

BEFORE THE INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

COMMENTS OF COVAD COMMUNICATIONS COMPANY REGARDING THE CONSULTATION DOCUMENT “Code of Practice for Competition in the Provision of Telecommunications Services”

Covad Communications Company ("Covad") appreciates the opportunity to participate in this consultation. While recognizing the significant differences in domestic legislative and regulatory environments between the United States and Singapore, as well as the differences in telecommunications facilities plant, and the historical development of telecommunications service provision, Covad believes that its experience as a first mover, net-centric, data services provider will materially contribute to the debate the consultation document seeks to generate.

About Covad

Covad is the leading United States national broadband services provider of high-speed Internet and network access utilizing Digital Subscriber Line (DSL) technology. It offers DSL, IP and dial-up services through Internet Service Providers, telecommunications carriers, enterprises, affinity groups, PC OEMs and ASPs to small and medium-sized businesses and home users. Covad services are currently available across the United States in 67 of the top Metropolitan Statistical Areas (MSAs) and are expected to be available in 100 MSAs by the end of 2000. At that time, Covad's network will reach more than 40 percent of all US homes and 45 percent of all US businesses.

Corporate headquarters is located at 2330 Central Expressway, Santa Clara, CA 95050.

Telephone: 1-888-GO-COVAD. Web Site: www.covad.com.

Covad was created with a single objective -- to deploy Digital Subscriber Line ("DSL") technology¹ widely and to provide reliable, high-bandwidth, "always-on" services in order to meet the enormous and exponentially growing demand for data and personal computer communications services. Covad is building a digital packet network that will deliver data, voice, and video information with superior speed, economy, and reliability. Covad aligns itself closely with the rapid innovation and service deployment found in the PC industry, and strives to provide new services at speeds and customer satisfaction levels not currently found in the telecommunications industry.²

Covad commenced commercial service in the United States in December 1997 in Silicon Valley. Its first customer was Stanford University. At the end of its first full year of operation, December 1998, Covad had an installed base of 3,890 DSL lines. In April 2000, Covad announced it had 100,000 DSL lines in service.

Covad is not demand constrained. Covad is supply constrained. Simply put, the incumbent local exchange companies ("ILECs", the Regional Bell Operating Companies

¹ Covad uses the term "DSL" to cover the range of variants of digital subscriber line ("DSL") technologies that enable the provision of different combinations of symmetric and asymmetric high-speed data and basic POTS ("plain old telephone service") telecommunications transmission services over copper loops. These variants include High bit rate Digital Subscriber Line, ADSL, SDSL, VDSL, IDSL and RADSL technologies.

² Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995 (USA): The statements contained in this paper which are not historical facts may be deemed to contain forward-looking statements, including but not limited to statements regarding deployment of the Company's network in new and existing regions, the timing and breadth of coverage in each region, demand for the Company's services and the success of strategic relationships. Actual results may differ materially from those anticipated in any forward-looking statements as a result of certain risks and uncertainties, including, without limitation, the Company's dependence on strategic third parties to market and resell its services, intense competition for the Company's service offerings, dependence on growth in demand for DSL-based services and other risks and uncertainties detailed in the Company's Securities and Exchange Commission filings.

and GTE in the United States) have demonstrated a common pattern to “Deny, Delay, and Degrade” the provisioning of inputs essential to the competitive provision of DSL service. Had the essential inputs of local loops, collocation space, transport and operations support systems (OSS) not been artificially constrained by the incumbent operators – the sole source of supply – Covad’s rapid growth would have been even more dramatic.

General Views

Covad is considering entry into the Singapore market. Its market entry decision will depend in significant part on the regulatory framework and on the availability and price of essential DSL inputs that can be obtained only from an incumbent operator – local loops, collocation space, transport, and operations support systems (OSS).

Covad believes that the proposed Code is well designed to achieve its desired goals³. Importantly, from Covad’s perspective, the proposed Code would likely:

- Encourage competitive entry by making it commercially practicable for new entrants to invest in equipment and technologies that distinguish their DSL services from those of the incumbent by being technologically innovative and offering increased end-user choice (by offering, for example, SDSL, VDSL, and new variants, rather than only ADSL);
- Encourage network efficiencies through non-discriminatory treatment by compelling options for cageless collocation and line sharing, and the ability to

³ See, § 1.1 of the proposed Code.

collocate a wide range of equipment actually used for interconnection and/or access to network elements.

Against this backdrop, Covad makes the following comments on specific provisions of the proposed Code.

Comments on Specific Provisions

While Covad supports the existing provision “Duty to Comply with Mandatory Technical Standards”⁴, Covad suggests that appropriate text be added to ensure that services for which technical standards have not been formalized not be prohibited by the incumbent. This suggestion flows from Covad’s experience when it initially sought to provide SDSL. Incumbent operators providing UNEs to Covad sought to prevent the introduction of SDSL solely because it was a non-standard DSL service. (Their actual incentive was to prevent competition with their high-margin monopoly T-1 and ISDN services.) In order to ensure that end-users benefited from technological innovation, while simultaneously ensuring that no harm be caused to the provisioning network, the Federal Communications Commission (“FCC”) established a national rule significantly restricting the discretion of an incumbent to prevent the introduction of a non-standardized service.⁵ Covad suggests the following augmentation to the proposed Code, modeled on the FCC solution:

An advanced services loop technology is presumed acceptable for deployment where the technology: (1) complies with existing industry standards; or (2) is approved

⁴ See, § 4.9, “Each facilities-based Licensee shall comply with any mandatory technical standards promulgated by IDA or, in the absence of such standards, with the standards adopted by the International Telecommunication Union.”

⁵ See, http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1999/fcc99355.doc, § 178 and following, and p. B-3, 4.

by an industry standards body, the IDA, other national regulator, or the ITU, or (3) has been successfully deployed by any carrier without significantly degrading the performance of other services.

Similarly, Covad experienced considerable deployment delay when incumbents providing UNEs sought to artificially restrict the number of DSL-provisioned loops to end users by segregating DSL loops into a limited number of binder groups within a cable. Ostensibly, this was done to reduce spectrum interference concerns. The FCC greatly restricted an incumbent's ability to limit market entry through the artifice of binder group management. Covad suggests the following text, modeled on a rule promulgated by the FCC:⁶

Dominant Licensees are prohibited from designating, segregating or reserving particular loops or binder groups for use by any particular advanced services loop technology unless IDA designates a particular technology as a known disturber.

Covad suggests that the definition of OSS be changed. The proposed Code (§ 5.8.3.6) defines OSS as follows:

The OSS element consists of network functionality used to order, monitor and diagnose problems with telecommunications services provided over the network.

Covad proposes the following alternative:

Operations support systems functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by a Licensee's databases and information.

The foregoing text tracks the definition of OSS adopted by the FCC.⁷ Covad believes the substitution is appropriate for several reasons. First, and most generally, a definition which is based on "network functionality" may unduly restrict new entrant

⁶ See, http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1999/fcc99355.doc, § 178 and following,

access to information since the Dominant Licensee probably does not access its information relating to pre-ordering, ordering, provisioning, maintenance and repair, and billing functions through the telecommunications network. Second, and as a specific example, a competitive entrant needs access to loop information of an incumbent in the initial phases of processing an end-user expression of interest in order to make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install.⁸ This requires non-discriminatory electronic access to appropriate databases and information maintained by the incumbent Dominant Licensee.

Pricing

Covad supports the general pricing principles described in § 5.8.8.1 of the proposed Code, that is, using an incremental forward-looking economic cost methodology based on the most efficient technology and practices available. Covad's experience in the United States, however, is that incumbents with similar networks can apply a single costing methodology to arrive at widely disparate proposed prices for individual UNEs. This is of particular concern because dominant incumbents typically seek to use prices as a way of restricting or eliminating market entry by competitors. They apply any identified methodology with this objective in mind. Importantly, it is the prices rather than the pricing methodology that potential entrants will use to determine whether competitive entry is possible.

and p. B-4.

⁷ See, 47 CFR 51.319(f)

⁸ See, http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1999/fcc99238.pdf, §421 and following.

Regulators control market entry decisions and the size of the potential market through their influence on UNE prices.

- High UNE rates may eliminate the possibility of competitive entry altogether, or may restrict the size of the market available to new entrants to the uppermost tier of potential users. (Put another way, regulators may limit a new entrant's strategy to "cream skimming" if UNE rates are set so high that a new entrant cannot competitively serve the mass market.)
- Allowing an incumbent to shift its recurring costs to non-recurring prices for UNEs will raise the sunk costs for a new entrant, with the effect that a new entrant will not enter a market as rapidly. (And may decide not to enter at all.)

