

IMPORTANT: This Agreement contains the terms and conditions for FlexPlan®.

THIS AGREEMENT MAY AFFECT YOUR RIGHTS. PLEASE REVIEW IT CAREFULLY. In particular, please review the arbitration agreement set forth in Section 13 below. It requires you to resolve any disputes with Illinois Energy, USA, LLC through individual arbitration. You will not be allowed to resolve any disputes with Illinois Energy through a jury trial or a class action.

1. FlexPlan. You agree to enter into this FlexPlan (Plan) Agreement (Agreement) with Illinois Energy, USA, LLC (Company) for the service address listed either: (1) on your cover letter accompanying this Agreement or, (2) if you are enrolling for service online, on your website confirmation page (the applicable option for you is hereafter referred to as your Customer Statement). You hereby appoint the Company as your sole and exclusive agent and natural gas supplier and shall 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 (Utility) specified on your Customer Statement. These terms and conditions are subject to your acceptance into the Plan by the Company and your acceptance into the Program by your Utility. By enrolling in this Plan, you have represented to the Company that you are either the account holder listed with the Utility or legally authorized to contractually commit the gas account for the service address (Account Holder).

2. Pricing. Your variable monthly per therm price is the sum of: (1) the first-of-month (FOM) Bidweek Survey index price at the Chicago Citygate, published in Natural Gas Intelligence (NGI), and (2) a cents-per-therm charge specified on your Customer Statement. This monthly per therm price shall be multiplied by your allocated actual monthly gas usage (AAMU) for each month during the billing period. Your AAMU will be calculated based on your total usage during the billing period as determined by the Utility, with each month 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 are also responsible for paying Utility delivery charges, Utility charges associated with the Utility's choice program (Program) you are enrolled in as specified on your Customer Statement, and all taxes associated with your natural gas service and consumption. If you are a tax-exempt entity, it is your responsibility to provide the Company with the necessary exemption certificate. You agree that, in addition to the above charges, you will be responsible for paying all other service fees and late fees assessed by the Company or the Utility or other charges unrelated to the Plan. You will receive one (1) bill from either the Company or the Utility, as specified on your Customer Statement, for all of the charges set forth above. You will continue to receive natural gas delivery service from the Utility. You understand that the Plan's price for natural gas over the term of this Agreement may be greater than the Utility's price for natural gas. Upon prior notification by the Company, you may receive one bill for all of the charges set forth above, either directly from the Company or from your Utility. In the event the index price ceases to be published for any reason, the Company will select a replacement index at its discretion and notify you of the selection.

3. Agency; Consent to Use of Information. You authorize the Company to initiate a request for Utility service for you (if not already established) and to make all rate and tariff selections (including any Illinois gas revenue or usage tax requirements) 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 and payment status 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 by law to serve and bill you. You also authorize the Company to utilize such information to offer products and services of the Company, its affiliates and its third-party marketing partners to you, and to share your information with its affiliates and its third-party marketing partners to allow them to market their products and services to you, unless you have withdrawn or withheld that consent by providing notice to the Company. You consent and agree to the Company investigating your credit history, obtaining a credit report, and obtaining other information to evaluate your credit. You consent to the recording of calls between the Company and you (including calls by Company's vendors, agents, and representatives acting on behalf of the Company). You also authorize the Company to apply any credit balances residing on your Utility account to amounts due on your Company account, and to remove you from the Utility's budget program and EFT payment program. **If, at the time of enrollment, you are served by an Alternative Gas Supplier, you authorize the transfer of your gas supply service 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.** This Agreement may only be assigned or transferred by the Company, at its sole discretion.

4. Term/Renewal. Your Plan begins on the first day of the first full meter reading cycle after one of the following dates, as applicable: (i) the date that the Utility accepts you into the Program, (ii) the date that the Utility and/or the Company processes your enrollment or switch to the Plan, or (iii) the renewal date set forth in your renewal notice. The Agreement shall automatically renew each monthly billing period unless you notify the Company to terminate the Agreement at least thirty (30) days before the end of the applicable monthly billing period by calling the Company at 1-866-799-2674 or by writing to the Company at Illinois Energy, USA, LLC, P. O. Box 3066, Naperville, IL 60566-7066. Each monthly billing period Plan term is a separate renewal period under the Agreement. The Company may change the terms and conditions of the Agreement, including the price charged, at each renewal of the Agreement provided we send you notice at least thirty (30) days prior to the effective date of the change. **The Agreement will automatically renew with such changes unless you notify the Company of your intention to not renew within thirty (30) days of the postmarked date of such renewal notice by calling the Company at 1-866-799-2674 or by writing to the Company at Illinois Energy, USA, LLC, P. O. Box 3066, Naperville, IL 60566-7066.** Your participation in the Plan and the exact timing of your enrollment is dependent on the activation and deactivation notifications confirmed by the Utility and the Utility's meter reading cycle. Depending on the timing of the Utility's meter reading cycle and any delays in the Utility's meter reading cycle, the actual term of this Agreement may be shorter or longer by days or weeks than the specific

term stated in your Customer Statement. You may receive billing for service under this Agreement after the completion of the term of this Agreement and you agree to pay for all gas supplied to you by the Company during the actual term of this Agreement. **You agree that any provisions required by law to be contained herein for renewal purposes are deemed incorporated herein and the Company agrees to provide a copy of any such provisions upon request.** Any special offers or discounts included during the initial term of your Agreement are not included in subsequent renewal terms of this Agreement, unless specifically provided for in the renewal notice. The Company reserves the right to not renew this Agreement for any reason or to modify the terms and conditions of this Agreement effective for any renewal period as described herein.

