

# EXHIBIT A: Evaluation Checklist for Natural Gas-General Procurement Pools

## Summary

**Financial Instrument or Contract Reviewed:** General Procurement Pool contracts with the Department of General Services (DGS) under the Natural Gas Services (NGS) Program.

**Evaluation as of:** Evaluation of standard agreements under the program used as of June 2009 and beyond.

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Interest rate swap		Swaptions	
Commodity swap		Forward contracts	
Interest rate lock		Futures contracts	
Options:		Energy contracts	Natural Gas-General Procurement Pool
Caps		Other:	
Floors		Describe	
Collars			

### Is this financial instrument is a derivative instrument under GASB 53?

	Reference Questions	Check as Appropriate
Derivative instrument	1-3	Yes
Hybrid instrument	4-7	
Synthetic Guaranteed Investment Contract	8-14	
If a derivative instrument, is it excluded from scope?	15-19	Yes
This is not a derivative instrument		N/A

### Is this an investment derivative or a potential hedging derivative?

		Check one
Investment derivative	20	N/A
Potential hedging derivative:		
Existing or expected financial instrument?	21	
Existing or expected commodity?	21	N/A

### For existing or expected financial instruments:

	21-29	Check one
Effective hedge (hedge accounting applies): (1)		
Cash flow hedge		
Fair value hedge		
Indicate method used to document effectiveness		
Ineffective hedge (hedge accounting does not apply)		

### For existing or expected commodity transactions:

	30-37	Check one
Effective hedge (hedge accounting applies): (1)		
Cash flow hedge		N/A
Fair value hedge		N/A
Indicate method used to document effectiveness:		
Ineffective hedge (hedge accounting does not apply)		N/A

(1) Once determined to be an effective hedge, an evaluation must be performed each subsequent year to validate continued effectiveness.

Derivative Instruments - IRM 53.2

02/12/10

# EXHIBIT A: Evaluation Checklist for Natural Gas-General Procurement Pools

## Evaluation Checklist for:

**Prepare an inventory of all energy contracts entered into by UCOP and its campuses**

Refer to the GASB Statement No. 53-1 and 53-2 Outline for details

*Note:* Attach comments as necessary for further discussion of the conclusion. Certain questions may not result in simple "yes" or "no" answers and the substance of the financial instrument or contract must be considered in order to arrive at the conclusion.

**Determine whether the financial instrument or contract qualifies as a derivative instrument. If so, evaluate whether it is a hedging derivative. If a hedging derivative, determine whether it is a cash flow or fair value hedge.**

### Does this Meet the Definition of a Derivative Instrument? (§7-13)

	YES/ NO	Source Document/ X - Reference
1. Does the financial instrument have settlement factors that include a) a reference rate and b) a notional amount?	Yes, UC agrees to take delivery of agreed-upon amounts of natural gas - "take or pay." The campus is individually contracted to take the gas and must pay for the gas whether or not their facility can take or use the gas.	DGS NGS program Gas Services Agreement. In addition, the NGS Risk Management Protocol establishes the "take or pay" criteria in 3.4.4. "Take or pay" agreements are derivative contracts per GASB Q&A 4.
2. Is there leverage, i.e. little or no initial net investment?	Yes, there is no initial investment.	DGS NGS program Gas Services Agreement. NGS Risk Management Protocol.
3. Are there net settlement provisions?	Yes	DGS NGS program Gas Services Agreement. NGS Risk Management Protocol.

*If "yes," to question 1-3, the financial instrument or contract is a derivative instrument. However, continue the evaluation beginning with question 15 to determine whether the type of financial instrument or contract is excluded from the scope of Statement No. 53.*

*If "no" to any one of questions 1-3, the financial instrument or contract is not be a derivative instrument. However, continue the evaluation beginning with question 4 to assess whether a hybrid instrument is involved.*

**If Not, Does this Meet the Definition of a Hybrid Instrument? (¶64)**

4. Is this a situation where there may be a derivative instrument that accompanies, or is incorporated within, a companion document?