The following two provisions of the proposed Code are particularly relevant to decisions by IDA in approving interim prices:

- **Non-discrimination (§ 5.8.1):** "Unless the parties agree otherwise, a Dominant Licensee must provide interconnection and/or access on non-discriminatory terms. In particular, the Licensee must provide interconnection and/or access to a Requesting Licensee on terms and conditions that are no less favourable than the terms and conditions on which it provides comparable services to itself, its affiliates or other Licensees"; and
- **Access discrimination (§ 7.3.2):** "A Dominant Licensee may not provide its down-stream affiliates with access to facilities, services, or information on prices, terms or conditions that are more favourable than the prices, terms and conditions on which the Licensee provides those facilities, services or information to non-affiliated competitors of its "down-stream" affiliate."

SingTel's basic ADSL subscription rate is \$35 monthly with a one-time hardware price of \$230 (if installation is included).⁹ This service is composed of ADSL functionality bundled with both internet access and internet content. It is a critical indicator of the UNE prices necessary to achieve competitive mass market entry.

⁹ See, "SingTel Magix Subscription Rates" from SingNet's web site at <http://www.magix.com.sg/>.

In order to obtain an estimate of the combined price of a local line-shared loop, collocation space, transport and OSS that will support sustainable market entry (the latter three essential inputs assessed on a per-loop basis), the costs of ISP functionality (including a reasonable profit) and of content provisioning would have to be subtracted from the bundled retail monthly price of \$35. This would yield the price of ADSL functionality (the type of telecommunications service that a DSL provider like Covad would wholesale to an ISP customer for further sale to an end-user). From this price, one would need to subtract the inputs (again, assessed on a per-loop basis) that a DSL provider would self-provision (including, collocated equipment like DSLAMs, control routers, test equipment and ATMs; costs associated with the construction and operation of a network operations center as well as in-collocation-space construction and operation expenses; costs associated with operations, sales, and administration; transport costs not paid to the incumbent Dominant Licensee; and a reasonable profit). The resulting amount represents the combined *maximum* total price (on a per loop basis) of the essential inputs obtained from the Dominant Licensee (loops, collocation space, transport, OSS and associated services) if mass market competitive DSL services are to be commercially viable.

Covad is not yet sufficiently familiar with its likely operating costs in Singapore to be able to estimate them for the purpose of this pricing exercise. However, based on its US experience, Covad anticipates that SingTel's proposed UNE prices (even using the proposed FLEC methodology) will be considerably in excess of the prices compelled by commercial reality. Covad urges IDA to be mindful of the role interim prices will play in determining whether there is competitive entry into the mass market for DSL services.

Covad Model Interconnection Agreement

The proposed Code contemplates the development of a Reference Interconnection Offer (“RIO”) by Dominant Licensees and its review and approval by the IDA. Covad anticipates that commercial negotiation with a Dominant Licensee will not improve the terms of the RIO from the perspective of a potential new entrant. A Dominant Licensee has overwhelming bargaining power compared to a new entrant, and, moreover, no economic incentive to improve on the terms of an offer compelled by a regulator since it naturally will seek to limit the entry of competitors.

Since the terms of the RIO are critical in determining whether market entry takes place at all and whether it is commercially sustainable, Covad would like to volunteer its model interconnection agreement as a benchmark for any draft RIO submitted to IDA. Covad’s model agreement is derived from its negotiating and operational experience with all major incumbent local exchange carriers in the United States. It is greatly simplified from those interconnection agreements Covad has actually concluded, tailored for the provision of DSL services, and intended for use as a model both within and external to the United States. While considerable effort has been made to eliminate provisions that were US-specific, the general model at Attachment I has not been tailored for the anticipated regulatory regime in Singapore. Nevertheless, Covad believes its model will be of some benefit to IDA as a demonstration of a draft commercial agreement that should provide for non-discriminatory access to loops, collocation space, transport, and OSS in order to provide DSL service to end users on a competitive basis.

Conclusion

While Covad appreciates IDA's interest in limiting regulation as a general principal, the price of transforming a monopoly environment (even a nascent duopoly environment) to a competitive one is regulatory vigilance and the willingness and ability of a regulator to intervene swiftly and effectively to address abuse of a dominant position and the economic incentives of an incumbent to "Deny, Delay and Degrade" the provisioning of essential inputs. The proposed Code appears to provide the requisite framework, but attaining the goals articulated in the Code will depend greatly on the future practices of the IDA.

Respectfully submitted (electronically)

James D. Earl
International Director
Covad Communications
Hamilton Square
600 14th Street NW
Suite 750
Washington, DC 20005
tel +1 202 220 0406
email jearl@covad.com

2 June 2000

Attachment I

Covad Model Interconnection Agreement

INTERCONNECTION AGREEMENT

*Insert Date of Agreement
(leave blank until ready for final signature)*

COVAD [Insert name of subsidiary]

and

[Insert Incumbent Carrier Company Name]

THIS DOCUMENT IS A DRAFT AND NOT AN OFFER.

INTERCONNECTION AGREEMENT

This Interconnection Agreement (the “Agreement”), entered into this ____ day of _____, 200__, is entered into by and between Covad [insert name of subsidiary company] (“Covad”), a [insert country] corporation, and [Insert Incumbent Company Name] (“XXXX”), a [insert country] corporation, to establish the rates, terms and conditions for interconnection, collocation, and purchase of Unbundled Network Elements.

1. SCOPE OF THIS AGREEMENT

- 1.1. This Agreement (including attachments) specifies the rights and obligations of each party with respect to the establishment, purchase, and sale of Unbundled Network Elements and Collocation.

LIST OF ATTACHMENTS:

I.	Price Schedule
II.	Unbundled Network Elements
III.	General Business Requirements
IV.	Reporting Standards
V	Collocation

- 1.2. Covad and XXXX agree to cooperate in order to satisfy fully end user requirements for telecommunications services (including digital subscriber line services). The provisions of this agreement shall be interpreted in light of this purpose.

2. DEFINITIONS

- 2.1. In this Agreement, including its recitals and attachments, the following terms shall have the following meaning:
- 2.1.1. “Acceptance Testing” shall have the meaning ascribed to in section 5.5.1 of Attachment II.
 - 2.1.2. “Affiliate” [country specific definition for purposes of section 12]
 - 2.1.3. “Applicable Rules” shall have the meaning ascribed to it in section 3.2.
 - 2.1.4. “[Appropriate Regulatory Authority]” – [place definition of the appropriate regulatory authority which has oversight of the Agreement].
 - 2.1.5. “Audit” shall have the meaning ascribed to it in section 6.1.
 - 2.1.6. “Bill Date” shall mean the date upon which XXXX issues a bill to Covad

for any service(s) provided by XXXX to Covad under this Agreement.

- 2.1.7. “Billing Party” shall have the meaning ascribed to it in section 20.2.
- 2.1.8. “Business Day” shall mean [put country specific definition].
- 2.1.9. “Central Office” shall mean the physical location where XXXX’s main distribution frame or similar device is housed terminating a Local Loop.
- 2.1.10. “Collocation” is the placement by Covad of its own telecommunications equipment on the premises or in a facility of XXXX for purposes of interconnecting Covad’s equipment to either a Local Loop or Local Sub-Loop.
- 2.1.11. “Confidential Information” shall have the meaning ascribed to it in section 11.1
- 2.1.12. “Consequential Damages” shall have the meaning ascribed to it in section 8.1.
- 2.1.13. “Covad” shall mean Covad [insert name of country specific subsidiary that enters into the agreement].
- 2.1.14. “Customer Proprietary Network Information” or “CPNI” shall mean XXXX’s records which details the quantity, technical configuration, type, destination and amount of use of a telecommunications service subscribed to by the customer of XXXX, and that is made available to XXXX by virtue of its customer-supplier relationship with the customer.
- 2.1.15. “Demarcation Point” means the point of interconnection whereby XXXX’s Local loop or Local Sub-Loop terminates and the end user’s responsibility for the remainder of the inside wire, if any, commences. In any situation in which XXXX owns the inside wire located within the end user’s premises, the Demarcation Point for the Local Loop or Local Sub-loop will be each telephone jack located in the end user’s premises. In the case where the end user or some other entity other than XXXX owns or has responsibility for the inside wire in the end user’s premises, then the Demarcation Point for the Local Loop or Local Sub-loop will be the NID.
- 2.1.16. “Digital Subscriber Loop” or “DSL” means the technology through which digital signals are transmitted over Local Loops.
- 2.1.17. “Disclosing Part” shall have the meaning ascribed to it in section 11.1
- 2.1.18. “Dispute Resolution” shall have the meaning ascribed to it in section 20.1
- 2.1.19. “Disputed Amounts” shall have the meaning ascribed to it in section 20.2
- 2.1.20. “Due Date” shall have the meaning ascribed to in section 5.2.

