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May 5, 2003

Brad Sonnenberg, Esq.  
Senior Vice President and General Counsel  
Covad Communications Company  
3420 Central Expressway  
Santa Clara, CA 95051

Re: Requested Adoption Under the FCC Merger Conditions

Dear Mr. Sonnenberg:

Verizon Northwest Inc. ("Verizon"), a Washington corporation with its principal place of business at 1800 41<sup>st</sup> Street, Everett, WA 98201, has received your letter stating that, pursuant to paragraph 31(a) of the BA/GTE Merger Conditions ("Merger Conditions"), released by the FCC on June 16, 2000 in CC Docket No. 98-184, Covad Communications Company ("Covad"), a California corporation with its principal place of business at 3420 Central Expressway, Santa Clara, CA 95051, wishes to provide services to customers in Verizon's service territory in the State of Washington by adopting certain provisions of the voluntarily negotiated terms of the Interconnection Agreement between NUI Telecom, Inc. ("NUI") and Verizon Maryland Inc. ("Verizon Maryland") that was approved by the Maryland Public Service Commission as an effective agreement in the State of Maryland, as such agreement exists on the date hereof after giving effect to operation of law. Covad agrees to adopt only the following provisions from the NUI agreement, including associated definitions (i.e., the applicable definitions for this adoption of any capitalized phrases referred to in the following sections of the NUI agreement shall be from the Section 2 of the Glossary (Definitions) of the NUI agreement, which definitions, for avoidance of doubt, shall not apply to other Covad agreements):

Network Elements Attachment, Section 5 (Line Splitting)

In addition, Network Elements Attachment, Section 1 (General), Section 2 (Verizon's Provision of Network Elements – Introductory paragraph and subsection 2.3), Section 15 (Maintenance of Network Elements) and Section 17 (Rates and Charges) shall apply to the adoption of Section 5 and, for the avoidance of doubt, shall not apply to other Covad agreements.

(The provisions of the NUI agreement specifically identified above as subject to the adoption shall hereinafter be referred to as the "Verizon Maryland Terms").

I understand that Covad has a copy of the Verizon Maryland Terms which, in any case, are attached hereto as Appendix 1. Please note the following with respect to Covad's adoption of the Verizon Maryland Terms.

1. By Covad's countersignature on this letter, Covad hereby represents and agrees to the following four points:
  - (A) Covad agrees to be bound by and adopts in the service territory of Verizon, the Verizon Maryland Terms, as they are in effect on the date hereof after giving effect to operation of law, and in applying the Verizon Maryland Terms, agrees that Covad shall be substituted in place of NUI Telecom, Inc. and NUI in the Verizon Maryland Terms wherever appropriate.
  - (B) Notice to Covad and Verizon as may be required or permitted under the Verizon Maryland Terms shall be provided as follows:

To Covad:

Attention: National Registered Agents, Inc.  
1780 Barnes Blvd., S.W. Bldg. G  
Tumwater, WA 98512-0410  
Telephone Number: 800/767-1553  
Facsimile Number: 609/716-0820  
Internet Address: [accounting@NRAI.com](mailto:accounting@NRAI.com)

To Verizon:

Director-Contract Performance & Administration  
Verizon Wholesale Markets  
600 Hidden Ridge, HQEWMNOTICES  
Irving, TX 75038  
Telephone Number: 972/718-5988  
Facsimile Number: 972/719-1519  
Internet Address: [wmnotices@verizon.com](mailto:wmnotices@verizon.com)

with a copy to:

Vice President and Associate General Counsel  
Verizon Wholesale Markets  
1515 North Court House Road, Suite 500  
Arlington, VA 22201  
Facsimile: 703/351-3664