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

6. Right of Rescission. UNLESS YOU ARE ALREADY AN ILLINOIS ENERGY CUSTOMER, THE UTILITY WILL SEND YOU A NOTICE BY LETTER CONFIRMING YOUR ENROLLMENT WITH ILLINOIS ENERGY. YOU MAY RESCIND YOUR PLAN ENROLLMENT WITHIN TEN (10) BUSINESS DAYS OF THE DATE OF THIS LETTER BY EITHER CONTACTING ILLINOIS ENERGY AT 1-866-799-2674, OR THE UTILITY AT THE PHONE NUMBER PROVIDED ON YOUR CUSTOMER STATEMENT.

7. Cancellation/Moving. YOU MAY CANCEL THIS AGREEMENT AT ANY TIME WITHOUT INCURRING A CANCELLATION FEE BY CONTACTING THE COMPANY AT 1-866-799-2674. YOU WILL RECEIVE ONE (1) OR MORE BILL(S) CONTAINING THE COMPANY'S CHARGES AFTER NOTIFYING US OF YOUR CANCELLATION. YOU WILL BE RESPONSIBLE FOR ALL CHARGES INCURRED WHILE YOU WERE ON THE PLAN. This Agreement shall terminate if you cease to be the Account Holder for the service address provided on your Customer Statement. Your Utility's Program rules limit eligibility to participate in the Program for twelve (12) months if either you or the Company terminate your alternative gas supplier service and you do not enroll with a Program supplier within 120 days. Contact your Utility for more details regarding the effect of Agreement termination on Program eligibility. You must notify the Company at least ten (10) days prior to discontinuing Utility service at your current service address, and you will be responsible for all charges incurred at your current service address through the date your Utility service is discontinued. If you move to an address within the Utility's service territory and you are eligible to renew into a new Plan Agreement, then, at the sole discretion of the Utility and the Company, you will be automatically enrolled in a new Plan Agreement at your new address at the then-current published price for the Plan without any pre-existing discounts. You may cancel your Agreement at your new address at any time. You will be responsible for all charges incurred during the time you were on the Plan at your new address. The Company may terminate this Agreement at any time in the event that you fail to make timely payments. The Company reserves the right to restrict eligibility for the Plan at its discretion for any reason not prohibited by applicable law, including a customer's action to terminate any prior agreement with the Company or Illinois Energy Solutions before the end of its established term.

8. 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.

9. Bill Payment and Past-Due Balances. You will receive a monthly bill from either the Utility or the Company (as applicable). Stated charges on your bill shall be payable either: within twenty-one (21) days of the bill date if you are a residential customer; or fourteen (14) days of the bill date if you are a commercial customer. If you are on autopay/EFT, you agree that funds will be withdrawn for payment of our bill three (3) days before the bill due date each month. Past-due balances under this Agreement shall be subject to a monthly late fee of one and one-half percent (1½%) of the past-due balance. Payments returned for non-sufficient funds (NSF) are subject to a \$25 processing fee in addition to all other charges.

10. 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 or 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.

11. Customer Service and Contact Information. If you have any questions regarding the Plan or any other Company products, please contact Illinois Energy at 1-866-799-2674, write to us at Illinois Energy, USA, LLC, P.O. Box 3066, Naperville, IL 60566-7066, or visit us online at www.illenergy.com. 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/consumer/complaint/wizard.aspx.

12. 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 AGREEMENT FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

13. Dispute Resolution. PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS.

13.1 Dispute Resolution by Binding Arbitration. If you have a complaint with the Company, including but not limited to claims for reimbursement or regarding service under this Agreement, please call our customer service department at 1-866-799-2674. **In the unlikely event that the Company's customer service department is unable to resolve a complaint you may have to your satisfaction (or if the Company has not been able to resolve a dispute it has with you after attempting to do so informally), we each agree to resolve**

those disputes exclusively through binding arbitration or small claims court. Nothing in this section, however, limits your right to file a complaint with the Illinois Commerce Commission. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. **Any arbitration under this agreement will take place on an individual basis; class arbitrations and class actions are not permitted, and you agree not to pursue any claims on behalf of a putative class or as a member of a putative class.** For any non-frivolous claim that does not exceed \$75,000, the Company will pay all costs of the arbitration. Moreover, in arbitration you are entitled to recover attorneys' fees from the Company to at least the same extent as you would be in court.

