

NICOR GAS COMPANY – CUSTOMER SELECT[®]
RESIDENTIAL CUSTOMER MAILING LIST LICENSE AGREEMENT

This Residential Customer Mailing List License Agreement (“Agreement”) is entered into on _____, 20____ (“Effective Date”), by and between Northern Illinois Gas Company d/b/a Nicor Gas Company (“Company”) and _____ (“Counterparty”).

WHEREAS, Counterparty is a Customer Select Supplier and wishes to receive certain information about Company’s residential customers (Rate 1); and

WHEREAS, Company is willing to provide certain information about such residential customers (Rate 1);

NOW, THEREFORE, in consideration of the agreements and covenants set forth in this Agreement, Company and Counterparty agree as follows.

SECTION I
DEFINITIONS

1. “Customer Select Supplier” shall have the meaning ascribed to it in Rider 16 of Company’s Schedule of Rates.
2. “Customer List” shall mean a list of Company’s residential customer names and service and billing addresses, who have not selected to be on the Company’s Do Not Contact List.
3. “Representatives” shall mean a party’s officers, employees, agents, and attorneys.
4. “Schedule of Rates” shall mean Company’s Schedule of Rates for Gas Service, as it may be revised from time to time, on file with the Illinois Commerce Commission (“ICC”) or any successor to that agency.

SECTION II
TERM

1. This Agreement shall become effective upon the Effective Date stated above and shall remain in full force and effect for an initial one year term from the Effective Date. This Agreement shall automatically renew from year to year for one year extensions until terminated by either party.
2. Either party may terminate this Agreement at the end of the initial term or of any one-year extension on thirty (30) days’ prior written notice to the other party.
3. Either party may terminate this Agreement on three (3) days’ prior written notice to the other party if such other party fails to comply with or breaches any material term or condition in this Agreement, unless within such three (3) days, the other party cures such default.

SECTION III
COMPANY SERVICE

1. Service shall commence with the first list generated following the Effective Date. Lists will be generated in February, May, August and November. Company shall provide a Customer List to Counterparty no more than once every three months.
2. If Counterparty is a Customer Select Supplier and is certificated by the ICC to serve residential customers, Company shall, upon Counterparty's request, grant a license and provide Counterparty a Customer List. Company shall not require Counterparty to obtain customer consent to receive a Customer List.
3. The Customer List that Company provides pursuant to this Agreement is and shall remain Company's property.
4. Company shall provide the Customer List in an electronic form.
5. Company warrants and represents that the Customer List shall contain the same customer information as the Company currently maintains in its Customer records. COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND CUSTOMER LIST PROVIDED HEREUNDER.

SECTION IV
COUNTERPARTY RIGHTS AND OBLIGATIONS

1. Counterparty agrees that the use of the Customer List shall be limited solely and exclusively for the sole purpose of assisting the Counterparty in soliciting a utility customer to participate in the retail natural gas supply sales programs offered by Counterparty pursuant to its certificate issued by the ICC. The Customer List may not be used for any other purpose. Counterparty has no right to sell all or any portion of the Customer List. Counterparty may disclose the Customer List only on an as needed basis to its Representatives. Otherwise, Counterparty shall keep the Customer List confidential. Counterparty shall not disclose, transfer, duplicate, publish, reproduce or retain the Customer List, or any portion thereof (or any information contained thereon) supplied hereunder in any form, not to permit any Representative to do so; except in connection with the computer processing activities that are necessary to maintain the names in a usable form from the Customer List supplied by Company via electronic means, and in such latter events, the Customer List shall be completely erased from the storage devices upon which they reside of any Representative providing service for the Counterparty when no longer in use.
3. Counterparty shall not retain the Customer List after the termination of this Agreement. Upon termination, Counterparty shall destroy any copies, including erasing any electronic copies, of the Customer List.
4. Counterparty unconditionally warrants, covenants and represents that it will use the Customer List for the exclusive purpose of marketing retail natural gas supply sales programs to eligible customers, which marketing will be performed in compliance with its contractual obligations included in the Company's Schedule of Rates, Rider 16 "Standards of Conduct".

5. Counterparty shall be liable for the use and any misuse of the Customer List, under the terms of this Agreement, the Company's Schedule of Rates, Rider 16 Section "Standards of Conduct" or under the law, by its Representatives with which it has allowed to utilize the Customer List. Counterparty shall be responsible for any violations of this Agreement committed by it or any of its Representatives. Counterparty acknowledges that remedies at law would be inadequate to protect Company against any actual or threatened breach of this Agreement by Counterparty or by its Representatives, and, without limiting any other rights and remedies otherwise available to Company, Counterparty agrees to the granting of injunctive relief in favor of Company without the posting of bond or proof of actual damages.