- (C) Covad represents and warrants that it is a certified provider of local telecommunications service in the State of Washington, and that its adoption of the Verizon Maryland Terms will only cover services in the service territory of Verizon in the State of Washington.
- (D) In the event an interconnection agreement between Verizon and Covad is currently in effect in the State of Washington (the "Original ICA"), this adoption shall be an amendment and restatement of the Line Splitting terms, if applicable, of the Original ICA, and shall replace in their entirety the Line Splitting terms of the Original ICA. This adoption is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction with respect to the Original ICA. Any outstanding payment obligations of the parties that were incurred but not fully performed under the Original ICA shall constitute payment obligations of the parties under this adoption.
2. Covad's adoption of the Verizon Maryland Terms shall become effective on May 9, 2003. Verizon shall file this adoption letter with the Washington Utilities & Transportation Commission ("Commission") promptly upon receipt of an original of this letter, countersigned by an authorized officer of Covad. The term and termination provisions of the NUI/Verizon Maryland agreement shall govern Covad's adoption of the Verizon Maryland Terms. Covad's adoption of the Verizon Maryland Terms is currently scheduled to expire on September 19, 2004.
  3. As the Verizon Maryland Terms are being adopted by Covad pursuant to the Merger Conditions, Verizon does not provide the Verizon Maryland Terms to Covad as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Verizon Maryland Terms does not in any way constitute a waiver by Verizon of any position as to the Verizon Maryland Terms or a portion thereof. Nor does it constitute a waiver by Verizon of any rights and remedies it may have to seek review of the Verizon Maryland Terms, or to seek review of any provisions included in these Verizon Maryland Terms as a result of Covad's election pursuant to the Merger Conditions.
  4. Covad's adoption of the Verizon Maryland Terms pursuant to the Merger Conditions is subject to all of the provisions of such Merger Conditions. Please note that the Merger Conditions exclude the following provisions from the interstate adoption requirements: state-specific pricing, state-specific performance measures, provisions that incorporate a determination reached in an arbitration

conducted in the relevant state under 47 U.S.C. Section 252 and provisions that incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1). Verizon, however, does not oppose Covad's adoption of the Verizon Maryland Terms at this time, subject to the following reservations and exclusions:

- (A) Verizon's standard pricing schedule for interconnection agreements in Washington (as such schedule may be amended from time to time) (attached as Appendix 2 hereto), shall apply to Covad's adoption of the Verizon Maryland Terms. Covad should note that the aforementioned pricing schedule may contain rates for certain services the terms for which are not included in the Verizon Maryland Terms or that are otherwise not part of this adoption. In an effort to expedite the adoption process, Verizon has not deleted such rates from the pricing schedule. However, the inclusion of such rates in no way obligates Verizon to provide the subject services and in no way waives Verizon's rights under the Merger Conditions.
  - (B) Covad's adoption of the Verizon Maryland Terms shall not obligate Verizon to provide any interconnection arrangement or unbundled network element unless it is feasible to provide given the technical, network and Operations Support Systems attributes and limitations in, and is consistent with the laws and regulatory requirements of the State of Washington and with applicable collective bargaining agreements.
  - (C) Nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Verizon Maryland Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Verizon Maryland Terms.
  - (D) Terms, conditions and prices contained in tariffs cited in the Verizon Maryland Terms shall not be considered negotiated and are excluded from Covad's adoption.
  - (E) Covad's adoption does not include any terms that were arbitrated in the Verizon Maryland Terms.
5. Verizon reserves the right to deny Covad's adoption and/or application of the Verizon Maryland Terms, in whole or in part, at any time:
- (A) when the costs of providing the Verizon Maryland Terms to Covad are greater than the costs of providing them to NUI;

- (B) if the provision of the Verizon Maryland Terms to Covad is not technically feasible;
  - (C) if the Verizon Maryland Terms were negotiated between NUI and Verizon Maryland on or before June 30, 2000; and/or
  - (D) if Verizon otherwise is not obligated to permit such adoption and/or application under the Merger Conditions or under applicable law.
6. Should Covad attempt to apply the Verizon Maryland Terms in a manner that conflicts with paragraphs 3-5 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.

