

July 28, 2008

*Via Electronic Filing*

Ms. Reneé J. Jenkins  
Director of Administration  
Secretary of the Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

RE: In the Matter of Stand Energy Corporation v. TTI National, Inc.; PUCO Case No. 08-856-TP-CSS

Dear Ms. Jenkins:

TTI National, Inc. submits its Answer and Affirmative Defenses for electronic filing in the above-referenced matter.

The exhibits are not available in WORD format and therefore are not included in the native file.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,

/s/ Carolyn S. Flahive

Enclosure

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of Stand Energy  
Corporation,**

**Complainant**

**v.**

**TTI National, Inc.,**

**Respondent.**

**Case No. 08-856-TP-CSS**

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**ANSWER AND AFFIRMATIVE DEFENSES  
OF TTI NATIONAL, INC.**

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TTI National, Inc. ("TTI"), through its counsel, respectfully answers the Complaint of Stand Energy Corporation ("Complainant") and raises its affirmative defenses thereto as follows:

**A.     ANSWER**

1.     On information and belief, TTI admits the allegations of Paragraph 1 of the Complaint.
2.     TTI admits the allegations of Paragraph 2 of the Complaint.
3.     TTI admits that Complainant began receiving telecommunications services from TTI on or about September 30, 2003. TTI lacks knowledge or information sufficient to form a belief as to truth of the allegation that Complainant switched to a new interstate long distance carrier on February 29, 2008 and therefore denies same. TTI denies that Complainant cancelled its services with TTI on February 29, 2008. TTI denies that Paragraph 3 of the Complaint contains a complete recitation of the provisions of Section V of Complainant's "General Service Agreement for Residential and Small Business Customers" (hereinafter, "GSA") with TTI. Answering further, TTI states that Complainant failed to comply with the provisions of Section V.A. of the GSA, which governs cancellation of service by the customer, as

Complainant concedes in Paragraph 4 of the Complaint. TTI denies the remaining allegations of Paragraph 3 of the Complaint.

4. TTI admits that Complainant did not provide TTI with advance written notice of the cancellation of service. TTI denies that Complainant has ever submitted written notice of the cancellation of service. Answering further, TTI states that Complainant's failure constitutes a breach of Section V.A. of the GSA, which requires 30 days advance written notice of cancellation to TTI. TTI lacks knowledge or information sufficient to form a belief as to the truth of the allegation that Complainant's breach was due to an "over cite [sic]," and therefore denies same. TTI admits that Complainant paid TTI's invoices through the March 25, 2008 invoice. TTI denies that Complainant cancelled the GSA on February 29, 2008, and denies the remaining allegations of Paragraph 4 of the Complaint.

5. TTI admits that Complainant sent a letter dated May 5, 2008 to TTI National, Inc. 20855 Stone Oak Parkway, San Antonio, TX 78258, Attn: Customer Service. TTI lacks knowledge or information sufficient to form a belief as to whether Complainant sent this letter when it received an invoice dated April 25, 2008 from TTI, or who received and signed for the letter, and therefore denies same. TTI denies that the May 5, 2008 letter requested cancellation of service under Section V.A. of the GSA or otherwise. TTI denies the remaining allegations of Paragraph 5 of the Complaint.

6. TTI admits that it spoke with a representative or representatives of Complainant on or about May 28, 2008, and that said representative or representatives referenced the May 5, 2008 letter. TTI admits that its customer service group handles billing disputes. TTI lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 of the Complaint and therefore denies them.

7. TTI admits that it spoke with a representative or representatives of Complainant on or about May 28, 2008 and that Complainant's representative or representatives indicated that Complainant wished to cancel its service and that Complainant refused to pay outstanding amounts due. TTI denies

that the May 5, 2008 letter requested cancellation of service under Section V.A. of the GSA or otherwise. TTI admits that Complainant made threats of filing a complaint with the PUCO. TTI denies the remaining allegations of the Complaint.

8. TTI denies the allegations of Paragraph 8 of the Complaint.
9. TTI denies the allegations of Paragraph 9 of the Complaint.
10. TTI denies the allegations of Paragraph 10 of the Complaint.
11. TTI denies that Complainant is entitled to any of the relief requested in the Complaint.

**B. AFFIRMATIVE DEFENSES**

1. **No Violation of R.C. § 4905.26.** The Complaint fails to state grounds for a complaint against TTI pursuant to R.C. § 4905.26 because Complainant has not alleged any violation of any rules, regulations or laws that would constitute a violation of R.C. § 4905.26.

While the Complaint includes the conclusory legal assertion that TTI has violated ORC 4901:1-5-03 because “Respondent has failed to furnish Complainant with ‘reasonable access’ to company representatives for purposes of responding to it’s [sic] complaint herein even after written request (via certified U.S. Mail) and verbal requests (via telephone conversations and messages) by Complainant,” this legal conclusion is flatly and fatally contradicted by Complainant’s own factual allegations. The Complaint expressly alleges that Complainant used two toll-free numbers provided by TTI to speak with TTI representatives, including TTI customer service representatives (*see* Complaint at ¶¶ 6-7); that TTI returned Complainant’s call (*id.* at ¶ 6); that Complainant had several phone conversations with TTI representatives (*id.* at ¶¶ 6-7); that TTI provided a mailing address for written communications to TTI customer service (*id.* at ¶ 5); and that TTI received written communications mailed to that address (*id.*).

The factual allegations of the Complaint unequivocally demonstrate “reasonable access” to TTI representatives. It is transparently evident that Complainant has simply “cut and pasted” its allegations

here from the June 27, 2008 Complaint it filed against OPEX Communications, Inc. in PUCO Case No. 08-0813 (“OPEX Complaint”). There, Complainant alleges that mail sent to OPEX was returned as undeliverable and phone calls/e-mails were not returned, and resulting in a violation of ORC 4901:1-5-03 for “fail[ure] to furnish Complainant with ‘reasonable access’ to company representatives. See ¶¶ 5-8 of the OPEX Complaint, a true and correct copy of which is attached as **Exhibit 1** hereto. Even a brief comparison of the OPEX Complaint and the instant one demonstrates that Complainant’s allegations here, a blatant “dupe-and-revise” job using the text of the OPEX Complaint, are frivolous on their face and 100% refuted by other allegations throughout the Complaint.

Similarly, while Complainant makes the conclusory legal assertion that TTI has violated OAC 4901:1-5-07 “by engaging in post-termination ‘cramming’ of charges for services Complainant is no longer receiving or obligated to receive onto post-termination invoices to Complainant” – an allegation lifted word-for-word from ¶ 9 of the OPEX Complaint, by the way – this legal conclusion is again contradicted by Complainant’s own factual allegations, which *admit* that Complainant did not request cancellation of service in compliance with the provisions of Section V.A. of the GSA (see Complaint at ¶ 4). Complainant expressly concedes its “over cite [sic]” in failing to cancel pursuant to the GSA’s terms, just as it concedes the same “over cite [sic]” – right down to the repetition of the typographical error, no less – at ¶ 4 of the OPEX Complaint.

Although Complainant characterizes its May 5, 2008 letter as a cancellation request, it opted not to attach the letter to the Complaint. Why? Because the May 5, 2008 letter references a billing dispute and does not invoke or otherwise comply with the cancellation process addressed Section V.A. of the GSA, or even mention the words “cancellation” or “termination.” See **Exhibit 2** hereto, which is a true and correct copy of Complainant’s May 5, 2008 letter to TTI.

Because the factual allegations of the Complaint directly contradict Complainant’s conclusory legal assertions of statutory and/or rule violations, owing to Complainant’s “recycling” of the OPEX

Complaint, Complainant has failed to allege that TTI has taken any unlawful actions under R.C.

§ 4905.26 and the Complaint should be dismissed.

2. **Lack of Commission Jurisdiction.** The Commission has no jurisdiction over Complainant's claims because the GSA between Complainant and TTI contains a mandatory arbitration provision under which Complainant's exclusive relief following failed dispute resolution is "final and binding arbitration." *See* Sections VIII.B. and VIII.C. of the GSA between Complainant and TTI, a true and correct copy of which is attached as **Exhibit 3**. Complainant has thus waived its right to pursue relief here, and the Complaint should be dismissed.

3. **Failure to Request Cancellation of Service.** The Complaint must be dismissed because Complainant *admits* that it failed to request cancellation of services pursuant to Section V.A. of the GSA. *See* Complaint at ¶ 4. As noted above, the May 5, 2008 letter references a billing dispute and does not invoke or otherwise comply with the cancellation process addressed in Section V.A. of the GSA, nor does it even use the words "cancellation" or "termination." *See* Exhibit 2 hereto. Because Complainant admits that it failed to request cancellation of service, Complainant's conclusory allegations of "post-termination billing" are contradicted by its own factual allegations and the Complaint must be dismissed.