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*If "yes," to question 4, the financial instrument or contract may be a hybrid instrument and must be further evaluated. Continue the evaluation beginning with question 5 to determine whether the type of financial instrument or contract is a hybrid instrument.*

*If "no" to question 4, the financial instrument or contract is not a hybrid instrument. However, continue the evaluation beginning with question 8 to determine whether an SGIC is involved.*

5. Is it a true statement that the companion instrument is not measured at fair value on the Statement of Net Assets?

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6. Would a separate instrument with the same terms as a derivative instrument meet the definition of a derivative instrument using questions 1-3 above?

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7. Is it a true statement that the economic characteristics and risks of the derivative instrument are not closely related to the economic characteristics and risks of the companion instrument?

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*If "yes" to all questions of 5-7 the financial instrument or contract is a hybrid instrument. However, continue the evaluation beginning with question 15 to determine whether the type of financial instrument or contract is excluded from the scope of Statement No. 53.*

*If "no" to any one of questions 4-6, the financial instrument or contract is not a hybrid instrument. However, continue the evaluation beginning with question 8 to assess whether an SGIC is involved.*

**If Not, Does this Meet the Definition of a Synthetic Guaranteed Investment Contract (SGIC)? (¶67)**

8. Does the SGIC prohibit the University from assigning or selling the contract or its proceeds to another party without the consent of the issuer?

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9. Are prospective interest crediting rate adjustments provided to plan participants and UC on a designated pool of investments by a financially responsible third party?

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10. Do the adjustments provide assurance that probable future rate adjustments would result in an interest crediting rate of less than zero is remote?

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11. Do the pool of investments in total meet both of the following criteria?  
 \* The pool is of high credit quality such that the possibility of credit loss is remote?  
 \* The pool may be prepaid or otherwise settled in such a way that UC and its plan participants would recover contract value?

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12. Do the terms of the SGIC require all permitted participant-initiated transactions with UC to occur at contract value with no conditions, limits, or restrictions? (permitted participant-initiated transactions are those transactions allowed by UC, such as withdrawals for benefits, loans, or transfers to other investment choices)

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13. Some events may limit UC's ability to transact with participants at contract value. Examples are premature termination of contracts, layoffs, plan terminations, bankruptcies, and early retirement incentives. Is the probability of such an event occurring within one year of the date of the financial statements remote?

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14. Does UC allow participants reasonable access to their investments?

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If "yes" to all questions of 8-14 the financial instrument or contract is an SGIC under Statement No. 53. Measure at contract value and disclose in accordance with that Statement. The evaluation does not continue.

If "no" to any of questions 8-14, the financial instrument or contract is not an SGIC under Statement No. 53. The evaluation does not continue.

**If this Meets the Definition of a Derivative Instrument, is it Excluded from the Scope of GASB Statement No. 53? (§14-18)**

15. Is the derivative instrument a normal purchase or sale contract for a commodity used in the normal course of operations? Consider whether the contract results in the purchase or sale of a commodity such as natural gas or electricity, whether the contract includes a net settlement feature, whether the University has entered into such a contract in the past, whether the University has a practice of taking delivery or selling a commodity, and whether the quantity of the commodity in the contract is consistent with the volume used in the University's activities.	Yes, purchases are to meet existing campus forecasted gas needs, routinely entered into by campuses who take delivery.	NGS Risk Management Protocol limits the exposure to 75% of the monthly forecasted gas volume.
16. Is this a risk financing or insurance related contract?		
17. Is this a financial guarantee contract that does not respond to changes in a reference rate?		
18. Is this a specific type of contract that is not exchange traded and includes a reference rate based upon climate, geological, other physical variables, or the price of a nonfinancial asset?		
19. Is this a loan commitment contract?		

If "yes" to any one of questions 15-19, the financial instrument or contract is excluded from the scope of Statement No. 53 and the evaluation does not continue.