In the event that a voluntary or involuntary petition has been or is in the future filed against Covad under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and Covad's adoption of the Verizon Maryland Terms shall in no way impair such rights of Verizon; and (ii) all rights of Covad resulting from Covad's adoption of the Verizon Maryland Terms shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

**SIGNATURE PAGE**

Please arrange for a duly authorized representative of Covad to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

VERIZON NORTHWEST INC.



Jeffrey A. Masoner

Vice President – Interconnection Services Policy & Planning

Reviewed and countersigned as to points A, B, C, and D of paragraph 1:

COVAD COMMUNICATIONS COMPANY

Brad Sonnenberg

By BM Sy 6/24/03

Title SVP # General Counsel

Attachment

c: Sherri D. Sebring – Verizon (w/out attachments)

**FROM NETWORK ELEMENTS ATTACHMENT**

**1. General**

- 1.1 Verizon shall provide to NUI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide unbundled Network Elements (UNEs) and Combinations to NUI only to the extent required by Applicable Law and may decline to provide UNEs or Combinations to NUI to the extent that provision of such UNEs or Combinations is not required by Applicable Law.
- 1.2 Verizon shall be obligated to combine UNEs that are not already combined in Verizon's network only to the extent required by Applicable Law. Except as otherwise required by Applicable Law: (a) Verizon shall be obligated to provide a UNE or Combination pursuant to this Agreement only to the extent such UNE or Combination, and the equipment and facilities necessary to provide such UNE or Combination, are available in Verizon's network; and (b) Verizon shall have no obligation to construct or deploy new facilities or equipment to offer any UNE or Combination. Consistent with the foregoing, should NUI engage in a pattern of behavior that suggests that NUI either (i) knowingly induces Verizon Customers to order Telecommunications Services from Verizon with the primary intention of enabling NUI to convert those Telecommunications Services to UNEs or Combinations, or (ii) itself orders Telecommunications Services from Verizon without taking delivery of those Telecommunications Services in order to induce Verizon to construct facilities that NUI then converts to UNEs or Combinations, then Verizon will provide written notice to NUI that its actions suggest that NUI is engaged in a pattern of bad faith conduct. If NUI fails to respond to this notice in a manner that is satisfactory to Verizon within fifteen (15) Business Days, then Verizon shall have the right, with thirty (30) calendar days advance written notice to NUI, to institute an embargo on provision of new services and facilities to NUI. This embargo shall remain in effect until NUI provides Verizon with adequate assurances that the bad faith conduct shall cease. Should NUI repeat the pattern of conduct following the removal of the service embargo, then Verizon may elect to treat the conduct as an act of material breach in accordance with the provisions of this Agreement that address default.
- 1.3 NUI may use a UNE or Combination only for those purposes for which Verizon is required by Applicable Law to provide such UNE or Combination to NUI. Without limiting the foregoing, NUI may use a UNE or Combination (a) only to provide a Telecommunications Service and (b) to provide Exchange Access services only to the extent that Verizon is required by Applicable Law to provide such UNE or Combination to NUI in order to allow NUI to provide such Exchange Access services.
- 1.4 Notwithstanding any other provision of this Agreement:
  - 1.4.1 To the extent Verizon is required by a change in Applicable Law to provide to NUI a UNE or Combination that is not offered under this Agreement to NUI as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be available and how it will be used, and terms, conditions and prices for pre-ordering,

## Appendix 1

ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed in writing by the Parties.