4. **Complainant's Breach of the GSA.** Complainant has breached at least two provisions of the GSA that are relevant to its Complaint: (1) Complainant failed to provide 30 days advance written notice of cancellation of service pursuant to Section V.A. of the GSA; and (2) Complainant filed the instant Complaint in violation of the mandatory arbitration provisions of Section VIII.C of the GSA. *See* Exhibit 3. Because Complainant has breached these contractual requirements, its Complaint must be dismissed, since cancellation of service is the predicate assumption underlying its claims, and in any event, Complainant's exclusive remedy is "final and binding arbitration."

5. **Complainant's Failure to Attach the GSA to the Complaint.** Under Ohio Rule of Civil Procedure 10(D)(1), where any claim is founded on an account or other written instrument, a copy

of the account or written instrument must be attached to the pleading, or state the reason for its omission therein. Complainant's claims are predicated upon the GSA and the May 5, 2008 letter, but Complainant failed to attach them to the Complaint. Complainant has thus failed to comply with O.R.C.P. 10(D)(1). The Complaint should be dismissed for these deficiencies.

6. **Satisfaction Pursuant to O.A.C. 4901-9-01.** The crux of the Complaint is Complainant's belief that TTI should have known of Complainant's desire to cancel the GSA despite Complainant's admitted failure to follow the cancellation process in Section V.A. thereof (*see* Complaint at ¶ 4), and Complainant's unwillingness to pay TTI's post-March 25, 2008 invoices. The Complaint has been satisfied by TTI's cancellation of Complainant's account and the waiver of all outstanding charges. TTI advised Complainant of these actions by overnight letter dated July 25, 2008, a true and correct copy of which is attached as **Exhibit 4**. Complainant is not entitled to any further relief. To allow this proceeding to continue for the sake of indulging Complainant's desire to consume TTI's and this Commission's resources on the basis of a recycled complaint previously filed against another carrier is wholly inappropriate. Pursuant to O.A.C. 4901-9-01(F), the Commission should give Complainant twenty (20) days to file a written response agreeing or disagreeing with the satisfaction of the Complaint. If no response is filed, the Commission may presume that the Complaint has been satisfied and dismiss it.

**WHEREFORE**, TTI National, Inc. requests that the Complaint be dismissed with prejudice.

Dated: July 28, 2008

Respectfully submitted,

**TTI NATIONAL, INC.**

By: /s/ Carolyn S. Flahive  
Thomas E. Lodge  
Carolyn S. Flahive  
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Columbus, Ohio 43215-3435  
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(614) 469-3361 FAX  
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Chicago, Illinois 60601  
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(312) 470-5571 FAX  
[deborah.kuhn@verizon.com](mailto:deborah.kuhn@verizon.com)

Its Attorneys



## CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a copy of the foregoing *Answer and Affirmative Defenses of TTI National, Inc.* upon:

John M. Dosker, TA  
General Counsel  
Stand Energy Corporation  
1077 Celestial Street, Suite 110  
Cincinnati, OH 45202-1629

by U.S. mail this 28th day of July, 2008.

/s/ Carolyn S. Flahive

Carolyn S. Flahive

**EXHIBIT 1**



1077 Celestial Street • Rookwood Bldg. • Suite 110  
Cincinnati, Ohio 45202-1629  
(513) 621-1113  
(800) 598-2046  
(513) 621-3773 Fax

6

RECEIVED-DOCKETING DIV

2008 JUN 30 PM 1:43

PUCO

June 27, 2008

**VIA UPS NEXT DAY AIR SAVER**

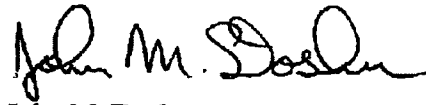
Public Utilities Commission of Ohio  
Docketing Division  
13th Floor  
180 East Broad Street  
Columbus, OH 43215-3793

Re: Case No. 08- 813 -TP-CSS

Ladies and Gentlemen:

Enclosed for filing are an original and ten copies of Stand Energy Corporation's Complaint against Telecommunications Provider OPEX Communications, Inc.

Sincerely,



John M. Dosker  
General Counsel

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician                      Date Processed 6/30/08

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV  
2008 JUN 30 PM 1:43

PUCO

In the Matter of the Complaint of: )

**Stand Energy Corporation** )  
1077 Celestial Street, Suite 110 )  
Cincinnati, Ohio 45202-1629 )

Complainant )

v. )

Case No. 08- 813 TP-CSS

**OPEX Communications, Inc.** )  
707 Wilshire Blvd. )  
12th Floor )  
Los Angeles, CA 90017 )

**Serve: CT Corporation System** )  
1300 E. 9th Street )  
Cleveland, OH 44114 )

Respondent )

**Complaint**

Stand Energy Corporation, by and through the undersigned counsel, brings the following Complaint against OPEX Communications, Inc. (hereinafter "Respondent") an approved telecommunications provider in Ohio.

1. Stand Energy Corporation (hereinafter "Complainant") is a Kentucky corporation, registered to do business in the State of Ohio as a foreign corporation and partially regulated by the Public Utilities Commission of Ohio as a natural gas marketing company. Complainant's principal place of business is 1077 Celestial Street, Suite 110, Cincinnati, Ohio 45202-1629.

2. Respondent is authorized to do business in Ohio as a foreign corporation by the Ohio Secretary of State. Respondent is authorized to provide 800 telecommunications services pursuant to proceedings in PUCO Case No. 90-5843-CT-TRF. Respondent's address on file with the Ohio Secretary of State is that set forth in the original application for Premiercom, Inc. (d.b.a. Premiercom Management Company), to wit: 500 Higgins Road, Suite 200, Elk Grove Village, Illinois 60007. The Ohio Secretary of State's records show that Premiercom, Inc. changed its name to OPEX Communications on February 23, 2000.

3. Complainant received telecommunications services from Respondent pursuant to contract from May 31, 2007 to February 29, 2008 when Complainant switched to a new 800 carrier. The last paragraph of the Respondent's Terms and Conditions is "Notices" which requires notice to Respondent to be accomplished by contacting Respondent at 500 E. Higgins Rd., Elk Grove Village IL 60007.

4. Due to an over cite, Complainant did not provide Respondent with any advance notice of the cancellation of service. However, Complainant would submit that switching 800 carriers should have been a pretty clear signal to Respondent of Complainant's intent to cancel. Impossibility of performance is but one contract defense that is available to Complainant.

5. When Complainant received an invoice from Respondent with "recurring charges" dated April 1, 2008 (after having switched carriers in February), Complainant sent a written letter to OPEX Communications at the address listed on the contract, 500 E. Higgins Road, Elk Grove, Illinois 60007 Attn: Contract Administrator. This letter was mailed April 9,

2008 and returned to Complainant several days later marked "undeliverable forwarding order expired" by the U.S. Post Office. In the April 9, 2008 letter Complainant requested any proof from Respondent (under the "Terms and Conditions" of the contract between the parties) that Complainant had entered into a term agreement - because otherwise the contract term was month-to-month at the time of cancellation. Therefore, Complainant's obligations to Respondent should not be significantly more than one month (March which charges Complainant paid in the ordinary course before the due date). Respondent has never replied to any letter, voice-mail or e-mail from Complainant. Respondent has however continued to send Complainant repeated invoices.

6. Upon return of the April 9, 2008 letter described above, Complainant obtained Respondent's address from the Internet and sent a certified mail letter dated April 15, 2008 to Respondent addressed to "Opex Communications 707 Wilshire Blvd, 12th Floor, Los Angeles, CA 90017".

7. Numerous additional e-mails and phone calls were sent to or left with Respondent. Respondent never had any substantive response to Complainant's issues, questions or requests. Even e-mails to the company received "auto responses" promising replies that never came.

8. For the reasons set forth herein and as will be more specifically proven at the hearing on this Complaint, Respondent has provided inadequate telecommunications service to Complainant by, *inter alia*, violation of ORC 4901:1-5-03. Respondent has failed to furnish

Complainant with "reasonable access" to company representatives for purposes of responding to it's complaint herein even after repeated written requests (via e-mail and certified U.S. Mail) and verbal requests (via telephone conversations and messages) by Complainant.

9. Respondent has provided inadequate service by engaging in post-termination "cramming" of charges for services Complainant is no longer receiving or obligated to receive onto post-termination invoices to Complainant and other violations of OAC 4901:1-5-07 all of which are unconscionable and in violation of Ohio law.