- 2.1.21. "Effective Date" shall mean the date upon which Covad or XXXX execute this Agreement, whichever comes later.
- 2.1.22. "Electronic Interface(s)" shall have the meaning ascribed to it in section 2.8.1.1 of Attachment III.
- 2.1.23. "End Date" shall have the meaning ascribed to it in section 4.2.
- 2.1.24. "Examination" shall have the meaning ascribed to it in section 6.1.
- 2.1.25. "Firm Order Confirmation date" or "FOC date" means an official statement made by XXXX to Covad indicating the date upon which XXXX's work to install the UNE will be completed so that the UNE is able to handle any telecommunications service within the parameters specified by Covad. In the case of a Local Loop or Local Sub-Loop, the FOC date means the date upon which the loop is installed and properly conditioned within the parameters specified by Covad in order to handle any telecommunications service including xDSL service, Covad wishes to provide over the loop.
- 2.1.26. "Implementation Plan" shall have the meaning ascribed to it in section 29.1
- 2.1.27. "Implementation Team" shall have the meaning ascribed to it in section 29.1
- 2.1.28. "Line-Sharing" involves multiple use by Covad and XXXX of the same Local Loop: XXXX provides analog voice service to an end user simultaneously over the same Local Loop that Covad uses the Non-Voice Frequencies to provide a telecommunications service, such as xDSL.
- 2.1.29. "Line-Sharing Loops" means Local Loops over which Covad and XXXX perform Line-Sharing.
- 2.1.30. "Local Loop" shall mean a transmission path between the main distribution frame [cross-connect], or its equivalent, in a XXXX Central Office or wire center, and up to the Demarcation Point at a customer or end-user premises. This includes, but is not limited to, in whole or in part, two-wire and four-wire local loops that were initially designed to provide analog voice signals, two-wire and four-wire local loops that were designed to transmit the digital signals needed to provide services such as ISDN BRI and DS1/DS3-level or E1/E3 signals, and two-wire and four-wire local loops that were designed to provide xDSL services.
- 2.1.31. "Local Sub-Loop" shall mean the copper portion of a loop originating at the end user's or customer's Demarcation Point and terminating outside the Central Office at an intermediate terminal, together with the feeder portion of the loop from that remote terminal back to the Central Office, regardless of the technology used to provide that portion (i.e. fibre, copper

etc.).

- 2.1.32. “Loop Acceptance” shall have the meaning ascribed to it in section 5.5.1 of Attachment II.
- 2.1.33. “Network Interface Device” or “NID” is the single-line termination device, or the applicable portion of a multiple-line termination device required to terminate a single line or circuit at the end user’s premises. In cases where the end user owns or is responsible for the inside wiring in his/her premises, the NID is used to define the Demarcation Point at which XXXX’s ownership or responsibility for the Local Loop or Local Sub-loop ends. Typically, the NID features two independent chambers or divisions which separate the service provider's network from the subscriber’s inside wiring. Each chamber or division contains the appropriate connection points or posts to which the service provider and the subscriber each make their connections.
- 2.1.34. “New UNE” shall mean an Unbundled Network Element other than any of the type of UNEs listed in section 2.1 of Attachment II, not otherwise offered by XXXX, which Covad requests XXXX to provide to Covad in accordance with section 3 of Attachment II.
- 2.1.35. “Non-Business Day” shall mean any day that is not a Business Day.
- 2.1.36. “Non-Paying Party” shall have the meaning ascribed to it in section 20.2.
- 2.1.37. “Non-Voice Frequencies” mean any and all transmission frequency associated with the Local Loop that are other than (usually above) the frequency used to provide analog voice service over a Local Loop.
- 2.1.38. “Operations Support Systems” or “OSS” shall mean the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by XXXX’s databases and information.
- 2.1.39. “Parties” means collectively Covad and XXXX
- 2.1.40. “Party” shall mean either Covad or XXXX, as appropriate in the context of the use of the term.
- 2.1.41. “Phase I Response” shall have the meaning ascribed to it in section 3.2.2 of Attachment II.
- 2.1.42. “Phase II Report” shall have the meaning ascribed to it in section 3.3 of Attachment II.
- 2.1.43. “Phase II Acceptance” shall have the meaning ascribed to in section 3.4 of Attachment II.
- 2.1.44. “POTS” means plain old telephone service.

- 2.1.45. "POTS Splitter" means a device designed to separate the Non-Voice Frequencies from the frequencies associated with provisioning analog voice services.
- 2.1.46. "Recipient" shall have the meaning ascribed to it in section 11.1.
- 2.1.47. "Requesting Party" shall have the meaning ascribed to it in section 6.1.
- 2.1.48. "Significant Degradation" shall mean a condition that materially impairs a service from a user's perspective.
- 2.1.49. "Single Point of Contact Centre" or "SPCC" shall have the meaning ascribed to it in section 2.2.1 of Attachment III.
- 2.1.50. "Unbundled Network Elements" or "UNEs" shall mean all services offered by XXXX to Covad listed in section 2.1 of Attachment II and any other service that Covad and XXXX agree that XXXX will provide to Covad under this Agreement including New UNEs.
- 2.1.51. "Virtual Co-location" means an arrangement whereby Covad leases the equipment it wishes to collocate to XXXX, and XXXX becomes responsible for operating, maintaining and servicing the equipment on behalf of Covad.
- 2.1.52. "xDSL" refers to any form of Digital Subscriber Loop technology including Asymmetrical DSL or ADSL, ISDN DSL or IDSL, High-bit rate DSL or HDSL, and Symmetrical DSL or SDSL and all future derivatives and replacements.
- 2.1.53. "XXXX" refers to XXXX, the incumbent carrier in [insert name of countries covered by the Agreement].

3. REGULATORY APPROVALS

- 3.1. This Agreement, and any amendment or modification, will be submitted to the [Appropriate Regulatory Authority] for approval in accordance with [cite applicable legal requirement]. XXXX and Covad shall use their best efforts to obtain approval of this Agreement. In the event any governmental authority or agency rejects any provision of this Agreement or amendment or modification, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.
- 3.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the [cite applicable national statute and any international directives and treaties] and the orders, rules, and regulations promulgated thereunder by [the Appropriate Regulatory Authority] and other applicable law as of the Effective Date ("Applicable Rules"). In the event of any change of law, either Party may, by providing written notice to the other Party,

require that the affected provisions of this Agreement be renegotiated in good faith. The amendment process shall not delay the implementation of national statutes, international directives, treaty requirements, orders, rules, and regulations otherwise applicable to the Parties.

- 3.3. Notwithstanding any other provision of this Agreement to the contrary, section 3.2 hereof shall prevail. Should the Parties be unable to reach agreement with respect to appropriate modifications to this Agreement, either party may invoke the Dispute Resolution provisions of this Agreement as outlined in section 20, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under applicable law within two months of any change in law.

4. TERM AND TERMINATION

- 4.1. This Agreement shall be deemed effective upon the Effective Date and Covad may order and take delivery of Unbundled Network Elements and collocation on and after that date, notwithstanding the pending approval of the [Appropriate Regulatory Authority].
- 4.2. Except as provided for in subsection 4.3, XXXX and Covad agree that the term of this Agreement is a period of **three years** starting from the Effective Date (“End Date”).
- 4.3. Terms and conditions of this Agreement will continue uninterrupted during future negotiations notwithstanding the term identified in section 4.2 so that service to end-users will not be interrupted should a new agreement not be consummated prior to the End Date.
- 4.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party.
- 4.5. Should XXXX sell or trade substantially all the assets in an exchange or group of exchanges where Covad is collocated, then XXXX will ensure that all necessary continuity of service and continuity of agreement provisions are incorporated into any sale or trade agreement so that Covad, its customers and its end-users will retain service continuity during the term of this Agreement at least equal to or better than that provided by XXXX prior to the completion of this transaction.

5. CHARGES AND PAYMENT

- 5.1. In return for the services provided by XXXX under this Agreement, Covad shall pay the charges set forth in Attachment I. The billing and payment procedures for charges incurred by Covad hereunder are set forth in Attachment III.
- 5.2. Subject to the terms of this Agreement, the Parties shall pay invoices by the due date shown on the invoice or within 40 days of the Bill Date, whichever comes

later (the "Due Date"). For invoices not paid when due, late payment charges will be assessed under section 5.5. If the payment Due Date is a Non-Business Day, payment shall be due upon the next Business Day.

- 5.3. Billed amounts for which written, itemized disputes or claims have been filed are not due for payment until such disputes or claims have been resolved in accordance with section 20 of this Agreement.
- 5.4. If a bill has been disputed by Covad and the dispute is resolved in Covad's favor, and the payment by Covad has resulted in an overpayment, XXXX will refund the amount of overpayment to Covad with an additional payment equal to the lesser of [fill in appropriate percentage number] per month or the maximum rate allowed by law for commercial transactions, of the amount of the overpayment, calculated based on the number of months from the date XXXX received Covad's payment, until the overpayment amount is paid in full by XXXX.
- 5.5. XXXX will assess late payment charges to Covad equal to the lesser of [fill in appropriate percentage number] per month or the maximum rate allowed by law for commercial transactions, of the balance due, until the amount due is paid in full.