However, if "no" to all of questions 14-19, the financial instrument or contract is a derivative instrument that must be further evaluated under Statement No. 53 to determine whether it is an "investment derivative" or a "hedging derivative," and if a "hedging derivative," whether it is "effective" or "ineffective" hedge. Begin the next stage of the evaluation with question 20.

**Determine Whether the Derivative Instrument is an "Investment Derivative" or a Potential "Hedging Derivative" (§20)**

20. Was the derivative instrument or contract entered into for the purpose of making a profit?	N/A	N/A
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If "yes" to question 20, the financial instrument or contract is an investment derivative under Statement No. 53. Apply investment derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to question 20, the financial instrument or contract is a hedging derivative and must be further evaluated to determine whether it is an "effective" or "ineffective" hedge. Begin the next stage of the evaluation with question 30.

21. Is the hedgeable item an existing or expected financial instrument?		
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If "yes" to question 21, skip to question 24 and continue the evaluation.

If "no" to question 21, the hedgeable item item is an existing or expected commodity transaction. Skip to question 30.

**Evaluate Whether the Potential Hedging Derivative Where the Hedgeable Item is a Existing or Expected Financial Instrument is an "Effective" or Ineffective" Hedge. (§34-48)**

*If the derivative instrument is an interest rate swap or forward contract, determine whether it is "effective" under the Consistent Critical Terms Method by continuing with question 22a, 23a or 24a.*

Based upon the answers to the following, determine whether the Consistent Critical Terms Method of evaluating an interest rate swap or forward contract results in an "effective" hedge:

**EXISTING OR EXPECTED FINANCIAL INSTRUMENTS**

**Consistent Critical Terms Method**

*For an "effective" interest rate swap-cash flow hedge (§37):*

- 22a. Is the notional amount of the interest rate swap the same as the principal amount of the hedgeable item throughout the life of the hedging relationship? This criterion is met if the notional amount of the interest rate swap and principal amount of the hedgeable item are equal for each hedged interest payment, even if the hedged item amortizes or otherwise adjusts subsequent to the inception of the hedge.
- 22b. Upon association with the hedgeable item, does the interest rate swap have a zero fair value? (the value of a derivative instrument that is either entered into or exited with no consideration being exchanged. A zero fair value should be within a dealer's normal bid/offer spread.)
- 22c. Is the formula for computing net settlements under the interest rate swap the same for each net settlement? (That is, the fixed rate is the same throughout the term of the interest rate swap. Likewise, each variable payment of the interest rate swap is based on the same variable, such as the same reference rate or index.)
- 22d. Is the reference rate of the interest rate swap's variable payment consistent with one of the following:
  - (1) The reference rate or payment of the hedgeable item. For example, an interest rate swap provides variable payments to the University equal to the total variable payments of variable-rate bonds—a cost-of-funds hedge.
  - (2) A benchmark interest rate as specified in paragraph 35 if interest rate risk is the hedged risk. The reference rate cannot be multiplied by a coefficient, such as 68 percent of LIBOR, but it may be adjusted by addition or subtraction of a constant, such as the SIFMA swap index plus 10 basis points, provided that the constant is specifically attributable to the effects of state-specific tax rates.
- 22e. Do interest receipts or payments of the interest rate swap occur during the term of the hedgeable item, and no interest receipts or payments of the interest rate swap occur after the term of the hedgeable item? (For example, an interest rate swap that hedges the first 10 years of a 15-year variable-rate bond meets this criterion.)
- 22f. Is it true that the reference rate of the interest rate swap does not have a floor or cap unless the hedgeable item has a floor or cap. (If the hedgeable item has a floor or cap, does the interest rate swap have a floor or cap on the variable interest rate that is comparable to the floor or cap on the hedgeable item? (Comparable does not necessarily mean equal. For example, an interest rate swap's reference rate is the SIFMA swap index, while the hedgeable bond's variable rate is the SIFMA swap index plus 2 percent. A 10 percent cap on the interest rate swap would be comparable to a 12 percent cap on the bonds and would meet this criterion as both caps produce equal changes in cash flows if the SIFMA swap index exceeds 10 percent.)