6. Counterparty shall in no way impair Company's ownership rights. Counterparty further recognizes that all information appearing on the Customer List is copyrighted to the degree permitted by law, and all copyright restrictions apply.

7. Counterparty agrees to indemnify and hold the Company harmless from and against any and all suits, causes of action, claims, demands and lost revenues arising from or out of any breach of this Agreement or representation or warranty made by Counterparty, as well as, any and all damages, liabilities, losses, costs or licenses (including reasonable attorney's fees) however incurred, occasioned by or in any way resulting from the use of the Customer List by Counterparty and its Representatives, including, without limitation any use contrary to the express terms and conditions of this Agreement and all applicable Company Schedules of Rates.

8. Counterparty warrants, covenants and represents that in connection with its receipt of the license for the Customer List, it will comply in all respects with any and all laws, rules and regulations of any federal, state or local government including all privacy statues which are applicable or relevant to any use of such Customer List.

SECTION V PRICE

Company shall not charge Counterparty for a Customer List unless Counterparty requests to receive, and Company agrees to provide, the data in other than the electronic form in which Company has provided it.

SECTION VI NOTICE

Any written notice given under this Agreement may be delivered in hand or mailed by overnight mail, registered, certified or ordinary first class mail or communicated by facsimile or electronic mail to the receiving party at the address, facsimile number or e-mail address specified in this Section. Either party may change its notice information under this Section by providing written notice of such change to the other party.

Notices to Counterparty shall be sent to:

Attn:
Phone:
Fax:
E-mail:

Notices to Company shall be sent to:

Nicor Gas Co. 1844 Ferry Road Naperville, IL 60563-9600 Attn: Rate Dept Phone: 630-388-2693 Fax: 630-983-3810 E-mail: mgrzeni@nicor.com
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SECTION VII MISCELLANEOUS

1. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois, without regard to principles of conflicts of law. The forum of any litigation shall be before the ICC.
2. This Agreement and all its provisions shall be subject to all applicable and valid statutes, rules, orders and regulations of any regulatory body, governmental entity or agency having jurisdiction over either party's facilities or services, this Agreement or any provision hereof. Neither party shall be held in default for failure to perform under this Agreement if such failure is due to compliance with such statutes, rules, orders and regulations of any regulatory body, governmental entity or agency having jurisdiction. Should either party by statute, rule, order or regulation be ordered or required to do any act inconsistent with the provisions of this Agreement, this Agreement shall be deemed modified to conform with such statute, rule, order or regulation. Nothing in this Agreement shall prevent either party from contesting the validity of such statute, rule, order or regulation. Nothing in this Agreement shall be construed to require either party to waive its right to assert the lack of jurisdiction of any regulatory body, governmental entity, or agency over this Agreement or any party hereto.

3. Counterparty shall not assign this Agreement without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed.

4. The captions in this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

5. A waiver by either party of any one or more defaults by the other in the performance of any provisions of this Agreement shall not operate as a waiver of any future default or defaults, whether of a like or different character.

6. This Agreement contains the entire agreement between the parties related to the subject matter hereof, and except as stated herein, there are no oral or written promises, agreements, warranties, obligations, assurances, or conditions precedent affecting it.

7. The Schedule of Rates, to the extent references in this Agreement, is incorporated in and made a part of this Agreement.

8. COMPANY AND COUNTERPARTY AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES UNDER THIS AGREEMENT. UNLESS EXPRESSLY HEREIN PROVIDED, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

9. Any charge, modification or alteration of this Agreement shall be in writing, signed by the parties, and no course of dealing or course of performance between the parties shall be construed to alter the terms of this Agreement. Notwithstanding the foregoing, a change of address must be in writing but need not be signed by both parties.

10. Company and Counterparty agree that there is not third party beneficiary of this Agreement and that the provisions of this Agreement do not impact enforceable rights to anyone who is not a party or its assignee permitted under this Agreement.

11. This Agreement may be executed in counterparts, each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement.

12. Any original executed Agreement or other related document may be photocopied and stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper or in automated facsimile form in any judicial, arbitration, medication or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall

object to the admissibility of the Imaged Agreement or photocopies of the Imaged Agreement on the basis that such was not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.

In witness whereof, the parties have each caused a duly authorized representative to execute this Agreement in duplicate.

Northern Illinois Gas Company
d/b/a Nicor Gas Company

By: _____
Signature

Name: _____
Print

Title: _____

Date: _____

Supplier: _____

By: _____
Signature

Name: _____
Print

Title: _____

Date: _____