6. AUDITS AND EXAMINATIONS

- 6.1. As used herein "Audit" shall mean a comprehensive review of services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to services performed under this Agreement billed amounts. Either party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.
- 6.2. Upon thirty (30) days written notice by the Requesting Party to Audited Party, Requesting Party shall have the right through its authorized representative to make an Audit or Examination, during normal business hours, of any records, accounts and processes which contain information bearing upon the provision of the services provided and performance standards agreed to under this Agreement. Within the above-described thirty (30) day period, the Parties shall reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination shall be performed. Audited Party agrees to provide Audit or Examination support, including appropriate access to and use of Audited Party's facilities (e.g.: conference rooms, telephones, copying machines).
- 6.3. Each party shall bear its own expenses in connection with the conduct of the Audit or Examination unless the Audit finds errors that result in adjustments,

credits or payments, and then the party at fault will pay for the full expense of the Audit.

- 6.4. Adjustments based on the Audit findings may be applied to the twelve (12) month period included in the Audit. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) days from receipt of Requesting Party's receipt of the final Audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties.
- 6.5. This section 6 shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Notwithstanding the above, each Party shall grant all licences to use patents or copyrights to the extent necessary for the other Party to use any facilities or equipment (including software) of the first Party or to receive any service solely as provided under this Agreement. No other license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.
- 7.2. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or any liability to, the other Party based on or arising from any claim, demand, or proceeding by any third party alleging or asserting that the use of any circuit, apparatus or system, or the use of any software, or the performance of any service or method, or the provision or use of any facilities by either party under this Agreement, constitutes direct or contributory infringement, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

8. LIMITATION OF LIABILITY

- 8.1. Except in case of willful misconduct, gross negligence or breach of anti-trust or competition law, neither Party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort, provided that the foregoing shall not limit a Party's obligation under section 9 to indemnify, defend, and hold the other party harmless against amounts payable to third parties.

9. INDEMNIFICATION

- 9.1. Each Party agrees to indemnify and hold harmless the other Party from and against claims for damage to tangible personal or real property and/or personal injuries arising out of the negligence or willful act or omission of the indemnifying Party or its agents, servants, employees, contractors or representatives. The indemnifying Party shall not be liable under this section for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.
- 9.2. Each Party agrees to indemnify and hold harmless the other Party from all claims and damages arising from the Indemnifying Party's discontinuance of service to one of the Indemnifying Party's subscribers, customers, and end-users for nonpayment.

10. BRANDING

- 10.1. Covad or its designated agent shall provide the exclusive interface to Covad customers and end-users, except as Covad shall otherwise specify for the reporting of trouble or other matters identified by Covad for which XXXX may directly communicate with Covad customers and end-users if specifically requested to do so by Covad.
- 10.2. Business materials furnished by XXXX to Covad customers and end-users shall bear no corporate name, logo, trademark or tradename of Covad.
- 10.3. Except as specifically permitted by a Party, neither Party may provide information to the other Party's subscribers, customers and end-users about the other Party or the other Party's products or services.
- 10.4. XXXX shall provide training, on a non-discriminatory basis, for all XXXX employees who may communicate, either by telephone or face-to-face, with Covad subscribers, customers or end-users. Such training shall include compliance with the branding requirements of this Agreement.
- 10.5. This section 10 shall not confer on either Party any rights to the service marks, trademarks and/or trade names owned by or used in connection with services by the other Party, except as expressly permitted in writing by the other Party.

11. CONFIDENTIALITY AND PUBLICITY

- 11.1. All information which is disclosed by one Party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of

performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information including but not limited to, orders for services, usage information in any form, and customer and end-user information (“Confidential Information”).

- 11.2. During the term of this Agreement, and for a period of one (1) year thereafter, Recipient shall (i) use it only for the purpose of performing under this Agreement, (ii) hold it in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and (iii) safeguard it from unauthorized use or disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 11.3. Recipient shall have no obligation to safeguard Confidential Information (i) which was in the Recipient’s possession free of restriction prior to its receipt from Disclosing Party, (ii) which becomes publicly known or available through no breach of this Agreement by Recipient, (iii) which is rightfully acquired by Recipient free of restrictions on its disclosure, or (iv) which is independently developed by personnel of Recipient to whom the Disclosing Party’s Confidential Information had not been previously disclosed. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a court order preventing such disclosure. Recipient agrees to comply with any court order that covers the Confidential Information to be disclosed.
- 11.4. Each Party agrees that Disclosing Party would be irreparably injured by an unlawful breach of this section by Recipient or its representatives and that Disclosing Party shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of this section. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 11.5. Except as otherwise expressly provided in this Section 11, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law. Nothing herein shall be construed as limiting the rights of either Party to petition any competent regulatory or judicial authority using any information that would otherwise be deemed to be confidential under this section.

12. ASSIGNMENT AND SUBCONTRACT

- 12.1. If any Affiliate of either Party succeeds to that portion of the business of such Party that is responsible for, or entitled to, any rights, obligations, duties, or other interests under this Agreement, such Affiliate may succeed to those rights, obligations, duties, and interest of such Party under this Agreement. In the event

of any such succession hereunder, the successor shall expressly undertake in writing to the other Party the performance and liability for those obligations and duties as to which it is succeeding a Party to this Agreement. Thereafter, the successor Party shall be deemed Covad or XXXX and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking.

12.2. Except as provided in this section, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void.

12.3. Nothing herein shall be construed as limiting the rights and obligations of either Party pursuant to any order of a competent regulatory authority respecting the rights and obligations of parties affected by a succession, assignment or merger.

13. GOVERNING LAW

13.1. This Agreement shall be governed by and construed in accordance with the [cite national telecommunication and competition/antitrust legislation], orders, rules and regulations of the [Appropriate Regulatory Authority] and international recommendations and requirements of the [European Union,] the International Telecommunication Union, and the World Trade Organization.

14. RELATIONSHIP OF PARTIES

14.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint ventures, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

15. NO THIRD PARTY BENEFICIARIES

15.1. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto.

15.2. Notwithstanding the above, nothing in this Agreement prevents Covad from sub-leasing Collocation and reselling any Unbundled Network Element provided for under this Agreement to any third party.

16. NOTICES

16.1. Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the mail, certified mail, postage prepaid, return receipt requested and addressed as follows:

If to
XXXX:

If to
Covad:

with a
copy to:

With a
Copy to:

16.2. If personal delivery is selected to give notice, a receipt of such delivery shall be obtained. The address to which notices or communications may be given to either party may be changed by written notice given by such Party

17. WAIVERS

- 17.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the waiver is provided in writing in conformity with section 23.
- 17.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 17.3. Waiver by either party of any default by the other Party shall not be deemed a waiver of any other default.

18. SURVIVAL

- 18.1. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

19. FORCE MAJEURE

- 19.1. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier or unusually severe weather. However, even during situations of force majeure, XXXX shall provide service to Covad that is comparable to the service that it provides its retail customers, itself, or other telecommunications service

providers.

20. DISPUTE RESOLUTION

- 20.1. The Parties recognize and agree that the [Appropriate Regulatory Authority and European Union] have continuing jurisdiction to implement and enforce their orders, rules, and regulations. Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties themselves cannot resolve may be submitted to the agency that promulgated the order, rule or regulation giving rise to the dispute (“Dispute Resolution”). The Parties agree to seek expedited resolution, and shall request that resolution occur in no event later than sixty (60) days from the date of submission of such dispute, or in such time frame as the applicable rules for expedited procedure may require. If the [Appropriate Regulatory Authority] appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred. During the proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion. This provision shall not preclude the Parties from seeking relief available in any other forum.
- 20.2. If any portion of an amount due to a Party (“the Billing Party”) under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the “Non-Paying Party”), on or before the Due Date for the invoice containing such disputed amount, shall give written notice to the Billing Party of the amounts it disputes (“Disputed Amounts”) and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due all undisputed amounts to the Billing Party, and shall include a copy of the dispute with the payment of the undisputed amounts. The balance of the Disputed Amounts, after the necessary adjustments have been made for the disputed amounts found in Covad’s favor, shall be paid with late charges in accordance with section 5.5, if appropriate, upon final determination of such dispute.
- 20.3. If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within thirty (30) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative that has authority to settle the dispute and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.
- 20.4. If the Parties are unable to resolve issues related to the Disputed Amounts within thirty (30) days after the Parties’ appointment of designated representatives pursuant to s.20.3, then either may Party proceed with any other remedy pursuant

to law or equity.

- 20.5. Nothing in this Agreement precludes any Party from launching any complaint regarding anti-trust or violations of competition law abuse in any appropriate forum.

21. COOPERATION ON FRAUD

- 21.1. The Parties agree that they shall cooperate with one another to investigate, minimize and take corrective action in cases of fraud. The Parties' fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one party as compared to the other.