10. Respondent has engaged in unfair and deceptive acts or practices relative to the actions giving rise to the Complaint herein as described in the attached Exhibits and as will be more fully proven at hearing.

**WHEREFORE,** Complainant requests the following relief:

- a. Complainant requests a hearing be held before a Hearing Examiner of the PUCO to determine that Respondent has provided inadequate service and has engaged in a variety of activities in violation of Ohio law;
- b. An Order be issued that all improper invoices submitted by Respondent to Complainant be withdrawn and cancelled and such other and further punitive measures against Respondent as the Commission deems appropriate to protect Ohio residents.
- c. All other relief legal, equitable and otherwise to which Complainant may be entitled.

Respectfully Submitted,

STAND ENERGY CORPORATION

BY: John M. Dosker  
John M. Dosker, TA  
Its General Counsel  
1077 Celestial Street, Suite 110  
Cincinnati, Ohio 45202-1629  
(513) 621-1113 (Phone)  
(513) 621-3773 (Fax)  
jdosker@stand-energy.com (e-mail)

STATE OF OHIO  
COUNTY OF HAMILTON

Signed and sworn to before me, a Notary Public in the State of Ohio, this 27<sup>th</sup> day of  
June, 2008 by John M. Dosker, personally known to me. My Commission Expires: 2-7-2011

Kathy L. Kellems  
NOTARY PUBLIC  
KATHY L. KELLEMS  
Notary Public, State of Ohio  
My Commission Expires  
February 7, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Affidavit was served upon the following  
parties of record via ordinary U.S. Mail postage prepaid on June 25, 2008.

PUCO Docketing Division  
13th Floor  
180 East Broad Street  
Columbus, Ohio 43215-3793

OPEX Communications, Inc.  
707 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90017

John M. Dosker  
John M. Dosker



**EXHIBIT 2**



1077 Colonial Street - Rockwood Bldg. - Suite 110  
Cincinnati, Ohio 45202-1629  
(513) 621-1113  
(800) 598-2046  
(513) 621-5773 Fax

May 5, 2008

TTI National, Inc.  
20855 Stone Oak Parkway  
San Antonio, TX 78258  
Attn: Customer Service

**VIA CERTIFIED U. S. MAIL**  
**RETURN RECEIPT REQUESTED**

**Re: Notice of Cancellation of Agreement With Stand Energy Corporation  
Account Number 2000960812 X17**

To Whom It May Concern:

Stand Energy Corporation installed a new telephone system on February 29, 2008 and began obtaining phone services from another carrier on the same day. Stand Energy Corporation no longer utilized the services, or any assets of TTI National, Inc., after February 29, 2008. Nevertheless, Stand Energy Corporation received an invoice from TTI National, Inc. for March and partial April service. Stand Energy paid the March/April invoice. We just received an invoice dated April 25, 2008 for the April/May period which contains \$25.48 in "recurring charges" and various taxes and surcharges on top of the recurring charges for the months of April/May 2008 when your company wasn't providing any services at all to Stand Energy. I have enclosed a copy of the summary billing page for your reference.

*You are hereby notified that Stand Energy Corporation protests the April 25, 2008 invoice and any future invoices containing "recurring charges". We protest under common law, the UCC, the fair debt collections practices act and any other applicable law.*

I am confident either the Ohio courts or the Public Utilities Commission of Ohio (where I practice law on a regular basis) would interpret the contract documents in my possession in favor of Stand Energy Corporation. I await a reply indicating the position of TTI National, Inc.

Respectfully,

A handwritten signature in dark ink, appearing to read "John M. Dosker".

John M. Dosker  
General Counsel

Encls.

**EXHIBIT 3**



**General Service Agreement  
For Residential and  
Small Business Customers**

Effective Date - July 1, 2007



## **General Service Agreement For Residential and Small Business Customers**

Thank you for choosing service from TTI National, Inc. or its successors ("Company").

**PLEASE READ THIS GENERAL SERVICE AGREEMENT CAREFULLY.** This governs the relationship between the Residential customer and the Small Business customer (respectively, "Customer") and the Company and explains, among other things, the following:

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### **I. THE AGREEMENT**

**The Customer's agreement ("Agreement") with the Company consists of this General Service Agreement, the Company's website, and the current terms of any optional calling plan, promotion, separate contract, and/or authorized written communications the Customer has received from the Company.**

BY ENROLLING IN, USING, OR PAYING FOR COMPANY SERVICES, THE CUSTOMER AGREES TO THE RATES, CHARGES, AND TERMS AND CONDITIONS IN THIS AGREEMENT. IF THIS AGREEMENT IS NOT ACCEPTABLE, THE CUSTOMER SHOULD NOT USE THE SERVICES AND SHOULD NOTIFY THE COMPANY IMMEDIATELY AT 1-800-893-5094.

The Company may change this Agreement at any time. Any changes to the Customer's Interstate Dial 1 rates will become effective only after the Company notifies the Customer at least 15 days in advance of such change through one of the following means: (i) by postcard or letter; (ii) by a message with the Customer's invoice; (iii) by calling

and speaking to the Customer or by leaving a message for the Customer; or (iv) by e-mail, with the Customer's consent. Written notice to the Customer will be sent to the Customer's last known address as reflected in the Company's records. Written notice is deemed received 3 days after deposit in the U.S. mail, postage prepaid, and properly addressed according to the address in the Company's records. At a minimum, changes to any other rates, charges (including rates and charges for international services), or terms or conditions in the Agreement will be published in the Company's website at least 15 days in advance of such change and will be incorporated by reference into this Agreement.

For purposes of the Agreement, "Customer" means either (i) the person or Small Business entity identified in the Company's account records as responsible for payment of all charges; or (ii) any other person or entity with actual or apparent authority to represent that person or Small Business entity or to use the Company-provided services.

This Agreement covers the Customer's state-to-state and international services and charges. Rates and charges for international calls and any additional terms and conditions associated with such calls can be found by visiting the Company's website at [www.ttinational.com](http://www.ttinational.com) or by calling Company Customer Service toll-free at 1-800-893-5094. To the extent permitted by law, this Agreement also covers the Company's local or intrastate service(s) and charges and the Company's dial around service(s) and charges, where the Agreement's provisions relating to these services and charges are not in conflict with applicable tariffs filed with state and federal agencies.

The rates and charges found in the Agreement are effective as of July 1, 2007 and are subject to change. For the most current version of this General Service Agreement or if the Customer has questions about service(s), Customers should visit the Company's website at <http://www.ttinational.com> or call toll-free at 1-800-893-5094.

## **II. SERVICE**

### **A. Optional Calling Plans**

If the Customer requests an optional calling plan, that calling plan is described in a separate document that is either included along with this General Service Agreement

or was sent to the Customer when the Customer initially selected the calling plan from the Company. The terms of the Customer's optional calling plan are incorporated by reference in this Agreement. Please note that, under an optional calling plan that has different per minute rates for different time periods, when a domestic or international call is begun during one time period and then ends during another time period, the rate for each time period applies for the portion of the call occurring during that time period.

#### **B. Promotions / Bonus Offers**

Promotions and/or bonus offers may be communicated to the Customer orally or in writing at the Company's discretion. For all promotions or bonus offers, a Customer's eligibility is limited as follows:

1. Only one bonus/affinity program at any one time will be associated with any account or Customer.
2. Only one enrollment bonus will be awarded to any Customer.
3. Sign-up bonuses or promotions are available only to new Customers of the Company.
4. To receive ongoing benefits of a bonus award or promotion, a Customer must be a customer of the Company and in good standing at the time such award or promotion is scheduled to be granted.
5. The Company reserves the right to amend or terminate bonus programs and/or promotions upon appropriate notice to the Customer.
6. If a Customer is eligible to receive free minutes of calling under any Company promotion(s), the Customer will not be eligible to receive, during any 12-month period, a total amount of free minutes of calling in excess of 2,500 minutes.

#### **C. Services and Rates**

The rates in Paragraphs C.3-5 and 7 below on pages 4-10 will apply regardless of which optional calling plan the Customer has selected.

##### **1. In-State Dial 1 Long Distance and Local Toll**

This Agreement applies to in-state long distance and local toll calls in those states that do not regulate rates through filings with the state public utility commission. Rates vary among such states and are subject to change, so the Customer should contact the Company for specific rate information.