22g. Is the time interval of the reference rate, commonly referred to as the designated maturity, employed in the variable payment of the interest rate swap the same as the time interval of the rate reset periods of the hedgeable item? (Examples that meet this criterion include an interest rate swap with a variable payment referenced to (1) the SIFMA swap index—a seven-day index—that hedges variable-rate bonds with a rate reset every seven days and (2) an interest rate swap with a variable payment referenced to the one-month LIBOR index that hedges taxable variable-rate bonds with a monthly rate reset.)

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22h. Are the frequency of the rate resets of the variable payment of the swap and the hedgeable item the same? (For example, this criterion is met by an interest rate swap with a reference rate that resets monthly and hedges bonds with a variable interest rate that also resets monthly.)

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22i. Are the rate reset dates of the interest rate swap within six days of the rate reset dates of the hedgeable item? (For example, this criterion is met by an interest rate swap with a reference rate that resets on the 15th day of the month that hedges bonds with a variable interest rate that resets on the 18th day of the month.)

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22j. Are the periodic interest rate swap payments within 15 days of the periodic payments of the hedgeable item?

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*If "yes" to all of questions 22a-j, the interest rate swap is an "effective" cash flow hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to any one of questions 22 a-j, the interest rate swap is not an "effective" cash flow hedge under the Consistent Critical Terms Method and must be further evaluated. Begin the next stage of the evaluation with question 23.*

***For an "effective" interest rate swap-fair value hedge (§38):***

23a. Is the notional amount of the interest rate swap the same as the principal amount of the hedgeable item throughout the life of the hedging relationship? (This criterion is met if the notional amount of the interest rate swap and principal amount of the hedgeable item are equal over the entire term of the hedgeable item, even if the hedgeable item amortizes or otherwise adjusts subsequent to the inception of the hedge.)

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23b. Upon association with the hedgeable item, does the interest rate swap have a zero fair value?

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23c. Is the formula for computing net settlements under the interest rate swap the same for each net settlement? (That is, the fixed rate is the same throughout the term of the interest rate swap. Likewise, each variable payment of the interest rate swap is based on the same variable, such as the same reference rate or index.)

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23d. Is it true that the interest rate swap that hedges interest rate risk has a variable payment based on a benchmark interest rate without multiplication by a coefficient, such as 68 percent of LIBOR? (The benchmark interest rate, however, may be adjusted by addition or subtraction of a constant, such as the SIFMA swap index plus 10 basis points, provided that the constant is specifically attributed to the effect of state-specific tax rates.)

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- 23e. Is it true that the hedgeable item is not prepayable? (that is, the hedgeable item is not able to be settled by either party prior to its scheduled maturity). This criterion does not apply to a call option in an interest-bearing hedgeable item that is matched by a mirror-image call option in an interest rate swap if both of the following criteria are met:
- (1) A mirror-image call option matches the terms of the call option in the hedgeable item. The terms include maturities, strike price, related notional amounts, timing and frequency of payments, and dates on which the instruments may be called.
- (2) The University is the writer of one call option and the holder (or purchaser) of the other call option.
- 23f. Is the expiration date of the interest rate swap on or about the maturity date of the hedgeable item so that the University will not be exposed to interest rate risk or market risk?
- 23g. Is it true that the reference rate of the interest rate swap has neither a floor nor a cap?
- 23f. Does the reference rate of the interest rate swap reset at least every 90 days so that the variable payment or receipt is considered to be at a market rate?


*If "yes" to all of questions 22a-f, the interest rate swap is an "effective" fair value hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to any one of questions 23 a-f, the interest rate swap is not an "effective" fair value hedge under the Consistent Critical Terms Method and must be further evaluated. Begin the next stage of the evaluation with question 24a.*

***For an "effective" forward contract-cash flow hedge (§39):***

- 24a. Is the object of the hedge an existing single asset or liability, or group of assets and liabilities, that are currently measured at fair value on the SRECNA, such as debt or equity securities denominated in a foreign currency?

