; EAC; Foothill; and all of the aforementioned parties; successors or assigns, including but not limited to any trustee subsequently appointed for the Debtor under the Bankruptcy Code.

(q) This is a final order and enforceable upon entry. To the extent necessary under Rules 5003, 9014, 9021, and 9022, this Court expressly finds that there is no just reason for delay in the implementation of this Order and expressly directs entry of judgment as set forth herein.

(r) Pursuant to section 363(m), the reversal or modification of this Order on appeal will not affect the validity of the transfer of the Purchased Assets to EAC, as well as

the transactions contemplated and/or authorized by this Order, unless the same is stayed pending appeal prior to the closing of the transactions authorized herein.

(s) At the Closing, the Debtor will deposit the sum of \$1,450,000 from the sale proceeds in an interest-bearing escrow account. Payments out of such escrow account will be made upon either (i) final order of this Court approving a settlement of the dispute between the Debtor and The CIT Group/Equipment Financing, Inc. ("CIT") as to the amount of such escrow account properly payable to CIT on account of its equipment leases with the Debtor with respect to the equipment sold to EAC or (ii) a final order of this Court determining the status of such leases as true leases or financing leases and determining the amount of such escrow account properly payable to CIT on account thereof with respect to the equipment sold to EAC. If the Court's docket permits, it will hold a hearing within 45 days after the date hereof on such settlement or, if there is no settlement, on such dispute. Notwithstanding the foregoing, CIT consents to the transfer to EAC of all equipment subject to leases between CIT and the Debtor free and clear of all Claims, with such Claims attaching to the proceeds of the sale deposited into the escrow established pursuant to this paragraph.

(t) With respect to the sale of equipment subject to equipment leases (other than those of CIT), which equipment leases are capital leases, and to the assumption and assignment of other leases and executory contracts, the approval of the transactions under the Purchase Agreement is subject to the right of the Unsecured Creditors Committee prior to the Closing to review and receive documentation on the nature of the leases and executory contracts and any amounts payable by the Debtor to the equipment lessors and other parties

to the executory contracts and, if the Unsecured Creditors Committee prior to the Closing has not approved the payment of any such amounts, the Debtor will deposit the amounts it has designated for such payment out of the sale proceeds in an interest-bearing escrow account subject to further order of this Court. Notwithstanding the foregoing, all Purchased Assets and Assumed Contracts and Leases subject to this paragraph will be transferred and assigned to EAC free and clear of all Claims, with any such Claims attaching to the proceeds of sale deposited into the escrow established pursuant to this paragraph.

DATED: April 7, 1997

Burton Farberman
United States Bankruptcy Judge

Approved:

Paul Adams
Counsel for the Debtor

[Signature]
Counsel for the Unsecured Creditors Committee

[Signature]
Counsel for Escort Acquisition Corp.

[Signature]
Counsel for The CIT Group/Equipment Financing, Inc. and Telogy, Inc.

ENTERED

U. S. BANKRUPTCY COURT

APR - 7 1997

SOUTHERN DISTRICT OF OHIO

BY TMJ
DEPUTY CLERK