## **2. International Services**

This service allows the Customer to place a long distance call to an international location, if the Customer has selected the Company for long distance service and the Customer's telephone number is located with the U.S. mainland, Alaska, Hawaii, or certain U.S. territories. The Customer may find international rates and charges on the Company's website at <http://www.ttinternational.com/agreement> or by calling Company Customer Service toll-free at 1-800-893-5094. The Customer may place a call to an international location from the Customer's telephone by dialing 011 + country code + telephone number for countries other than Canada and certain Caribbean areas, or by dialing 1 + area code + telephone number for Canada and certain Caribbean areas.

## **3. Toll Free Service from Canada**

The Business Benefits products provides a Customer with toll free telephone number(s), on either a switched or dedicated network connection, as requested by the Customer, with which the Customer may receive calls from any location in Canada and the Customer's account will be billed for these calls at the following per-minute rates, based on termination type:

Per-Minute Rate:	Switched: \$0.1900
	Dedicated: \$0.1800

## **4. Directory Assistance**

The Customer may access Directory Assistance ("DA") by dialing 1 + area code + 555-1212. A charge will be applied to each call for information for any telephone number in the U.S. mainland, Alaska, Hawaii, the U.S. territories, and certain international locations. Up to two requests may be made on each DA call. The DA charge applies to each call regardless of whether or not the DA operator is able to furnish the requested telephone number. If the Customer fails to request more than one listing on any call to the Company's DA, the Customer will not receive credit for a second listing on any subsequent call to the Company's DA.

Per-Call Charge:	\$3.49
------------------	--------

Additional Per-Call Charge for Call Completion:

The Customer requests a live or automated Company operator to complete a call to the DA listing requested.

\$0.35
--------

Directory Assistance for International Location Calls:

For Canada:

Service is accessed by dialing "00" which connects the Customer with a Company operator who will assist the Customer in obtaining directory assistance.

Per Call Charge: \$2.49

For all other countries outside of the US:

Service is accessed by dialing 1010222+0 which connects the Customer with a Company operator who will assist the Customer in obtaining directory assistance.

Per-Listing Charge: \$7.94

Per-Call Surcharge: \$3.50

## 5. Operator Assistance

The following rates and surcharges apply to long distance calls that are completed with the assistance of the Company's automated or live operator services, except that the surcharges do not apply for calls to certain international locations that may be reached only with the assistance of operator services (for a list of such international locations, call Company Customer Service at 1-800-893-5094). These operator services options can be accessed by dialing "00" or by dialing 0 + the interstate long distance area code + the 7-digit number.

Per-Minute Rate for all calls identified in this section:  
\$1.15

A Per-Call Surcharge of \$6.50 applies to each of the following types of calls:

Station-to-Station Collect The Customer places a call by using the Company's operator services to reach another number, and, if accepted by the called station, the call is completed and billed to the called number.

Station-to-Station — Third Party-Billed The Customer asks the Company's operator services to place a call to reach one number, but to bill the call to a third number which is neither the originating nor the called number. Charges may be billed, and the call may be completed, only if the operator obtains verbal acceptance from the third party.

Station-to-Station — Non-Company-Issued Card Calling The Customer places a call by using the Company's operator services to reach another number, and asks that the call be billed to the Customer's credit card or a local calling card issued by a local telephone company.

A Per-Call Surcharge of \$12.50 applies to each of the following types of calls:

Person-to-Person Collect The Customer places a call by using the Company's operator services to reach a specific person, and, if the specific person is available and accepts the call, the call is completed and billed to the called number.

Person-to-Person — Third Party-Billed The Customer asks the Company's operator services to place a call to reach a specific person, but to bill the call to a third number which is neither the originating nor the called number. Charges may be billed, and the call may be completed, only if the person is available and if the operator obtains verbal acceptance from the third party.

A Per-Call Surcharge of \$1.95 applies to the following type of call:

Coin-Sent Paid Calls The Customer places a long distance call to a number at a location in the U.S. mainland, Alaska, Hawaii, or the U.S. territories and makes the call from a public or semi-public payphone located in the U.S. mainland, Alaska, Hawaii, or the U.S. territories, which call is paid for by inserting coins during the progress of the call.

The following surcharges also may apply to calls using the Company's operator services and, if applicable, will be applied in addition to the above surcharges:

Casual Calling Surcharge This surcharge applies: (i) to calls made when all the following 3 conditions apply: (1) when a call is completed over the Company's network and the caller does not have an active account with the Company ("Casual Calling"); (2) with a non-Company-issued calling card or a credit card; and (3) by using the Company's operator services; and (ii) to calls made when both of the following 2 conditions apply: (1) if either of the following apply: (a) after cancellation of the Customer's Company service resulting from the Customer or the

Customer's local telephone company providing assurances to the Company that the Customer has switched carriers, the Customer's telephone line actually remains designated to the Company at the local telephone company's switch; or (b) the Company cancels the Customer's account and blocks the Customer's line from placing calls on the Company's network for a reason described in Section V.B below on pages 18-21 and the Customer has not changed carriers within 120 days of the line being blocked, and then the Company lifts such block and allows the Customer access to the Company's network; and (2) by using the Company's operator services: \$3.50

Different rates may apply for operator service-assisted calls considered "local" or "intra-LATA" calls. The Customer should contact the Company for specific rate information.

## **6. Rounding Policy**

For billing purposes, the length of each domestic call is rounded to the next higher full minute. The length of each international call is rounded at six (6) second intervals, following an initial 30-second minimum. If the computed charge includes a fraction of a cent, the fraction is rounded to the nearest whole cent. If the computed charges for taxes and surcharges include a fraction of a cent, the fraction is rounded to the nearest whole cent.

## **7. Other Charges**

### **a. Federal Universal Service Fee ("FUSF")**

This rate is determined quarterly by the Federal Communications Commission. The current rate may be found at: [www.ttinational.com/fusf](http://www.ttinational.com/fusf)

### **b. Carrier Cost Recovery Charge**

The Company imposes a monthly charge in order to recover expenses the Company incurs with regard to the national fund for Telecommunications Relay Service, national number portability, access charges, and federal regulatory fees and programs. This charge, assessed on the Customer's state-to-state and international charges, is 1.4% per account per month.

**c. Payphone Use Charge**

Charges for calls that originate from any payphone in the U.S. or the U.S. territories and are carried over the Company's network will include a \$0.55 charge. This charge will be in addition to applicable surcharges and other charges.

**d. Carrier Access Charge (Primary Interexchange Carrier Charge) for multi-line Small Business Customers**

Monthly charge per each telephone number on the multi-line Small Business Customer's account:

\$2.61

Monthly charge per each telephone number on the ISDN BRlline on a Small Business Customer's account:

\$2.61

Monthly charge per each telephone number on the ISDN PRlline on a Small Business Customer's account:

\$0.54

Monthly charge per each telephone number on a SuperTrunk line on a Small Business Customer's account:

\$0.54

Monthly charge per each telephone number on a Small Business Customer's Centrex System:

\$0.26

**e. Taxes**

1. The Company's charges for services provided to the Customer do not include:

- a. applicable federal, state, local, and foreign sales, use, excise, utility, gross receipts and value added taxes;
- b. any tax imposed by an authority on the benefits of a promotion offered by the Company involving services or goods of a third party;
- c. other taxes;
- d. tax-like charges to recover amounts the Company is required by a governmental or quasi-governmental authority to collect from others or pay to others in support of statutory or regulatory funds or programs;
- e. other tax-like charges; and
- f. a tax-related surcharge imposed on all charges (net of bad debts) for outbound service originating

in, or inbound service terminating in, a jurisdiction which levies, or asserts a claim of right to levy:

- 1.** a gross receipts tax, a license tax, or other tax-like charge on the Company's operations in that jurisdiction based on the Company's gross receipts, revenues or operations in that jurisdiction; or
- 2.** a tax on interstate access charges incurred by the Company for access to telephone exchanges in that jurisdiction based on the amount paid for interstate access charges in that jurisdiction; and
- g.** a tax-related surcharge in addition to the other charges for service, based on billing availability, equal to 2.5% of the total interstate and international charges (including usage and nonusage) after the application of applicable discounts and credits, which allows the Company to recover a portion of the property tax that it pays to state and local jurisdictions.

**2.** All taxes, tax-like charges, and tax-related surcharges are referred to collectively as "Tax(es)." The Company may elect to impose and collect such Taxes, unless otherwise constrained by court order or direction. The Customer agrees to pay all Taxes imposed. If the Company has collected Taxes and a challenged Tax is found to have been invalid and unenforceable, the Company, in its sole discretion, will either reduce service rates for a fixed period of time in the future in order to flow-through to customers an amount equivalent to the amounts collected, or it will credit or refund such amounts to affected customers (less its reasonable administrative costs), if the amounts collected were retained by the Company or if they were delivered over to the jurisdiction and returned to the Company, or it will negotiate an arrangement with the jurisdiction to provide a future benefit for customers in that jurisdiction.