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*If "yes" to question 24a, the derivative instrument is an investment derivative. Apply investment derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to question 24a, continue to 24b.*

- 24b. Is the object of the hedge an expected single asset or liability, or group of assets and liabilities, that are not currently measured at fair value on the SRECNA, such as the future purchase of debt or equity securities denominated in a foreign currency?

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*If "yes" to question 24b, a hedgeable item exists and therefore continue the evaluation to 24c to determine whether the potential hedging derivative is "effective".*

*If "no" to question 24b, the derivative instrument is an investment derivative. Apply investment derivative financial reporting treatment and disclosures as outlined in the IRM.*

- 24c. Is the forward contract for the purchase or sale of the same quantity or notional amount and at the same time as the hedgeable item?

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- 24d. Upon association with the hedgeable item, does the forward contract have a zero fair value?

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- 24e. Is the reference rate of the forward contract consistent with the reference rate of the hedgeable item?

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If "yes" to all of questions 24c-e, the forward contract is an "effective" cash flow hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM. Discontinue the evaluation.

If "no" to any one of questions 24a-c, the forward contract is not an "effective" cash flow hedge under the Consistent Critical Terms Method. Do not apply hedging derivative financial reporting treatment. Apply investment derivative financial reporting treatment and disclosures as outlined in the IRM. Discontinue the evaluation.

**Quantitative Methods**

If the interest rate swap or forward contract is not "effective" under the Consistent Critical Terms Method, continue the evaluation using at least one of the quantitative methods discussed below.

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**Synthetic instrument method-cash flow hedge (§42-43):**

25a. Is the notional amount of the potential hedging derivative instrument the same as the principal amount of the associated variable-rate asset or liability throughout the life of the hedging relationship? (This criterion is met if the notional amount of the swap and principal amount of the hedgeable item match for each hedged interest payment, even if the hedged item amortizes or otherwise adjusts subsequent to the inception of the hedge.)

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25b. Upon association with the variable-rate asset or liability, does the potential hedging derivative instrument have a zero fair value or is the forward price at-the-market?

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25c. Is the formula for computing net settlements under the potential hedging derivative instrument the same for each net settlement; that is, the same fixed rate, reference rate, and constant adjustment, if any, throughout the term of the potential hedging derivative instrument?

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25d. Do the interest receipts or payments of the potential hedging derivative instrument occur during the term of the variable-rate asset or liability, and no interest receipts or payments occur after the term of the variable-rate asset or liability? (For example, a swap that hedges the first 10 years of a 15-year variable-rate bond meets this criterion.)

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If "yes" to all of questions 25a-d, the Synthetic Instrument Method may be applied to evaluate the effectiveness of a potential hedging derivative. Continue with question 26.

If "no" to any one of questions 25a-d, the Synthetic Instrument Method may not be applied to evaluate the effectiveness of a potential hedging derivative. Skip to question 27 for another quantitative method.

26. Under the synthetic instrument method, a potential hedging derivative instrument is effective if the actual synthetic rate is substantially fixed. The results of this analysis should be evaluated as follows:

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26a. Is the actual synthetic rate within a range of 90 to 111 percent of the fixed rate of the potential hedging derivative instrument?

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26b. If the actual synthetic rate is outside the required range for the current reporting period, the actual synthetic rate should be calculated on a life-to-date basis. Is the actual synthetic rate on a life-to-date basis within the required range?

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26c. If a short time period has elapsed since inception of the hedge and the actual synthetic rate is outside the required range, the evaluation may include hypothetical payments, as if the hedge had been established at an earlier date. Effectiveness should then be reevaluated. For example, the first reporting period ends 90 days into a 10-year hedge, and when the government prepares its financial statements, it finds that the actual synthetic rate for the 90-day period is outside the 90 to 111 percent range. In that case, hypothetical payments from periods prior to the establishment of the hedge may be added to the evaluation. Does that analysis show a synthetic rate within the required range?