22. TAXES

- 22.1. Any taxes or tax-like charges (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The Party obligated to collect and remit taxes shall do so unless the other Party provides such Party with the required evidence of exemption. The Party so obligated to pay any such taxes may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such party shall not permit any lien to exist on any asset of the other party by reason of the contest. The Party obligated to collect and remit taxes shall cooperate fully in any such contest by the other Party by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest.

23. AMENDMENTS AND MODIFICATIONS

- 23.1. No provision of this Agreement shall be deemed waived, amended or modified by either party unless such a waiver, amendment or modification is in writing, dated, and signed by both Parties.

24. SEVERABILITY

- 24.1. Subject to section 3, if any part of this Agreement is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement that is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect.

25. HEADINGS NOT CONTROLLING

- 25.1. The headings and numbering of Sections, Parts and Attachments in this

Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

26. ENTIRE AGREEMENT

26.1. This Agreement, including all Parts and Attachments and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference herein, constitute the entire matter thereof, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

27. COUNTERPARTS

27.1. This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

28. SUCCESSORS AND ASSIGNS

28.1. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and assigns.

29. IMPLEMENTATION PLAN

29.1. This Agreement sets forth the overall standards of performance for services, processes, and systems capabilities that the Parties will provide to each other, and the intervals at which those services, processes and capabilities will be provided. The Parties understand that the arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to form a team (the "Implementation Team") that shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support the terms of this Agreement (the "Implementation Plan"). Each Party shall designate, in writing, no more than four (4) persons to be permanent members of the Implementation Team, at least one of whom has sufficient decision making authority to be able to ensure effective execution of the Implementation Plan; notwithstanding the above, either Party may include in meetings or activities such technical specialists or other individuals as may be reasonably required to address a specific task, matter or subject. Each Party may replace its representatives by delivering written notice thereof to the other Party.

29.2. The Implementation Plan shall address the following matters, and may include any other matters agreed upon by the Implementation Team:

29.2.1. disaster recovery and escalation provisions;

29.2.2. access to Operations Support Systems functions provided hereunder, including gateways and interfaces;

- 29.2.3. escalation procedures for ordering, provisioning, billing, and maintenance;
- 29.2.4. single points of contact for ordering, provisioning, billing, and maintenance;
- 29.2.5. service ordering and provisioning procedures, including provision of the trunks and facilities;
- 29.2.6. provisioning and maintenance support;
- 29.2.7. conditioning and provisioning of collocation space and maintenance of equipment located in a Virtual Collocation;
- 29.2.8. billing processes and procedures;
- 29.2.9. network planning components including time intervals for:
- 29.2.10. joint systems readiness and operational readiness plans;
- 29.2.11. appropriate testing of services, equipment, facilities and Unbundled Network Elements;
- 29.2.12. monitoring of inter-company operational processes;
- 29.2.13. physical and network security concerns; and
- 29.2.14. Establishment of a billing account.

29.3. The Implementation Plan may be amended from time to time by the Implementation Team, as the team deems appropriate. Unanimous written consent of the permanent members of the Implementation Team shall be required for any action of the Implementation Team. If the Implementation Team is unable to act, the existing provisions of the Implementation Plan shall remain in full force and effect.

30. LANGUAGE

30.1. The Parties agree that this Agreement and all written communications provided therein be drafted in the English language with a courtesy translation provided in [insert language].

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized representatives.

XXXX

[Insert XXXX company name]

By:

Name

COVAD

COVAD {insert subsidiary name]

By:

Name

(typed): _____

(typed): _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT I
PRICING**

1. PRICE SCHEDULE

Subject to the provisions of section 3 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

2. UNBUNDLED NETWORK ELEMENTS

- 2.1. The charges that Covad shall pay to XXXX for Unbundled Network Elements are set forth in Table 1 of this Attachment I. COLLOCATION .
- 2.2. The charges that Covad shall pay to XXXX for collocation are set forth in Table 2 of this Attachment I

Table 1 -- Prices for Unbundled Network Elements

Element	Non Recurring Charges	Monthly Rate
Service Order		
2-wire Local Loop capable of supporting xDSL (including NID if the NID is the Demarcation Point)		
2-wire copper Sub-Loop capable of supporting xDSL (from Demarcation Point to fiber interconnection, including NID if NID is the Demarcation Point)		
Line-Sharing Loop (frequencies above Non-Voice Frequencies)		
[DS1 or E1]Dedicated Transport		
[DS3 or E3] Dedicated Transport		
[DS3 or E3] Customer Loop		
OSS Service Charge		
Dark Fiber		

Table 2 -- Prices for Collocation

Item/Service	Non Recurring Charges	Monthly Rate
Application Fee		
Floor Space per [Square Foot or Metre]		
Power Lead per [Foot or Metre]		
Per Fuse Amp (including spare)		
Security Enclosure ([100 Square Feet or 10 Square		

Metre Measurement])		
Cross-Connect, Electrical (Per Connection)		
DS0		
[DS1 or E1]		
[DS3 or E3]		
Conduit Space per [Foot or Metre]		
Riser Space per [Foot or Metre]		
Internal Conduit		
Installation and Maintenance per Half Hour		

**ATTACHMENT II
UNBUNDLED NETWORK ELEMENTS**

1. GENERAL

1.1. Pursuant to the following terms, XXXX will unbundle and separately price and offer Unbundled Network Elements, some of which also may be categorized as telecommunications services, such that Covad will be able to subscribe to and interconnect to whichever of these unbundled elements Covad requires for the purpose of providing Covad's telecommunications services. Covad may use or combine such UNEs in any manner Covad chooses to provide telecommunication services to its intended customers and end-users. Covad shall pay XXXX each month for the UNEs provisioned, and shall pay the non-recurring charges listed in Attachment I, or as agreed to by the Parties for services not listed in Attachment I. XXXX shall deliver the Unbundled Network Elements (except for copper Sub-Loops) purchased by Covad to the designated Covad collocation space.

2. UNBUNDLED NETWORK ELEMENTS

2.1. XXXX shall offer UNEs to Covad for the purpose of offering telecommunication services to Covad customers and end-users. XXXX shall offer UNEs to Covad on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement. The initial set of UNEs include:

2.1.1. Network Interface Device in the case where the Demarcation Point is located at the NIC

2.1.2. Local Loop

2.1.3. Local Sub-Loop

2.1.4. Non-Voice Frequencies

2.1.5. Transport facilities between an intermediate terminal and a Central Office

2.1.6. Transport facilities, including interoffice transport and transport from a Central Office to a customer's premises

2.1.7. Dark fiber

2.1.8. Operations Support Systems

2.2. Covad may use one or more UNEs to provide any feature, function, capability, or service option that such UNE(s) is (are) technically capable of providing. Covad may combine XXXX-provided UNEs with any and all facilities and services whether provided by XXXX, Covad, or any other party. To the extent that Covad wishes to combine more than one UNE with another UNE in an architecture that is already deployed in XXXX's network, then XXXX will provide the combined

UNEs to Covad without additional service charges for reestablishing that architecture (i.e. XXXX cannot charge Covad to create the architecture already in existence).

- 2.3. Each UNE provided by XXXX to Covad shall be provided on a non-discriminatory basis with regard to the quality of design, performance, features, functions, capabilities and other characteristics, including but not limited to levels and types of redundant equipment and facilities for power, diversity and security, and procedures for service restoral that XXXX provides to itself, XXXX's own subscribers, to a XXXX affiliate or to any other entity.

3. PROCESS FOR PROVIDING NEW UNES

- 3.1. Covad may submit a request for a New UNE at any time. Such a request shall be submitted in writing and shall include a technical description of each requested New UNE.
- 3.2. Upon receipt of a New UNE request, XXXX shall:
 - 3.2.1. acknowledge receipt of such request in writing within five (5) Business Days of XXXX's receipt of the request; and
 - 3.2.2. provide to Covad a decision as to whether XXXX will offer access to the NEW UNE or will provide a detailed explanation as to why it will not offer access to it, within thirty (30) days of the receipt of the request (the "Phase I Response").
- 3.3. If XXXX is willing to provide the New UNE, XXXX shall, within thirty (30) days of issuing the Phase I Response, issue a report describing the New UNE, indicating its availability, outlining the applicable prices and establish the installation and service intervals in a manner that is consistent with the obligations of section 2.3 of this Attachment (the "Phase II Report").
- 3.4. Upon receipt of the Phase II Report, Covad shall have thirty (30) days upon which to inform XXXX in writing whether it will proceed with the New UNE (the "Phase II Acceptance"). If Covad elects to proceed with the New UNE, XXXX shall make the New UNE available to Covad within thirty (30) days of XXXX's receipt of the Phase II Acceptance.
- 3.5. Covad may cancel a New UNE request at any time, but shall pay XXXX's reasonable and demonstrable costs of processing and/or implementing the New UNE request up to the date of cancellation.