**3.** If the Customer provides the Company with a duly authorized tax exemption certificate, the Company will exempt the Customer in accordance with law, effective on the date the Company receives the certificate.

**4.** Taxes based on the Company's net income will be the Company's sole responsibility.

**5.** If the Customer is required by the laws of any foreign tax jurisdiction to withhold income or profit taxes from a payment, within 90 days of the withholding, the Customer

will provide the Company with official tax certificates documenting remittance of the taxes. The tax certificates will be in a form sufficient to document qualification of the taxes for the foreign tax credit allowable against the Company's U.S. corporation income tax, and will be accompanied by an English translation. Upon receipt of the tax certificate, the Company will issue the Customer a credit for the amounts represented thereby.

**f. Additional Surcharges**

The Company may adjust its rates and charges or impose additional rates and charges in order to recover amounts it is required or permitted by governmental or quasi-governmental authorities to collect from others or pay to others in support of statutory or regulatory funds, fees, or programs ("Governmental Charges"). Examples of such Governmental Charges include, but are not limited to, Universal Service funding, utility and other fees imposed on communications providers, Primary Interexchange Carrier Charge cost recovery, and compensation payable to payphone service providers for use of their payphones to access the Company's service.

**III. RESTRICTIONS ON THE USE OF SERVICES**

**A.** The Company offers its services subject to availability of facilities, limitations of service offerings, and the provisions of this Agreement.

**B.** Services provided by the Company under this Agreement will not be used:

- 1.** For any unlawful purpose; or
- 2.** For making telephone calls that terminate into electronic information services, pay-per-call services, or other domestic or international audiotext services; or
- 3.** For international call-back offerings using uncompleted call signaling to any country, when that country has prohibited such an offering by statute or regulatory decision; or
- 4.** For residential purposes, if the Company is providing the Customer with Small Business services; or
- 5.** For commercial, business, or non-residential purposes, if the Company is providing the Customer with Residential services.

**C.** The Company may (a) deny, for any lawful reason, the Customer's request for service, or (b) limit or allocate the facilities available to or utilized by any service, if necessary, to manage its network in an efficient manner; meet reasonable service expectations; furnish service to existing and future customers based on forecasted customer requirements; or for any other lawful reason.

**D.** The Company may, without notice (consistent with governing laws or regulations), block traffic to or from specific countries, country codes, cities, city codes, local telephone exchanges ("NXX exchanges"), individual telephone stations, groups or ranges of individual telephone stations, or calls using certain customer authorization codes, whenever the Company deems it necessary to take such action to prevent (1) the unlawful use of service; (2) nonpayment for service; (3) the use of service in violation of this Agreement; or (4) network blockage or the degradation of service furnished to the Customer or other Customers.

**E.** Due to the portable nature of the Company's calling card codes that are issued to the Company's customers, the Company reserves the right to block, without notice, any calling card code that the Company deems to have been used, or that might be used, for fraudulent purposes. The Company may also intercept calling card calls for the dual purposes of verifying customer information and fraud avoidance. The Company will provide subsequent written notification by mail, and/or voice notification, of such blocking or termination. The Company will unblock as soon as it determines it can do so without undue risk, and it will, upon request by an affected customer, assign new card authorization codes to replace any that were deactivated.

**F.** Whenever call blocking occurs on lines designated to the Company at the local telephone company's switch, customers or former customers will be unable to access the Company's network in order to make long distance and local toll calls, including, but not limited to, placing calls by dialing 1+ or 1010XXX or by dialing any dial-around code belonging to the Company.

**G.** Calls may not be placed or received using 1010555 dialing, Collect, Sent Paid, or 3rd Party calling conventions whenever (1) there is no obligation on the part of the serving local telephone company to perform billing and collection on behalf of the Company; or (2) where an



obligation exists on the part of the serving local telephone company to perform billing and collection on behalf of the Company, but the local telephone company fails to discharge the obligation properly; or (3) the serving local telephone company fails to furnish, or provides untimely or inadequate, billing name and address ("BNA") to the Company; or (4) the serving local telephone company fails to furnish timely or adequate telephone number installation and disconnect information to the Company. For the purposes of this paragraph, call blocking will occur whenever the Company is unable to recover at least 60% of its billable revenues from customers within a local telephone company service area during any monthly billing period as the result of unavailable, untimely, or inadequate billing and collection or as the result of unavailable, untimely, or inadequate BNA or telephone number installation and disconnect information.

#### **IV. PAYMENT OBLIGATIONS**

##### **A. Payment Terms**

1. The Customer is responsible for payment of all charges for services furnished to the Customer, including any applicable minimum monthly billing commitment, underutilization, or early termination charges. This responsibility is not changed, by virtue of any use, misuse, or abuse of the Customer's service or Customer-provided systems, equipment, facilities, or services interconnected to the Customer's service, undertaken or caused by third parties, including, without limitation, the Customer's employees or other members of the public. The Customer is responsible for payments made to anyone other than directly to TTI or to an authorized TTI payment agent. An authorized TTI payment agent is a third party expressly authorized by TTI to accept and forward payments to TTI. The Customer may determine the location of authorized payment agents in the Customer's area by calling 1-800-853-4495.

2. Charges for service may be:

- a. non-recurring or one-time charges that are payable when the service with which they are associated has been performed. If an entity other than the Company (e.g., another carrier or a supplier) imposes charges on the Company in connection with service provided to a Customer, those charges, along with the Company's own internal costs incurred in connection

with service for which a Company-imposed non-recurring charge is specified, will be charged to the Customer;

- b.** recurring charges which are fixed in amount and not dependent on usage are billed in advance;
- c.** usage charges which are billed after each usage cycle; or
- d.** minimum monthly billing commitment charges.

**3.** The charges for which the Customer is responsible are the rates and charges in effect at the end of the monthly billing period applicable to the Customer for the service provided.

**4.** The Company's bills are due upon receipt. Amounts not paid within thirty (30) days of the invoice date will be considered past due. If the Company becomes concerned at any time about the Customer's ability to pay for services, the Company may require that the Customer pay its charges within a specified number of days and/or that the Customer make such payments in cash or the equivalent of cash. A late payment charge equal to the lesser of: (i) 1.5 percent per month, compounded, or (ii) the maximum amount allowed by applicable law will be applied against past due amounts.

**5.** If the Customer's telecommunications payment history is not acceptable to the Company or if the Customer's telecommunications payment history is unknown or indeterminable, the Customer may be required, at any time, to provide (i) pre-invoice payment based on usage incurred; (ii) a valid major credit card account number from an issuer acceptable to the Company and authorization for the Company to charge usage to the Customer's credit card account; or (iii) agreement that the Customer's usage of the Company network and services will be subject to toll usage limits to be determined by the Company. Prior to the Customer's compliance with this request, the Company reserves the right to cease accepting and processing service orders. The Company may request subsequent additional pre-invoice payments for usage and may increase or decrease toll usage limits as it deems appropriate. The Company may refuse to furnish services if any charges owed by the Customer to the Company or any Company affiliate are past due for service(s) provided to the Customer.

**6.** All installation charges assume installation at normal locations under normal working conditions. Any installation made under other circumstances is subject to an additional charge.

**7.** If the Company incurs any fees or expenses, including attorneys' fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

**8.** If a Customer whose account has been closed has a credit balance showing, the Company will transfer the credit to another account, if there is one, or will mail a check for the balance to the Customer at its last known address according to the records of the Company. If the payment is returned by the post office as undeliverable, the Company will begin applying a closed-account maintenance charge of \$2.50 per month in the second monthly billing period following the month in which the account was closed, and will continue to apply that charge until the Customer requests a refund of the remaining balance or the balance is exhausted.

**9.** Promotional or other credits offered by the Company in marketing its services cannot be assigned, but must be used by the entities to whom they were offered, and which earned them, in strict accordance with the terms of the offer.

**10.** For a Customer who resides overseas and is a stand-alone subscriber to any Company card service that is direct-billed rather than billed through a major third-party credit card, the Company may discontinue service, without notice, if the Customer's unpaid balance on its account equals or exceeds \$300.00. Service will be restored when the Customer pays the unpaid balance in full to the Company.

**11.** Where service is provided by Company to a Customer pursuant to a separate contract that pre-exists this Agreement and where such contract is not expired or terminated, the terms and conditions of such contract are incorporated as part of this Agreement. If there is any inconsistency or conflict between the terms and conditions of such separate contract and the provisions of this Agreement, the provisions of this Agreement will control.