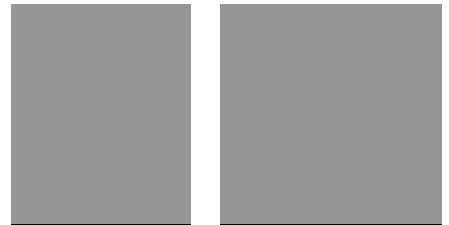


*If "yes" to any of questions 26a-c, the derivative instrument is an "effective" cash flow hedge under the Synthetic Instrument Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to any one of questions 26a-c, the derivative instrument is not an "effective" cash flow hedge under the Synthetic Instrument Method and must be further evaluated. Skip to question 27 for another quantitative method.*

**Dollar-offset method-fair value or cash flow hedge (¶44):**

27. The dollar-offset method evaluates effectiveness by comparing the changes in expected cash flows or fair values of the potential hedging derivative instrument with the changes in expected cash flows or fair values of the hedgeable item. This evaluation may be made using changes in the current period or on a life-to-date basis. Do changes in either the hedgeable item or the potential hedging derivative instrument divided by the other result within a range of 80 to 125 percent in absolute terms?



*If "yes" to question 27, the derivative instrument is an "effective" as either a cash flow or fair value hedge under the Dollar Offset Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to question 27, the derivative instrument is not an "effective" cash flow or fair value hedge under the Dollar Offset Method and must be further evaluated. Skip to question 28 for another quantitative method.*

**Regression analysis method (¶45-47):**

Cash flow hedges. If a potential hedging derivative instrument is employed as a cash flow hedge, the relationship analyzed should be relevant cash flows, rates, or fair values of the potential hedging derivative instrument and the hedgeable item. See ¶46.

Fair value hedges. If a potential hedging derivative instrument is employed as a fair value hedge, the relationship analyzed should be the changes in fair values of the potential hedging derivative instrument and the hedgeable item.

28. For either a cash flow or fair value hedge, under the regression analysis method:

28a. Is the R-squared of the regression analysis is at least 0.80?



28b. Does the F-statistic calculated for the regression model demonstrate that the model is significant using a 95 percent confidence interval?



28c. Is the regression coefficient for the slope is between -1.25 and -0.80?



If "yes" to all of questions 28a-c, the derivative instrument is either an "effective" cash flow hedge or fair value hedge under the Regression Analysis Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to any one of questions 28a-c, the derivative instrument is not an "effective" cash flow or fair value hedge under the Regression Analysis Method and must be further evaluated. Skip to question 29 for another quantitative method.

**Other Quantitative Methods (§48):**

The University may use a quantitative method to evaluate effectiveness not specifically identified in Statement No. 53 if the method meets all of the following criteria:

- 29a. Through identification and analysis of critical terms, does the method demonstrates that the changes in cash flows or fair values of the potential hedging derivative instrument substantially offset the changes in cash flows or fair values of the hedgeable item?
- 29b. Can replicable evaluations of effectiveness be generated that are sufficiently complete and documented such that different evaluators using the same method and assumptions would reach substantially similar results?
- 29c. Have the substantive characteristics of the hedgeable item and the potential hedging derivative instrument that could affect their cash flows or fair values been considered?


If "yes" to all of questions 29a-c, another quantitative method may be used to demonstrate effectiveness.

If "no" to any of questions 29a-c, another quantitative method may not be used to demonstrate effectiveness.

**EXISTING OR EXPECTED COMMODITY TRANSACTIONS**

Based upon the answers to the following, determine whether the Consistent Critical Terms Method of evaluating a commodity asset or expected transaction results in an "effective" hedge:

**Consistent Critical Terms Method**

*For an "effective" commodity swap-cash flow hedge (§51):*

- 30a. Is the commodity swap for the purchase or sale of the same quantity (notional amount) of the same hedgeable item at the same time and delivery location as the hedgeable item?
- 30b. Upon association with the hedgeable item, does the commodity swap have a zero fair value?
- 30c. Is the reference rate of the commodity swap consistent with the reference rate of the hedgeable item. (For example, a commodity swap hedges the University's natural gas purchases at the Henry Hub pricing point. That commodity swap also should have a reference rate based on the Henry Hub pricing point to meet this criterion.)
- 30d. Is it true that the reference rate of the commodity swap does not have a floor or cap unless the hedgeable item has a floor or cap? (Floors and caps place limits on expected cash flows. If the hedgeable item has a floor or cap, the commodity swap has a comparable floor or cap on the variable commodity price.)

