

# Nicor Advanced Energy LLC

## Commercial PriceCap Plan

### Terms and Conditions

**1. PriceCap Plan.** You agree to enter into this PriceCap plan (Plan) Agreement (Agreement) with Nicor Advanced Energy, L.L.C. (Company). You hereby appoint Company as your sole and exclusive agent and natural gas supplier and hereby agree to purchase your natural gas commodity needs through the Company in accordance with the terms and conditions of this Agreement. You understand that this Agreement is with an alternative gas supplier, certified by the Illinois Commerce Commission, not the local natural gas distribution company, Nicor Gas (Utility). These terms and conditions are subject to your acceptance into the program by both the Company and your Utility.

**2. Pricing.** Your variable charge for this product for the premise(s) listed on the accompanying letter is the sum of: each daily index price, published in Gas Daily Daily (GDD), plus a cents-per-therm charge, found on the accompanying letter, multiplied by your allocated actual daily gas usage (AADU) for each day of the month. Note that your GDD plus the cents-per-therm charge will not exceed the cents-per-therm PriceCap amount found on the accompanying letter. In addition to your variable charge, a monthly administrative fee found on the accompanying letter will be charged. Your AADU will be calculated based on your total usage during the billing period as determined by the Utility, with each day weighted by actual Heating Degree Days (HDDs) based on the temperature taken at Midway Airport and estimated consumption behavior related to HDDs and other factors. You will also be responsible for paying the Utility's delivery charges and all taxes associated with your natural gas service and consumption. Although you will receive one bill from the Company for all of the charges set forth above, you will continue to receive natural gas delivery service from the Utility. You agree that in addition to the PriceCap plan charges you will still be responsible for paying all other service fees and late fees assessed by the Company or the Utility or other charges unrelated to the PriceCap plan. Your PriceCap plan charges may be higher or lower than the Utility's monthly gas charges over the term of this Agreement.

**3. Agency.** You authorize the Company to initiate Utility service for you and to make all rate and tariff selections necessary to meet its obligations under this Agreement, and to access your current and future gas Utility customer account information. You authorize the Company and the Utility to share account, payment status and history, and related information about you and authorize the Company to provide such information to third parties, such as suppliers and service providers, as may be allowed or required by contract or law and allow for such information to be utilized to offer other products and services of the Company and its affiliates to you. You consent and agree to the Company investigating your credit history and obtaining a credit report regarding the aforementioned or Dun & Bradstreet report, whichever is appropriate to your business. You consent to the recording of calls between the Company and you. You also authorize the Company to move any credit balances residing on your Utility account to your Company account, and to remove you from the Nicor Gas Budget program and EFT payment program. You authorize and understand that the Company will transfer your natural gas supply from any Alternative Gas Supplier that may be serving you to the Company. You understand that you may be subject to cancellation or termination fees from an Alternative Gas Supplier by terminating that previous contract with that Alternative Gas Supplier for natural gas supply. This Agreement may only be assigned or transferred by the Company.

**4. Term/Renewal.** The Agreement begins when the Utility accepts you into the Customer Select program and shall remain in effect for a period of twelve consecutive billing periods (months). These terms and conditions are subject to your acceptance into the program by both the Company and the Utility. You understand, depending on the timing of the Utility's meter reading cycle or any delays in the Utility meter reading cycle, that you may receive billing for service under this Agreement after the completion of the term of this Agreement for gas supply provided to you by the Company. **Prior to the end of the term of the Agreement, you will receive written notice of your new PriceCap Agreement for the next twelve-month time period subject to your continued eligibility and any required changes to the terms and conditions of this Agreement. If you wish to discontinue this Plan, please notify the Company within 30 days of the postmark date of your new Agreement. In the event you do not notify the Company of your intention to discontinue the Plan, you will be renewed on the PriceCap plan with the new PriceCap level, per-therm charge and monthly charge, and applicable terms and conditions, for the next twelve months. Subsequent cancellation or termination of the new Agreement during your renewed term will be subject to any applicable cancellation charges described in that new Agreement. You agree that any provisions required by law to be contained herein for renewal purposes are deemed incorporated herein and Company agrees to provide a copy of any such provisions upon request.**

**5. Indemnification.** You agree to indemnify and hold harmless your Utility for any obligations of the Company contained within this Agreement. You also agree to indemnify the Company for any claims arising out of your failure to comply with this Agreement.