**12.** If billing systems or other support are not available for a service, feature, surcharge, or other charge element at the time of service provision, the Company will bill for that service, feature, surcharge, or other charge element as soon as it is capable of doing so.

**13.** Except in cases involving fraud, the Company will invoice previously unbilled charges for service if the invoice date is no later than one hundred and eighty (180) days from the end of the monthly billing period in which the charges occurred. In cases involving fraud, the Company will invoice previously unbilled charges if the invoice date is no later than eighteen (18) months from the end of the monthly billing period in which the charges occurred.

**14.** When a Customer opts for single-end billing of foreign carrier charges, the Customer is responsible for the charges billed for the entire network as if the service were provided domestically. The Customer is also responsible for payment of any loss on foreign exchange arising in the process of converting a foreign carrier's charges to U.S. dollars, or vice versa, in settlement of such carrier's charges and in collections from the Customer. If the domestic Customer's correspondent in the foreign country placed the single-end order with the concurrence of the domestic Customer, the domestic Customer is liable for all the charges applicable to the domestic portion of the service, if the overseas Customer fails to make payment by the due date. Bills rendered for these charges are due and payable under the terms of this Agreement.

**15.** In the event payment is made by check and the Customer's check is not honored by the institution on which it was drawn, the Company will impose, and the Customer will be required to pay, a \$15.00 fee, where permitted by applicable law, in addition to other remedies available to the Company.

#### **B. Service Credits**

**1.** Service-related credits due the Customer that are related to, or based on, service usage will be applied before the application of taxes and the Federal Universal Service Fee; and service-related credits due the Customer that are not related to, or based on, service usage will be applied after the application of taxes and the Federal Universal Service Fee.

**2.** In the event that the Customer has been awarded a promotional credit for subscribing to the Company service and does not use the service within 12 months following the date of the Customer's service order, the Company reserves the right to cancel the credit from the Customer's account and collect the sum involved from the Customer.

**3.** A credit allowance will be given, or the charge that would otherwise apply will be waived, when (a) the Customer experiences poor transmission or is cut-off during a call to Directory Assistance or (b) the Customer is given an incorrect telephone number by a Directory Assistance operator. To obtain such a credit/waiver, the Customer must notify the Company.

**4.** Except as provided in Paragraph IV.B.3 above pertaining to Directory Assistance, the following credit allowances for interruptions of the Company services will be made:

**a.** For services for which charges are specified on the basis of per minute of use, or on usage of a fraction of a minute, the following credits will be made for an interrupted call that can be remedied by redialing the called number.

**1.** A credit will be made for that portion of a call which is interrupted due to poor transmission (e.g. noisy circuit), one-way transmission (one party is unable to hear the other), or involuntary disconnection caused by deficiencies in service. A Customer also may be granted a credit for reaching a wrong number. To receive a credit, the Customer must notify his or her Customer Service Representative and furnish information, including the called number, the service subscribed to, the difficulty experienced, and the approximate time the call was placed. Credits will not be made for (a) interruptions not reported to the Company, or (b) interruptions that are due to the failure of power, equipment, systems or services not provided by the Company.

**2.** When a call is involuntarily disconnected, the Customer will be given a credit equivalent to the charge for the initial minute of the call made to reestablish communications with the other party. A Customer who has reached a wrong number will be given a credit equal to the charge for the initial minute of the call to the wrong number, if he or she reports the situation promptly to a Customer Service Representative. This credit is limited to \$100 over a twelve (12) month period.

**b.** For interruptions in service due to the performance of the telecommunications network furnishing the Company service where such interruptions exceed an individual call and cannot be remedied by redialing the call, the Customer will be given a credit allowance for an interruption subject to conditions related to location, timing, and other pertinent conditions. To receive a credit, the Customer must notify a Company Customer Service representative and furnish information, including the called number, the service subscribed to, the difficulty experienced, and the approximate time of the service interruption.

**c.** No credits will be given for interruptions:

**1.** caused by the negligence of the Customer or an Authorized User;

**2.** due to the failure of power, equipment, systems, facilities or services not provided by the Company;

**3.** during any period during which the Company or its representatives are not afforded access to the premises where access lines or Company facilities associated with the Customer's or Authorized User's service are located;

**4.** during any period when the Customer or an Authorized User has released service to the Company or its representative for maintenance, service rearrangement, or the implementation of a Customer service order;

**5.** during any period when the Customer has chosen not to release service for testing or repair and the Customer continues to use service on an impaired basis;

**6.** due to network busy conditions; or

**7.** not reported to the Company.

An interruption period begins when the Company receives notification that service has been interrupted and service has been released for testing and repair. An interruption period ends when service is restored. If the Customer reports that service has been interrupted, but refuses to release it for testing and repair, the service is deemed to be impaired, but not interrupted for crediting purposes.

**d.** If the Customer elects to use another means of communicating after a service interruption has occurred,

or during a period when he or she is unable to use service, the Customer is responsible for paying the charges for the alternative service used and will not be reimbursed by the Company other than via the appropriate credit as set forth in this Agreement.

### **C. Fraud Credits**

**a.** The Company will issue full credit for invoiced charges for Customer calls when the charges are determined to result from a "theft of service" involving (a) "Clip-on-Fraud" verified by the Customer's local service provider and associated with equal access service (1010XXX or 1+/0+/0-); or (b) theft of identity; or (c) theft of service not including services covered in Section (b) Remote Toll Fraud Program; or (d) a Customer's Calling Card. A "theft of service" is the unauthorized use of the Customer's service following its theft by a third person over whom neither the Customer nor an authorized user possesses an ability to control. Under no circumstance will credit be issued for service use resulting from the acts or omissions of the Customer or any authorized user, or from the acts of any of the Customer's or authorized user's employees, former employees, agents, vendors or independent contractors. To qualify for credit, the Customer must establish the alleged fraudulent charges to the reasonable satisfaction of the Company and notify the Company in writing within 90 days of receipt of the first invoice containing alleged fraudulent charges. In the event a PCS or cellular phone or pager is lost or stolen, the Customer must notify the Company immediately. The Company will then credit the Customer for all charges incurred during a 48-hour time period beginning with the first fraudulent call made.

### **b. Remote Toll Fraud Program**

1. Remote Toll Fraud is defined as:  
(i) unauthorized outbound calls to international locations (including all international locations that utilize the North American Dialing Plan) placed via remote accessing of the Customer's PBX or single electronic key system, where such equipment is located on the Customer's premises within the U.S. mainland, Hawaii, Puerto Rico, and the U.S. Virgin Islands ("CPE") (CPE does not include CPE not owned or leased or under the direct control of the Customer); or (ii) unauthorized use of eligible toll-free service originating from a domestic location(s) and compromising certain CPE associated with the service(s) located in the United States.

Remote Toll Fraud does not include any calls placed by means of wireless access or PCS or cellular calls, 1010XX calls, calls placed by means of operator service, calls accessing the network by dialing 0- or 0+ for network access, Toll Free or 900 pay-per-call traffic, or unauthorized usage as defined in (i) or (ii) above that is placed via any non-Company conference service or Centrex systems.

2. Customer complying with the following provisions will be eligible to receive the limit on liability for Remote Toll Fraud usage charges as set forth below. in IV.C.3 below on page 20:

a. Company will notify the Customer of suspected Remote Toll Fraud by calling, faxing, or paging the Customer at the notification number given to the Company by the Customer. The Customer will provide the Company with 7x24 hour contact information, including, if necessary, pager and off-hours notification number. This information must be furnished initially by the Customer and updated, as necessary, in order for the Customer to become, and remain, eligible to receive benefits under the Program. The Customer will provide follow up information regarding the nature of any potentially fraudulent usage within forty-eight (48) hours of a Company notification to the Customer.

b. Customer will notify the Company of suspected Remote Toll Fraud by calling the Company's Fraud Prevention Center or their account team representative. Customer will immediately notify the Company any time suspected Remote Toll Fraud is detected, even if Company's network is not impacted.

c. Customer must identify to the reasonable satisfaction of the Company all alleged Remote Toll Fraud usage charges in writing to the Company within 90 days after the date of the first Company invoice that contains the usage charges in question. Any claim for alleged Remote Toll Fraud submitted after this 90 day period will not be considered for credit. In addition, Customer will notify the Company in writing within 60 days of the termination of the Remote Toll Fraud incident, identifying to the Company in such notice (a) the means by which such fraud occurred, if known, and (b) the changes made to the CPE in question to stop Remote Toll Fraud.



d. During the Company's investigation of remote Toll Fraud, the Company reserves the right to obtain specific password information used to access the CPE in question. Customer will fully cooperate with the Company's efforts to stop Remote Toll Fraud, including, but not limited to, providing the Company access to the CPE in question within 24 hours of the Company's request; permitting the Company to investigate current and/or former configuration of the CPE in question; and permitting the Company, within 12 hours of the termination of the suspected Remote Toll Fraud, to inspect the CPE location, if requested. Under no circumstance will the CPE configuration be, or be deemed to be, the responsibility of the Company.