4. NETWORK INTERFACE DEVICE

- 4.1. In the case where the Demarcation Point is the NID, Covad may connect its NID to XXXX's NID; may connect a Local Loop to its NID; may connect its own loop

to XXXX's NID; or may retain the connection of an Local Loop to XXXX's NID. XXXX will provide one NID termination for each loop.

- 4.2. In the case where the Demarcation Point is the end user's telephone jacks, Covad may connect its customer premises equipment to the Local Loop or Local Sub-loop.
- 4.3. With respect to multiple-line termination devices, Covad shall specify the quantity of NIDs it requires within such device.
- 4.4. In the case where the Demarcation Point is the NID, Local Loops and Local Sub-loops will be supplied to Covad with XXXX's NID unless Covad specifies otherwise. The price of the NID to Covad will be included in the price of the Local Loop.

Figure 1 shows a schematic of a NID.

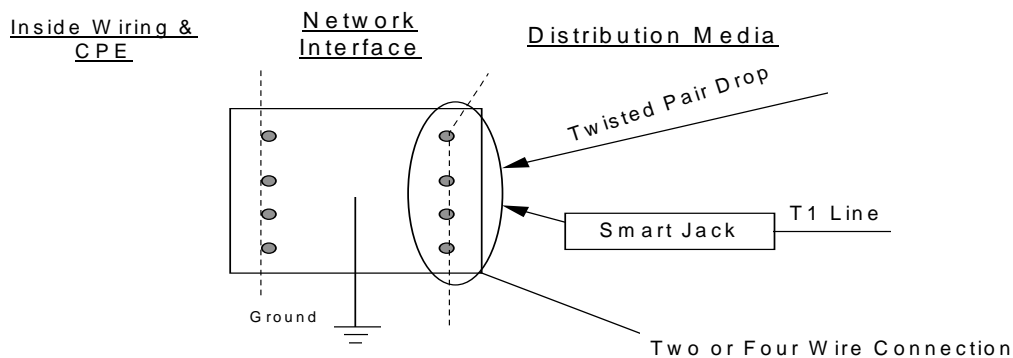


Figure 1 - Network Interface Device

- 4.5. Technical Requirements
 - 4.5.1. In the case where the Demarcation Point is the NID, the XXXX NID shall provide a clean, accessible point of connection for the inside wiring and for the distribution media and/or cross connect to Covad's NID. Each party shall ground its NID independently of the other party's NID.
 - 4.5.2. In the case where the Demarcation Point is the NID, the NID shall be the interface to end-users premises wiring for all loop technologies.

5. LOOPS

5.1. General Commitment

Covad and XXXX will cooperate to develop and deploy Local Loops and Local Sub-loops supporting telecommunications service including xDSL and other broadband services to all requesting end-users. A variety of provisioning arrangements may be necessary to facilitate delivery of the service requested by the end-user depending on the facilities, both present and future, that connect the

end-user with the serving Central Office.

5.2. Local Loop Provisioning

5.2.1. XXXX will provide Local Loops that are presently all-copper, non-multiplexed, unfettered by any intervening equipment (e.g., filters, load coils, range extenders, excessive bridged taps, etc.), so that Covad can use these loops for the provision of telecommunications services including xDSL and other broadband services by attaching appropriate terminal equipment at the ends.

5.2.2. Where XXXX uses multiplexing, Digital Loop Carrier or other similar remote concentration devices or techniques, XXXX will make alternative arrangements at Covad's request and option, to provide a Local Loop suitable for the provision its desired telecommunications service including xDSL and other broadband services. Alternative arrangements may include:

5.2.2.1. Dedicated copper facilities,

5.2.2.2. A Local Loop supported by the insertion of Covad supplied line cards into a multiplexing device capable of hosting multiple telecommunications services; or

5.2.2.3. Cross-connects to a Covad supplied multiplexing device within, or adjacent to, the intermediate terminal for use either with XXXX transport to the serving Central Office or with transport from the intermediate terminal (or any adjacent cross-connected terminal) supplied by a provider other than XXXX. In the latter case, Covad is purchasing a Local Sub-Loop from XXXX.

5.3. Line Sharing

5.3.1. XXXX will provide Covad with access to the Non-Voice Frequencies of the Local Loop or Local Sub-Loop, upon request, whenever technically feasible.

5.3.2. The availability of Line Sharing is not limited to any particular technology provided that the analog voice channel is protected from Significant Degradation.

5.4. Spectrum Issues

5.4.1. Covad and XXXX will deploy xDSL and other UNE technologies that (1) comply with existing industry standards, (2) are approved by an industry standards body or the [Appropriate Regulatory Authority], or (3) have been successfully deployed by any carrier without Significant Degradation to the performance of other services.

5.4.2. In the event that either Covad or XXXX believes that its services are suffering Significant Degradation by services offered by the other, it will notify the other Party and both Parties shall cooperate with one another and with other carriers to isolate and eliminate the source of the Significant Degradation.

5.5. Acceptance Testing

5.5.1. XXXX will assist Covad in performing tests to ensure that the Local Loop/Local Sub-Loop is appropriately provisioned ("Acceptance Testing"). Specifically, the XXXX technician installing the Local Loop/Local Sub-Loop will place a call to the appropriate person in Covad immediately after completing installation of the loop, in order for both companies to perform joint testing of the loop's acceptability to Covad (i.e. to begin the Acceptance Testing). Once Acceptance Testing is completed and Covad has determined that the Local Loop/Local Sub-Loop is appropriately provisioned, Covad will accept the Local Loop/Local Sub-Loop ("Loop Acceptance"). Acceptance Testing normally requires a Covad technician to be on the end-users premises. If the loop is inappropriately provisioned, XXXX will reimburse Covad for its costs associated with Acceptance Testing.

5.5.2. Covad may institute an Examination, as per section 6 of this Agreement, to assess whether over 90% of the Acceptance Testing resulted immediately in a Loop Acceptance. If the Acceptance Testing does not meet the 90% threshold in any given month, then Covad will not be charged for any non-recurring charges for loops ordered in that month. If the Acceptance Testing indicates that the 90% threshold was not met for three consecutive months, then in addition to the waiver of the loop non-recurring ordering charges for each of those months, XXXX will not charge Covad any non-recurring loop ordering charges for the next ninety (90) days.

6. TRANSPORT

6.1. Transport provides a local interoffice transmission path between XXXX and/or Covad offices and/or points of presence. Transport shall be provisioned by the ILEC in the most economically efficient manner as to reduce Covad's costs, including by use of dedicated or shared transport trunking using currently available technologies including, but not limited to, [E1 or DS1] and [E3 or DS3] transport systems, SONET (or SDH) Bi-directional Line Switched Rings, SONET (or SDH) Unidirectional Path Switched Rings, and SONET (or SDH) point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates, including but not limited to OC-3 and OC-12.

**ATTACHMENT III
GENERAL BUSINESS REQUIREMENTS**

1. PROCEDURES

- 1.1. The Implementation Team, as part of the Implementation Plan, shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the service ordering, provisioning, maintenance, and subscriber usage data transfer processes to facilitate rapid and timely resolution of disputes. In addition, the Implementation Team will establish inter-company contacts lists for purposes of handling subscriber, customer and end-user and other matters which require attention/resolution outside of normal business procedures within thirty (30) days after Covad's request. Each party shall notify the other party of any changes to its escalation contact list as soon as practicable before such changes are effective.
- 1.2. No later than thirty (30) days after Covad's request XXXX shall provide Covad with contingency plans for those cases in which normal service ordering, provisioning, maintenance, billing, and other procedures for XXXX's Unbundled Network Elements, features, functions, and services are inoperable.
- 1.3. Service Offerings
 - 1.3.1. XXXX shall provide notice to Covad within thirty (30) days of adoption of any new services, features and functions to XXXX's network, and will make that service available to Covad on or before XXXX provides that service to its own customers.

2. ORDERING AND PROVISIONING

- 2.1. XXXX shall provide necessary ordering and provisioning business process support as well as those technical and systems interfaces as may be required to enable Covad to provide the same level and quality of service for all services, functions, features, capabilities and UNEs at parity with itself, its affiliates, and its end-users in accordance with the requirements of section 2.3 of Attachment II.
- 2.2. Single Point of ContactCenter (SPCC)
 - 2.2.1. XXXX shall provide a Single Point of Contact Centre or equivalent ("Single Point of Contact Centre" or "SPCC") which shall serve as Covad's point of contact for all activities involved in the ordering, provisioning and maintenance of XXXX's UNEs, features, functions, and services.
 - 2.2.2. The SPCC shall provide to Covad a single telephone number answered by competent, knowledgeable personnel on a 24-hour basis and trained to answer questions and resolve problems in connection with the ordering

and provisioning of UNEs and their features, functions, capabilities, and services.

2.2.3. XXXX shall provide, as requested by Covad, through the SPCC, provisioning and premises visit installation support in the form of coordinated scheduling, status, and dispatch capabilities during XXXX's standard business hours and at other times as agreed upon by the parties to meet subscriber demand.