**6. Cancellation.** YOU MAY CANCEL THIS AGREEMENT WITHOUT INCURRING A CANCELLATION FEE BY CONTACTING US WITHIN 30 DAYS OF THE POSTMARK DATE OF THIS AGREEMENT. YOU WILL RECEIVE ONE LAST BILL FROM THE COMPANY AFTER NOTIFYING US OF YOUR CANCELLATION. YOU WILL BE RESPONSIBLE FOR ALL CHARGES INCURRED DURING THE TIME YOU WERE ON THE PLAN. If you elect to cancel this Agreement, you must enroll with a Customer Select Supplier in 45 days; otherwise you will not be eligible to participate in the Customer Select Program for one year. If you terminate this Agreement or otherwise cause the termination of this Agreement after the initial 30-day period as described above, but prior to the end of the initial 12-month term of this Agreement, a termination fee equal to \$20/month remaining in the 12-month term will be assessed to you. You must notify the Company 10 days prior to discontinuing Utility service at your current premise(s). The Company reserves the right, with notice, to enroll you into a new Agreement at your new premise(s). You will be responsible for new Plan charges at your new premise(s). If you choose to cancel your new Agreement at your new premise(s), you may do so without penalty for a period of 30 days after the postmark date of the new offer.

**7. Adjustments.** The Company reserves the right to amend this Agreement due to any regulatory, tariff, or procedural change that may affect the Company's ability to perform under this Agreement.

**8. Bill Payment and Past-Due Balances.** You will receive a monthly bill from the Company which shall be payable within fourteen (14) days of the postmark date. Past-due balances under this Agreement shall be subject to a monthly late-payment fee of one and one-half percent (1 ½%) of the past-due balance. The Company may terminate this Agreement at any time in the event that you fail to make timely payments.

**9. Force Majeure.** The Company shall be excused for performance under this Agreement for events of Force Majeure declared by the Company or the Utility. Force Majeure shall be defined as causes beyond the reasonable control of the Company and the Utility. Events of Force Majeure shall include, but not be limited to, service interruptions of interstate and intrastate pipelines, unplanned distribution system maintenance, flooding and other acts of nature.

**10. Customer Service and Contact Information.** If you have any questions or concerns regarding the PriceCap plan or any other products offered by the Company, please contact Nicor Advanced Energy at 1-866-799-2674, or you may write to us at Nicor Advanced Energy, L.L.C., P.O. Box 3042, Naperville, IL 60566-7042. If we are unable to resolve your billing issue, you may contact the Illinois Commerce Commission's Consumer Services Division via phone at 1-800-524-0795 or online at [www.icc.illinois.gov/ci/publicUtility.aspx](http://www.icc.illinois.gov/ci/publicUtility.aspx).

**11. Limitation of Liability.** THE COMPANY'S TOTAL LIABILITY TO YOU AND YOUR EXCLUSIVE REMEDY SHALL NOT EXCEED THE AMOUNT PAID BY YOU HEREUNDER. IN NO EVENT SHALL THE COMPANY, ITS PARENT AND ITS AFFILIATES BE RESPONSIBLE UNDER THIS CONTRACT FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

**12. Entire Agreement.** This Agreement, including the terms, conditions, limitations, exceptions and exclusions, and your charges shown on the reverse side of this Agreement, constitutes the entire Agreement. You acknowledge that you did not rely on any oral representations other than such as are reflected in writing herein. This Agreement will be governed by Illinois law, without regard to principles of conflicts of law.

For issues regarding safety (e.g. gas odor or leaks), Utility rates, metering, or other issues regarding your Utility service, contact Nicor Gas by telephone at 1-888-NICOR4U or in writing at P.O. Box 190, Aurora, IL 60507-0190. Nicor Advanced Energy is not the same company as Nicor Gas. It is an affiliate and its prices are not regulated by the Illinois Commerce Commission. Customers are not required to buy products or services from Nicor Advanced Energy in order to receive the same quality service from Nicor Gas.