3. Eligible Customers will be liable for up to the first \$10,000 per incident, of Remote Toll Fraud usage charges for calls that commence prior to either the Customer notifying the Company or the Company notifying the Customer. For purposes of this section notification is defined as (i) notice to the Customer from an authorized representative of the Company's Fraud Prevention organization or Account Team representative of suspected remote Toll Fraud; or (ii) notice from the Customer to the Company's Fraud Prevention organization or Account Team representative of suspected remote Toll Fraud. The Customer is liable for all Remote Toll Fraud usage charges incurred after the Customer notifies the Company or the Company notifies the Customer. This program will not cover any CPE Remote Access Fraud usage charges resulting from the negligent or intentional acts of the Customer, its employees, former employees, agents, vendors or independent contractors.

a. The liability cap per incident will not cover the impacted CPE, or any other CPE connected to the CPE in question, until a "30-day fraud-free period" has occurred since the date of the last fraudulent call during the last incident affecting the CPE in question, as certified by Company.

b. To the extent the Company reduces or otherwise does not collect any Remote Toll Fraud usage charges for which the Customer would have been liable if the Company did not offer the Remote Toll Fraud Program, the Company will be subrogated to any and all rights of the Customer with respect to any associated claims

against third parties (including, but not limited to, any persons who made the unauthorized calls).

4. Failure by the Customer to comply with any of its obligations under the Remote Toll Fraud Program will disqualify the Customer from current and future participation in the Remote Toll Fraud Program at all Customer locations.

## **V. CANCELLATION OF SERVICE**

### **A. By the Customer**

1. If the Customer wishes to change its service to another long distance carrier at any time, the Customer (a) should call the new preferred long distance carrier and (b) should send a written notice, giving thirty (30) days prior notice, to Company that the Customer is terminating the Customer's account with the Company. If the Customer wishes to have no long distance carrier, the Customer's local telephone company can set up this service option. The Customer will be responsible for all charges incurred to the date of termination. The Customer may send a written notice of service termination to Company at the following address: TTI National, Inc., 20855 Stone Oak Parkway, San Antonio, TX 78258, Attn: Customer Service.

### **B. By the Company**

1. The Company reserves the right to discontinue furnishing services, cancel the Customer's account, and/or block the Customer's access to the Company network, without incurring any liability, immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect the Company's personnel, agents, facilities, or services. Without limitation, the Company may take such actions if:

- a. The Customer refuses to furnish information or furnishes false information that (i) is essential for billing; or (ii) pertains to the Customer's credit-worthiness, its status under federal and/or state low income programs, its past or current use of common carrier communications service, or its planned use of such service;
- b. The Customer indicates that he or she will not comply with a request for security for the payment for services;

- c. The Company has received notice from the Customer's local telephone company that the local telephone company has cancelled the Customer's local exchange service;
- d. The Customer's service usage charges exceed established parameters based on the Customer's history of usage, which may indicate an unlikelihood of payment or possible fraud;
- e. The Customer has been given written notice by the Company of any past due amount (which remains unpaid, in whole or in part) for any of the Company's or an affiliated carrier's service to which the Customer either subscribes or had subscribed or used;
- f. The Customer either refuses to pay when billed for service or indicates to the Company or an entity billing on the Company's behalf that the Customer does not intend to pay for service used by the Customer;
- g. The Customer uses the service to transmit or receive a message, locate a person, or otherwise give or obtain information without payment for the service (i.e., signaling);
- h. The Customer uses, or attempts to use, service with the intent to avoid the payment, either in whole or in part, of the charges for the service by (i) using or attempting to use service by rearranging, tampering with, or making connections to service in an unauthorized manner; or (ii) using tricks, schemes, false or invalid numbers, false credit devices, or other fraudulent means or devices;
- i. The Customer acts, or fails to act, in a manner that hinders or frustrates any investigation by the Company or others having legal authority to investigate the Customer's legal obligations;
- j. The Customer's telephone equipment fails to pass back to the Company the appropriate signal to start and stop billing for a call;
- k. The Customer was previously provided with notice of breach of contract, took corrective action, but thereafter engages in the same breach activity;

- l.** The Customer subscribes to a Company-issued calling card service and has not used the service (with the exception of calls to Directory Assistance) for 24 months. In such case, the Company will deactivate the calling card to reduce the risk of fraud or abuse. If the Customer wishes to renew service, the Company will promptly provide a new card; or
- m.** The Company has made available service to the Customer and the Customer has failed to place the available service into actual and substantial use during the 90-day period immediately following its availability, or, if during any service term, the Customer has not actually and substantially used the available service for any consecutive 90-day period. As used in this paragraph, "actual and substantial use" will mean a pattern of use that discloses an intent on the Customer's part to employ the service to transmit information of the Customer's choosing.
- 2.** The Company reserves the right to discontinue furnishing services, cancel the Customer's account, and/or block the Customer's access to the Company network, without incurring any liability, immediately upon written notice to the Customer if:

  - a.** Any invoice charges remain outstanding and owed by the Customer after the 30th day from the date of the invoice notifying the Customer of the charges; or
  - b.** The Customer fails to comply with a request by the Company for security for the payment for services.
  - 3.** The discontinuance of service(s) by the Company pursuant to these provisions does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance.

**A.** Except for granting credit allowances for interruptions of service as provided for in Paragraph IV.B above on pages 15-17, the Company will not be liable for: (i) any failure of performance due to causes beyond its control, including, but not limited to, acts of God, fires, floods or other catastrophes; national emergencies, insurrections, riots or wars, terrorist acts, strikes, lockouts, work stoppages or other labor difficulties; preemption of existing services to restore service in compliance with the FCC's Rules and Regulations; and any law, order, regulation or other action of any governing authority or

agency thereof; or (ii) delayed installation of the Company's facilities or commencement of service.

**B.** With respect to any other factual allegation, legal claim, or dispute by the Customer or by any others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption, or restoration of any service or facilities offered by the Company, the Company's liability, if any, will be limited to credit allowances for interruptions of service as provided for in Paragraph IV.B above on pages 15-17. In addition to these credit allowances, if any, the Company's liability is limited as follows:

**1.** With respect to the routing of calls by the Company to public safety answering points or municipal emergency service providers, the Company's liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by the Customer as the direct result of the Company's action, or failure to act, in routing the call, or (b) the sum of \$1,000.00.

**2.** With respect to the Company's offering of TRS, any service provided by the Company that involves receiving, translating, transmitting, or delivering messages by telephone, text telephone, a Telecommunications Device for the Deaf, or any other instrument over the facilities of the Company or any connecting carriers or through any TRS centers operated by the Company or its agents, the Company's liability will not exceed an amount equal to the Company's charge for a one minute call to the called station at the time the affected call was made.

**3.** With respect to the provisioning of, or any error or omission in, data, information, or content furnished in connection with any service provided by the Company, for example, Directory Assistance, the Company's liability will be limited to the lesser of: (a) the amount of actual money damages proven by the Customer to have been incurred as the proximate result of its reliance on such data, information, or content; or (b) \$100.

**C.** The Company's liability for willful misconduct, if established as a result of judicial, administrative, or arbitration proceedings, is not limited by this Agreement.

**D.** IN NO EVENT WILL THE COMPANY BE LIABLE TO THE CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, INCLUDING LOST PROFITS (WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES) BY REASON OF ANY ACT OR OMISSION IN ITS PERFORMANCE UNDER THIS AGREEMENT.

**E.** The Company will be indemnified, defended, and held harmless by the Customer and/or by others authorized by the Customer to use the service against all claims of loss or damage arising from the use of service furnished by the Company, including:

**1.** Allegations or claims for libel, slander, invasion of privacy, or infringement of copyright arising out of the material, data, information, or other content transmitted via the Company service; and

**2.** All other allegations and claims arising out of any act or omission by the Customer or others authorized by the Customer to use the service, in connection with any service provided by the Company.

**F.** THE COMPANY MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES ABOUT ITS SERVICES AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR NON-INFRINGEMENT. THE COMPANY DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY ON THE COMPANY'S BEHALF AND THE CUSTOMER MAY NOT RELY ON ANY STATEMENT OF WARRANTY AS A WARRANTY BY THE COMPANY.