2.3. Street Address Guide (SAG).

2.3.1. Within thirty (30) days of Covad's written request, XXXX shall provide to Covad the street address guide data, or its equivalent, in an electronic format mutually agreeable to the parties. All changes and updates to the street address guide shall be provided to in a mutually agreed format and timeframe.

2.4. Service Order Process Requirements

2.4.1. Service Migrations and New Subscriber, Customer and End-user Additions

2.4.1.1. For services provided through UNEs including Line-Sharing, XXXX shall recognize Covad as an agent for the subscriber, customer or end-user in coordinating the disconnection of services provided by Covad or XXXX. In addition, XXXX and Covad will work cooperatively to minimize service interruptions during the conversion.

2.4.1.2. For conversions requiring coordinated cut-over activities, on a per order basis, XXXX and Covad will agree on a scheduled conversion time, which will be a designated time period, lasting no longer than 15 minutes, on a designated date.

2.4.2. Due Date

2.4.2.1. With the exception of Collocation, Unbundled Network Elements shall be delivered to Covad within 4 Business Days of order placement.

2.4.2.2. Collocation shall be delivered to Covad within 45 Business Days of order placement unless Covad requests the construction of a cage or other physical separation around its collocation location in which case deliveries to Covad shall be within 60 Business Days.

2.4.3. Subscriber, Customer, End-User Premises Inspections and Installations

2.4.3.1. Covad shall perform or contract for all Covad's needs assessments, including equipment and installation requirements

required beyond the Demarcation Point, located at the subscriber, customer, or end-user premises.

2.4.3.2. XXXX shall provide Covad with the ability to schedule premises installations at the same morning and evening commitment level of service offered by XXXX to its own customers. The Parties shall mutually agree on an interim process to provide this functionality during the implementation planning process.

2.4.4. Firm Order Confirmation (FOC)

2.4.4.1. XXXX shall provide to Covad a Firm Order Confirmation (FOC) date for each Covad order of a Local Loop or Local Sub-Loop one Business Day after the UNE order is submitted to XXXX by Covad. For all other UNE orders other than Local Loop, Local Sub-Loop or Collocation, XXXX will provide the FOC date two (2) Business Days after the UNE order is submitted to XXXX by Covad.

2.4.4.2. For a revised FOC date, XXXX shall detail the reasons for delaying the installation.

2.4.5. Order Rejections

2.4.5.1. Should XXXX reject a Covad order, XXXX shall, in any reject notification, specifically describe all of the reasons for which the order was rejected. Before rejecting the order XXXX shall review the entire order and identify all possible reasons for rejection. Complete reject notices will be sent to Covad in the same intervals as the FOC date.

2.4.6. Service Order Changes

2.4.6.1. In no event will XXXX change a Covad initiated service order without a new service order directing said change. If an installation or other Covad ordered work requires a change from the original Covad service order in any manner, Covad shall initiate a revised service order. If requested by Covad, XXXX shall then provide Covad an estimate of additional labor hours and/or materials.

2.4.6.2. When a service order is completed, the cost of the work performed will be reported promptly to Covad.

2.4.6.3. If a Covad subscriber, customer or end-user requests a service change at the time of installation or other work being performed by XXXX on behalf of Covad, XXXX, while at the subscriber, customer or end-user premises, shall direct the Covad subscriber,

customer or end-user to contact Covad, and Covad will initiate a new service order.

2.5. Network Testing.

2.5.1. XXXX shall perform all its standard pre-service testing prior to the completion of the service order and the initiation of Acceptance Testing.

2.6. Service Suspensions/Restorations.

2.6.1. Upon Covad's request through an industry standard, or mutually agreed upon interim procedure, XXXX shall suspend or restore the functionality of any Unbundled Network Element, feature, function, or service to which suspension/restoration is applicable. XXXX shall provide restoration priority on a per Unbundled Network Element basis in conformity with the requirements of section 2.3 of Attachment II.

2.7. Order Completion Notification.

2.7.1. Upon completion of the requests submitted by Covad, XXXX shall provide to Covad a completion notification in an industry standard or in a mutually agreed format. The completion notification shall include detail of the work performed.

2.8. Systems Interfaces and Information Exchanges

2.8.1. General Requirements

2.8.1.1. XXXX shall provide to Covad electronic interface(s) for transferring and receiving information and executing transactions for all business functions (including prequalification of loops, enabling Covad to convey to its end-user the services available) directly or indirectly related to service ordering and provisioning of Unbundled Network Elements, features, functions and telecommunications services ("Electronic Interface(s)"). The Electronic Interface(s) shall be developed/designed for the transmission of data from Covad to XXXX, and from XXXX to Covad.

2.8.1.2. Interim interfaces or processes may be modified, if so agreed by Covad and XXXX, during the interim period.

2.8.1.3. Until the Electronic Interface is available, XXXX agrees that the SPCC or similar function will accept Covad orders. Orders will be transmitted to the SPCC via an interface or method agreed upon by Covad and XXXX.

2.8.2. For any Covad subscriber, customers or end-users XXXX shall provide, subject to applicable rules, orders, and decisions of the [Appropriate Regulatory Authority], Covad with access Customer Proprietary Network

Information (“CPNI”) without requiring Covad to produce a signed letter of authorization, based on Covad’s blanket representation that subscriber has authorized Covad to obtain such CPNI.

2.9. Standards

2.9.1. Covad and XXXX shall agree upon the appropriate ordering and provisioning codes to be used for UNEs.

3. BILLING

3.1. XXXX shall submit monthly bills to Covad no later than 60 days after the month in which service is provided. Covad shall not be responsible for paying untimely bills.

3.2. XXXX shall provide to Covad a single financial point of contact to handle any connectivity billing questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.

3.3. Subject to the terms of this Agreement, Covad shall pay XXXX within forty (40) days from the Bill Date. If the payment Due Date is a Non-Business Day, payment shall be made the next Business Day.

3.4. Billed amounts for which written, itemized disputes or claims have been filed shall be handled in accordance with the procedures set forth in section 5 of this Agreement.

3.5. XXXX will assess late payment charges to Covad in accordance with section 5.5 of this Agreement.

3.6. XXXX shall credit Covad for incorrect connectivity billing charges including without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems if caused by XXXX. XXXX will include a payment of interest in accordance with section 5.5.

3.7. Revenue Protection.

XXXX shall make available to Covad, at Parity with what XXXX provides to itself, its Affiliates and other local telecommunications carriers, all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the Unbundled Network Elements. XXXX shall, when technically capable and consistent with the implementation schedule for Operations Support Systems, additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent OSS.

4. GENERAL NETWORK REQUIREMENTS

- 4.1. XXXX shall provide repair, maintenance and testing for all resold telecommunications services and such UNEs that XXXX is able to test. Notwithstanding the above, Covad must be able to directly test the performance of the Local Loop/Local Sub-Loop itself, and accordingly, XXXX will cooperate with the appropriate procedures.
- 4.2. During the term of this Agreement, XXXX shall provide necessary maintenance business process support as well as those technical and systems interface in accordance with the requirements of section 2.3 of Attachment II.
- 4.3. XXXX shall provide Covad maintenance dispatch personnel in accordance with the requirements of section 2.3 of Attachment II, including the requirement to provide maintenance within the same time schedules that it offers to its own customers.
- 4.4. XXXX shall cooperate with Covad to meet maintenance standards for all telecommunications services and Unbundled Network Elements ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.
- 4.5. All XXXX employees or contractors who perform repair service for Covad subscribers shall follow XXXX standard procedures in all their communications with Covad subscribers. These procedures and protocols shall ensure that:
 - 4.5.1. XXXX employees or contractors shall perform repair service that consistent with XXXX's obligation under section 2.3 of Attachment II; and
 - 4.5.2. Trouble calls from Covad shall receive response time priority that is equal to that of XXXX subscribers and shall be handled on a "first come first served" basis regardless of whether the subscriber is a Covad subscriber or a XXXX subscriber.
- 4.6. XXXX shall provide Covad with scheduled maintenance for resold lines, including, without limitation, required and recommended maintenance intervals and procedures, for all telecommunications services and Unbundled Network Elements provided to Covad under this Agreement equal in quality to that currently provided by XXXX in the maintenance of its own network.
- 4.7. XXXX shall support Covad's testing of its UNEs, services and network operations.
- 4.8. XXXX shall give maximum advanced notice to Covad of all non-scheduled maintenance or other planned network activities to be performed by XXXX on any Unbundled Network Element, including any hardware, equipment, software, or system, providing service functionality of which may potentially impact Covad subscribers.

4.9. Notice of Network Event.

Each party has the duty to alert the other of any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance.