In addition, under certain circumstances (as explained below in Section 13.2), the Company will pay you more than the amount of the arbitrator's award and will pay your attorney (if any) twice his or her reasonable attorneys' fees if the arbitrator awards you an amount that is greater than what the Company has offered you to settle the dispute.

13.2 Arbitration Agreement.

(A) The Company and you agree to arbitrate **all disputes and claims** between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory;
- claims that arose before this or any prior agreement (including, but not limited to, claims related to advertising or marketing);
- claims that are currently the subject of pending litigation, including claims that are currently the subject of purported class action litigation in which you are, or are not, a member of a certified class;
- disputes regarding whether a particular controversy is subject to arbitration, including any claim as to the enforceability of this arbitration provision; and
- claims that may arise after the termination of this Agreement.

References to "Illinois Energy", "Company", "we", "our", "you", and "us" include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services under this or prior agreements between us. Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies. Such agencies can, if the law allows, seek relief against the Company on your behalf. **You agree that, by entering into this Agreement, you and the Company are each waiving the right to a trial by jury or to participate in a class action.** This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Agreement.

(B) A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute (Notice). The Notice to the Company should be addressed to: Illinois Energy, USA, LLC c/o Rogers & Hardin LLP, 2700 International Tower, Peachtree Center, 229 Peachtree Street, N.E., Atlanta, Georgia 30303-1601 (Notice Address). The Notice must (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought (Demand). If the Company and you do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, you or the Company may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by the Company or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or the Company is entitled. You may download or copy a form Notice and a form to initiate arbitration at www.illenergy.com/dispute.

(C) After the Company receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for greater than \$75,000 (if you are unable to pay the filing fee, the Company will pay it directly upon receiving a written request at the Notice Address). For commercial customers, the arbitration will be governed by the Commercial Arbitration Rules of the American Arbitration Association® (AAA), as modified by this Agreement. For residential customers, the arbitration will be governed by the AAA Consumers Arbitration Rules, as modified by this Agreement. The arbitration will be administered by the AAA. The AAA Rules are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by writing to the Notice Address. (You may obtain information that is designed for non-lawyers about the arbitration process at illenergy.com/dispute. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of the arbitration provision. Unless the Company and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. If your claim is for \$25,000 or less, the Company agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds

\$25,000, the right to a hearing will be determined by the applicable AAA Rules. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. Except as otherwise provided for herein, the Company will pay all AAA filing, administration, and arbitrator fees for any arbitration initiated in accordance with the notice requirements above. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the applicable AAA Rules. In such case, you agree to reimburse the Company for all monies previously disbursed by it that are otherwise your obligation to pay under the applicable AAA Rules. In addition, if you initiate an arbitration in which you seek more than \$75,000 in damages, the payment of these fees will be governed by the applicable AAA rules.

(D) If, after finding in your favor in any respect on the merits of your claim, the arbitrator issues you an award that is greater than the value of the Company's last written settlement offer made before an arbitrator was selected, then the Company will:

- pay you the amount of the award or \$5,000 ("the alternative payment"), whichever is greater; and
- pay your attorney, if any, twice the amount of attorneys' fees, and reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration ("the attorney premium"); provided, however, that we will not pay attorneys' fees and expenses incurred in contesting the scope or enforceability of the arbitration provision.

If the Company did not make a written offer to settle the dispute before an arbitrator was selected, you and your attorney will be entitled to receive the alternative payment and the attorney premium, respectively, if the arbitrator awards you any relief on the merits; provided, however, that we will not pay attorneys' fees and expenses incurred in contesting the scope or enforceability of the arbitration provision. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees, expenses, and the alternative payment and the attorney premium at any time during the proceeding and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits.

(E) The right to attorneys' fees and expenses discussed in paragraph (D) supplements any right to attorneys' fees and expenses you may have under applicable law. Thus, if you would be entitled to a larger amount under the applicable law, this provision does not preclude the arbitrator from awarding you that amount. However, you may not recover duplicative awards of attorneys' fees or costs. Although under some laws the Company may have a right to an award of attorneys' fees and expenses if it prevails in an arbitration, the Company agrees that it will not seek such an award.

(F) The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. **YOU AND THE COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, unless both you and the Company agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

(G) Notwithstanding any provision in this Agreement to the contrary, we agree that if the Company makes any future change to this arbitration provision (other than a change to the Notice Address) during the term of your Agreement, you may reject any such change by sending the Company written notice within thirty (30) days of the change to the Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this provision.

14. Miscellaneous. This Agreement, including the terms, conditions, limitations, exceptions, exclusions, charge(s), and other items shown on your Customer Statement, constitutes the entire agreement of the parties relating to the subject matter addressed in this 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; provided, however, that the Federal Arbitration Act shall govern the arbitration of all disputes as set forth in Section 13 of this Agreement.

For issues regarding safety (e.g. gas odor or leaks), Utility rates, metering, or other issues regarding your Utility service, contact the Utility at the phone number and address provided on your Customer Statement.