**G.** The Company will not be liable for any act or omission of any other company or companies furnishing a portion of the service, or from any act or omission of a third party, including those vendors participating in the Company offerings made to the Customer, or for damages associated with service, channels, or equipment that it does not furnish, or for damages that result from the operation of customer-provided systems, equipment, facilities or services that are interconnected with the Company services.

## **VII. PRIVACY**

### **A. Privacy Policy**

It is the Company's policy not to sell or rent its personally-identifiable customer information to unaffiliated companies or organizations. In the future, should the Company decide to sell or rent such information to those entities, it will provide notification and the opportunity for its customers to indicate that they would prefer the Company not sell or rent such information about them to such third parties. Such notice may be provided by amending the Agreement or any other comparably-effective means. The Company reserves the right to contact its customers regarding the Company's products and services.

### **B. Caller ID**

Due to federal rules, the Customer's telephone number (i.e., calling party number or "CPN") may be identified to a called party if that party has Caller ID capability. The Customer can prevent this from occurring on an interstate call by dialing \*67 (or 1167 on rotary or pulse-dialing telephones) prior to placing the interstate call. If the Customer has per-line blocking, the Customer must dial \*82 (or 1182 for rotary or pulse-dialing telephones) prior to placing an interstate call to allow a called party to identify the Customer's CPN. Because these Caller ID-related services are provided by the Customer's local telephone company, the Customer should contact the Customer's local telephone company for rate information for such services.

## **VIII. DISPUTE RESOLUTION**

THIS SECTION PROVIDES FOR RESOLUTION OF MOST DISPUTES THROUGH BINDING ARBITRATION.

**A.** If the Customer has a dispute regarding the Customer's service or bill, the Customer should first call Company Customer Service at 1-800-893-5094.

**B.** Before initiating or participating in any arbitration or other resolution proceeding concerning any aspect of this Agreement or regarding the Company's products or services, the Customer must notify the Company in writing of such a dispute and give the Company at least 60 days (from the time the Customer first notifies the Company in

writing) to resolve the dispute. Such written notice should be mailed to TTI National, Inc., 20855 Stone Oak Parkway, San Antonio, TX, 78258 Attn: Customer Service.

**C.** Any dispute arising out of or related to this Agreement or the Company's products or services that is not satisfactorily resolved within 60 days from the date the Customer notifies the Company in writing, regardless as to whether the dispute is based in contract, tort, statute, fraud, misrepresentation, or any other legal or equitable theory, must be submitted either to the American Arbitration Association ("AAA") or to JAMS ("JAMS"), for final and binding arbitration. The arbitration shall be conducted pursuant to the AAA Arbitration Rules for the Resolution of Consumer-Related Disputes ("AAA Rules") or the JAMS Streamlined Arbitration Rules and Procedures and Minimum Standards of Procedural Fairness ("JAMS Rules"), respectively, as such rules are in effect on the date of commencement of the arbitration, and as such rules are modified by this Agreement. Either party may contact AAA in writing at: AAA Central Case Management Center, 134555 Noel Road, Suite 1750, Dallas, TX 75240-6636; or JAMS in writing at: 1101 17th Street, N.W., Suite 808, Washington, DC 20036. For more information regarding AAA or Jams, the Customer may visit their respective websites at <http://www.adr.org> or <http://www.jamsadr.com>

**D.** Under the AAA Rules and the JAMS Rules, the Customer may also have the right to take certain disputes to small claims court. Additionally, the Customer may be able to seek relief from an appropriate governmental administrative agency (such as the Federal Communications Commission).

**E.** The arbitration will be based only on the written submissions of the parties and documents submitted to the arbitrator, unless the parties agree or the arbitrator orders otherwise.

**F.** The arbitration procedures set forth in this Dispute Resolution section are governed by the United States Arbitration Act, 9 U.S.C. §§ 1-16 et seq. ("USAA"). Any controversy over whether an issue is arbitrable will be determined by the arbitrator. The award may be confirmed and enforced in any court of competent jurisdiction. All post-award proceedings will be governed by the USAA.

**G.** For any arbitration in which the Customer claims less than \$10,000, the Company will pay the Customer's filing



fee with AAA or JAMS and all of AAA's or JAMS' other costs and fees. For claims between \$10,000 and \$75,000, the Customer will pay a fee to AAA or JAMS of no more than \$125, and the Company will pay all of the AAA's or JAMS' other costs and fees. If the Customer elects an arbitration process other than a document ("desk") or telephone arbitration, the Customer must pay the Customer's allocated share of any higher administrative fees and costs for the process the Customer selects. Except to the extent authorized by statute and awarded by the arbitrator, each party will bear the cost of preparing and presenting its own case.

**H.** Any in-person arbitration proceedings will be held at the location that AAA or JAMS selects in the state where the Customer resides, unless otherwise mutually agreed upon by the parties.

**I.** Each dispute will be decided on an individual basis and will not be consolidated in any action with the disputes or claims of other consumers or customers. The Customer agrees that the Customer may not bring any dispute or claim as a class action or as a private attorney general, and the Customer agrees not to act as a class representative or participate as a member of a class of claimants with respect to any dispute or claim relating to this Agreement or the services provided by the Company.

**J.** Any dispute or claim arising out of or relating to this Agreement or the services provided by the Company must be brought within two (2) years or within the period of time provided by an applicable statute after the date on which the basis for the dispute or claim first arises.

**K.** If for some reason the prohibition on class arbitrations set forth in subsection (I) above is deemed unenforceable, then the agreement to arbitrate will not apply. Further, if for any reason a claim proceeds in court rather than through arbitration, we each waive any trial by jury.

#### **IX. MISCELLANEOUS PROVISIONS**

**A.** This General Service Agreement and the terms of any optional calling plan, promotion, and/or authorized written communications the Customer has received constitute the entire Agreement between the Customer and the Company, and supersedes any and all prior agreements, oral or written, concerning the subject matter. If there is any inconsistency or conflict between

the terms of any optional calling plan, promotion, and/or authorized written communications the Customer has received and the provisions of this Agreement, the provisions of this Agreement will control.

**B.** If the Customer either voluntarily cancels the Customer's Company account or if the Company cancels the Customer's service for any reason set forth above, the Company will have no obligation whatsoever to assist the Customer in any respect in switching from the Company to another carrier.

**C.** Customers may not modify or assign this Agreement. In its sole discretion, the Company may assign this Agreement.

**D.** No waiver of this Agreement or any of its terms and conditions is valid.

**E.** This Agreement is binding upon the Customer and the Company and upon, respectively, the Customer's and the Company's agents and heirs or successors.

**F.** Each provision of this Agreement applies to the fullest extent permitted by applicable law. If any part or provision of this Agreement is finally determined to be invalid or unenforceable under applicable law by a court of competent jurisdiction, then that part or provision will be ineffective only to the extent of such invalidity or unenforceability, without in any way affecting the remaining parts or provisions of this Agreement.

**G.** This Agreement is governed by and construed under the laws of the State of New York and applicable federal law, without regard to choice of law principles.

**H.** Any liability or obligation of a party to the other party under the provisions of Sections I, III, IV, VI, VIII, and IX, as applicable, will, in each case, survive cancellation or termination of this Agreement.

The TTI name, logo are proprietary marks of TTI National, Inc., or its affiliates.

**EXHIBIT 4**



1300 Columbus-Sandusky Rd. N.  
Marion, OH 43302

July 25, 2008

By Overnight Delivery  
John M. Dosker, TA  
General Counsel  
Stand Energy Corporation  
1077 Celestial Street, Suite 110  
Cincinnati, Ohio 45202-1629

Dear Mr. Dosker:

This letter is in response to the complaint filed with the Public Utilities Commission of Ohio in Case No. 08-856-TP-CSS. TTI National, Inc. has cancelled the account in question and has waived all associated outstanding charges. Although you may receive a July invoice due to the account cycle, please be assured that the invoiced charges have been waived and the account cancelled.

If you have any questions, you may contact me at (740) 383-0490. If you wish to send any correspondence, please ensure that it is mailed to Cassandra Cole MC: OHODBRD at 1300 Columbus-Sandusky Rd. N., Marion, OH 43302.

Sincerely,

*Cassandra Cole*  
Cassandra Cole  
Verizon

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/28/2008 3:42:19 PM**

**in**

**Case No(s). 08-0856-TP-CSS**

Summary: Answer Answer and Affirmative Defense electronically filed by Carolyn S Flahive on behalf of TTI National, Inc.