4.10. On all misdirected calls from Covad subscribers requesting repair, XXXX shall provide such Covad subscriber with the correct Covad repair telephone number as such number is provided to XXXX by Covad

4.11. Upon establishment of an Electronic Interface, XXXX shall notify Covad via such electronic interface upon completion of trouble report. The report shall not be considered closed until such notification is made. Covad will contact its subscriber to determine if repairs were completed and confirm the trouble no longer exists.

4.12. XXXX shall provide test results to Covad, if appropriate, for trouble clearance. In all instances, XXXX shall provide Covad with the disposition of the trouble.

4.13. If XXXX initiates trouble handling procedures, it will bear all costs associated with that activity. If Covad requests the trouble dispatch, and either there is no trouble found, or the trouble is determined to be beyond the Demarcation Point, then Covad will bear the cost.

5. PERFORMANCE PENALTIES

5.1. If XXXX fails to deliver the loop in time specified in section 2.4.2.1 of this Attachment, XXXX shall waive the Service Order charges outlined in section 3 of Attachment 1 for provisioning that customer loop. If the loop is still not delivered by four Business Days after the date specified in section 2.4.2.1 of this Attachment (i.e. 8 Business Days after it was ordered), XXXX will credit Covad the equivalent of one month's charge for the loop in question as stated in section 3 of Attachment 1. For each Business Day that the loop is not provisioned thereafter, XXXX will credit Covad an additional month of the monthly loopcharge.

5.2. If XXXX fails to deliver to Covad the collocation site in the time frames specified in section 2.4.2.2 of this Attachment, then XXXX shall waive the Application fee outlined in section 3 of Attachment I. If the collocation site is still not handed over to Covad within five Business Days after the date specified in section 2.4.2.2 of this Attachment, then XXXX will credit Covad the equivalent of one month's charges for that site as specified in Table 2 of Attachment 1. For each Business Day that XXXX fails to hand over the collocation site to Covad thereafter, XXXX will credit Covad an additional month of the monthly charges specified in Table 2 of Attachment 1 for that collocation site.

**ATTACHMENT IV
REPORTING STANDARDS**

6. GENERAL

6.1. XXXX shall satisfy all service standards, intervals, measurements, specifications, performance requirements, technical requirements, and performance standards that are specified in this agreement or are required by law or regulation.

7. PARITY AND QUALITY MEASUREMENTS

7.1. XXXX will develop self-reporting capabilities comparing XXXX results with Covad results for the following measures of service parity within six (6) months, but no later than [Date to be inserted]. Any and all of these items can be subject to scrutiny by Covad through the Examination and Audit procedures outlined in section 6 of this Agreement. The specific parameters for parity and quality measures are:

7.1.1. Percentage of Commitment Times Met - Service Order

% of FOC on time

% of orders with jeopardy

% of orders with no facilities

Average provision interval from receipt of order to test and turn up

7.1.2. Percentage of Commitment Times Met - Trouble Report

Mean time to repair

% troubles out of service greater than 24 hours

7.1.3. Percent Repeated Trouble Reports

% of Repeated Trouble Reports where repair was within 30 days of installation

7.1.4. Average receive to clear

7.1.5. Percentage of installed orders without repair in the first five (5) days

7.1.6. Average time to respond to collocation request

7.1.7. Average time to provide collocation cage

7.1.8. % of time interface available

**ATTACHMENT V
COLLOCATION**

1. GENERAL

- 1.1. Covad will physically collocate equipment in and in proximity to XXXX facilities (including, but not limited to, Central Offices and intermediate terminals) under the requirements of section 2.3 of Attachment II.
- 1.2. XXXX will make collocation space available in single-bay increments (i.e. Covad may purchase space in increments small enough to collocate a single rack, or bay, of equipment) and will be charged for on the basis of floor space utilized. XXXX will cooperate with Covad to identify collocation space in any unused space in XXXX's premises so as to contribute to the overall efficiency of the premises (by, for example, minimizing the length of cross-connects from the main distribution frame to Covad's collocation space, and collocating the POTS Splitter used in Line-Sharing immediately adjacent to the main distribution frame). XXXX will not require Covad to collocate in a room or isolated space separate from XXXX's own equipment.
- 1.3. Security enclosures will be made available by XXXX at Covad's option, but shall not be required
- 1.4. In the event Covad elects to share collocation space with another telecommunications service provider, the applicable collocation charges outlined in Attachment I will be prorated between Covad and the other collocators.
- 1.5. XXXX may not refuse to permit collocation of equipment on the grounds that it does not meet performance, rather than safety, requirements. In addition, XXXX may not impose safety requirements on Covad that are more stringent than the safety requirements it imposes on its own equipment that is located in its premises. If Covad is denied use of collocation space for its equipment, citing safety standards, XXXX must provide to Covad, within five Business Days, a list of all equipment that XXXX locates within the premises and Covad shall be permitted to inspect the entire premises within five Business Days thereafter.
- 1.6. Covad may collocate, subject only to safety standards, any equipment it determines to be used or useful for interconnection, maintenance of its network, and access to UNE's (including Line-Sharing), regardless of other functionalities inherent in such equipment. Covad may collocate such equipment as DSLAMS, routers, ATM multiplexers, and remote switching modules, in addition to loop testing equipment and patch panels.
- 1.7. XXXX shall furnish all environmental controls (such as air conditioning) for Covad's collocation space in a manner with those provided elsewhere in the building. Should upgrades become necessary, XXXX will allocate the cost of such upgrades on a non-discriminatory basis among itself, Covad, and other

collators on the basis of floor space utilized.

- 1.8. Covad, shall, at its discretion, establish cross-connects to the collocated equipment of other carriers collocated at XXXX's premises.
- 1.9. Should Covad and XXXX mutually determine that space is legitimately exhausted in a particular XXXX facility, XXXX will permit Covad to collocate in adjacent controlled environmental vaults or similar structures.
- 1.10. Covad will comply with reasonable security measures instituted by XXXX. These include, for example XXXX's installation of security cameras or other monitoring systems, or the requirement that personnel use badges with computer tracking systems. XXXX may require Covad's employees to undergo the same level of security training, or its equivalent, that XXXX's own employees, or third party contractors providing similar functions, must undergo.
- 1.11. Covad will have access to its collocated equipment 24 hours a day, seven days a week, without the requirement of an XXXX escort anytime.
- 1.12. In order to utilize Line-Sharing Loops, Covad will purchase an appropriate POTS Splitter which it will convey to XXXX. XXXX will locate the POTS Splitter in close proximity to the main distribution frame and will utilize it to provision Line-Sharing Loops to Covad's collocation space. XXXX will thereby retain full control over the analog voice transmission path of its POTS customer.

2. PROCEDURES

- 2.1. Within 5 Business Days of paying the application fee (a non-recurring charge that recovers the cost of processing the collocation application and provides for the preliminary work needed to determine where space and facilities are available in XXXX's premises to meet Covad's request), representatives of Covad and XXXX will conduct a walk-through of XXXX's premises to determine where Covad's collocation space might be located for efficient operation.
- 2.2. If XXXX informs Covad that there is no space available in the facility in which Covad seeks to collocate, representatives of Covad and XXXX will conduct a walk-through of XXXX's premises to determine whether collocation space might be found. XXXX will reduce administrative space, consolidate equipment and remove obsolete and unused equipment in order to afford Covad collocation space.
- 2.3. Within 10 Business Days of receipt of the application fee, XXXX will provide to Covad a cost estimate of non-recurring collocation charges.
- 2.4. Upon payment of half of the amount of the cost estimate of non-recurring collocation charges, XXXX will commence construction.
- 2.5. In accordance with section 2.4.2.2 of Attachment III, XXXX will deliver a conditioned, conforming collocation space within 45 Business Days of the

payment of half of the cost estimate of non-recurring collocation charges (60 Business Days when Covad orders construction of an enclosure).

- 2.6. Between the 30th and 35th Business Day (the 45th and 50th Business Days when Covad orders construction of an enclosure), Covad shall have the right to inspect construction to ensure that completion will be timely and in conformity with its order.
- 2.7. XXXX will ensure that cross-connects for Local Loops and Line-Sharing Loops will terminate within Covad's collocation space before the 40th Business Day after Covad submits payment of half of the cost estimate of non-recurring collocation charges (the 55th Business Day when Covad orders construction of an enclosure).
- 2.8. Performance penalties will be assessed in accordance with section 5 of Attachment III if Covad does not accept the collocation space on its Due Date because of non-conformity with its order or incomplete construction and provisioning.
- 2.9. Covad will pay the outstanding non-recurring costs within forty (40) days of receiving a final bill detailing any differences between the estimate and actual costs.

3. COLLOCATION AT INTERMEDIATE PREMISES

- 3.1. In the case of Local Sub-Loop, Covad shall have the option, but not the obligation, to obtain collocation at the remote terminal where the Local Sub-Loop appears in a form of a dedicated copper facility running between the Demarcation Point and the remote terminal.

4. PRICING

- 4.1. Pricing for collocation is detailed in Attachment I.