- 1.4.2 Verizon shall not be obligated to provide to NUI, and NUI shall not request from Verizon, access to a proprietary advanced intelligent network service.
- 1.5 Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to NUI, and the Commission, the FCC, a court or other governmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to NUI. If Verizon terminates its provision of a UNE or a Combination to NUI pursuant to this Section 1.5 and NUI elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with NUI to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of NUI; and, (b) NUI shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.
- 1.6 Nothing contained in this Agreement shall be deemed to constitute an agreement by Verizon that any item identified in this Agreement as a Network Element is (i) a Network Element under Applicable Law, or (ii) a Network Element Verizon is required by Applicable Law to provide to NUI on an unbundled basis or in combination with other Network Elements.
- 1.7 Except as otherwise expressly stated in this Agreement, NUI shall access Verizon's UNEs specifically identified in this Agreement via Collocation in accordance with the Collocation Attachment at the Verizon premises where those UNEs exist, and each Loop or Port shall, in the case of Collocation, be delivered to NUI's Collocation node by means of a Cross Connection.
- 1.8 If as the result of NUI Customer actions (i.e., Customer Not Ready ("CNR")), Verizon cannot complete requested work activity when a technician has been dispatched to the NUI Customer premises, NUI will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the applicable Service Order charge as provided in the Pricing Attachment and the Premises Visit Charge as provided in Verizon's applicable retail or wholesale Tariff.

## 2. Verizon's Provision of Network Elements

Subject to the conditions set forth in Section 1 of this Attachment, in accordance with, but only to the extent required by, Applicable Law, Verizon shall provide NUI access to the following:

- 2.3 Line Splitting, as set forth in Section 5 of this Attachment;

## 5. Line Splitting

CLECs may provide integrated voice and data services over the same Loop by engaging in "Line Splitting" as set forth in paragraph 18 of the FCC's Line Sharing Reconsideration Order (CC Docket Nos. 98-147, 96-98), released January 19, 2001. Any Line Splitting between two CLECs shall be accomplished by prior negotiated arrangement between those CLECs. To achieve a Line Splitting capability, CLECs may utilize supporting Verizon OSS to order and combine in a Line Splitting configuration an unbundled xDSL



## Appendix 1

Compatible Loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects, under the terms and conditions set forth in their Interconnection Agreement(s). The participating CLECs shall provide any splitters used in a Line Splitting configuration. CLECs seeking to migrate existing UNE platform configurations to a Line Splitting configuration using the same Network Elements utilized in the pre-existing platform arrangement, or seeking to migrate a Line Sharing arrangement to a Line Splitting configuration using the existing Loop, a Verizon Local Switching Network Element, and the existing central office wiring configuration, may do so consistent with such implementation schedules, terms, conditions and guidelines as are agreed upon for such migrations in the ongoing DSL Collaborative in the State of New York, NY PSC Case 00-C-0127, allowing for local jurisdictional and OSS differences.

### **15. Maintenance of Network Elements**

If (a) NUI reports to Verizon a Customer trouble, (b) NUI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon's facilities or equipment in whole or in part, then NUI shall pay Verizon a charge set forth in the Pricing Attachment for time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by NUI is not available at the appointed time. NUI accepts responsibility for initial trouble isolation and providing Verizon with appropriate dispatch information based on its test results. If, as the result of NUI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Pricing Attachment will be assessed per occurrence to NUI by Verizon. If as the result of NUI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Pricing Attachment will be assessed per occurrence to NUI by Verizon. Verizon agrees to respond to NUI trouble reports on a non-discriminatory basis consistent with the manner in which it provides service to its own retail Customers or to any other similarly situated Telecommunications Carrier.

### **17. Rates and Charges**

The rates and charges for UNEs, Combinations and other services, facilities and arrangements, offered under this Attachment shall be as provided in this Attachment and the Pricing Attachment.

**APPENDIX 2  
WASHINGTON**

This pricing appendix shall apply only when Covad is acting as the data provider in a line splitting arrangement. If Covad seeks to act as a voice provider in a line splitting arrangement under this adoption, the Parties will agree to a new pricing appendix to address applicable charges.

Collocation-related charges associated with line splitting as set forth in Verizon's applicable Collocation tariffs shall apply, which include charges addressing splitter installation, maintenance, support and administration ("Line Splitting Support Charges"). Upon request and unless line splitting rates and/or a line splitting rate structure has been ordered by the Commission, Verizon shall bear the burden of justifying material variances from the line splitting charges applicable in Washington from the line splitting price structure adopted in New York.