	N/A	N/A
	N/A	N/A
	N/A	N/A
	N/A	N/A

If "yes" to all of questions 30a-d, the interest rate swap is an "effective" cash flow hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to any one of questions 30 a-d, the interest rate swap is not an "effective" cash flow hedge under the Consistent Critical Terms Method and must be further evaluated. Begin the next stage of the evaluation with question 31.

**For an "effective" commodity swap-fair value hedge (§52):**

31a. Is the commodity swap for the purchase or sale of the same quantity (notional amount) of the same hedgeable item at the same time and delivery location as the hedgeable item?	N/A	N/A
31b. Upon association with the hedgeable item, does the commodity swap have a zero fair value?	N/A	N/A
31c. Is it true that the hedgeable item is not prepayable? (that is, the hedgeable item is not able to be settled by either party prior to its scheduled maturity). This criterion does not apply to a call option in an interest-bearing hedgeable item that is matched by a mirror-image call option in a commodity swap if both of the following criteria are met: (1) A mirror-image call option matches the terms of the call option in the hedgeable item. The terms include maturities, strike price, related notional amounts, timing and frequency of payments, and dates on which the instruments may be called. (2) The University is the writer of one call option and the holder (or purchaser) of the other call option.	N/A	N/A
31d. Is the expiration date of the commodity swap on or about the maturity date of the hedgeable item so that the University will not be exposed to interest rate risk or market risk?	N/A	N/A
31e. Is it true that the reference rate of the commodity swap has neither a floor nor a cap?	N/A	N/A
31f. Does the reference rate of the commodity swap reset at least every 90 days so that the variable payment or receipt is considered to be at a market rate?	N/A	N/A

If "yes" to all of questions 31a-f, the commodity swap is an "effective" fair value hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to any one of questions 31 a-f, the commodity swap is not an "effective" fair value hedge under the Consistent Critical Terms Method and must be further evaluated. Begin the next stage of the evaluation with question 33a.

**For an "effective" commodity forward contract-cash flow hedge (§53):**

32a. Is the forward contract for the purchase or sale of the same quantity or notional amount and at the same time as the hedgeable item?	N/A	N/A
32b. Upon association with the hedgeable item, does the forward contract have a zero fair value?	N/A	N/A
32c. Is the reference rate of the forward contract consistent with the reference rate of the hedgeable item?	N/A	N/A

If "yes" to all of questions 32a-c, the commodity forward contract is an "effective" cash flow hedge under the Consistent Critical Terms Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to any one of questions 32 a-c, the commodity forward contract is not an "effective" cash flow hedge under the Consistent Critical Terms Method and must be further evaluated. Begin the next stage of the evaluation with question 33a.

**Quantitative Methods**

If the commodity swap or forward contract is not "effective" under the Consistent Critical Terms Method, continue the evaluation using at least one of the quantitative methods discussed below.

**Synthetic instrument method-cash flow hedge (§56-57):**

33a. Is the notional amount of the potential hedging derivative instrument the same as the quantity of the hedgeable item?	N/A	N/A
	_____	_____
33b. Upon association with the hedgeable item, does the potential hedging derivative instrument have a zero fair value or is the forward price at-the-market?	N/A	N/A
	_____	_____

If "yes" to all of questions 33 a-b, the Synthetic Instrument Method may be applied to evaluate the effectiveness of a potential hedging derivative. Continue with question 34.

If "no" to any one of questions 33 a-b, the Synthetic Instrument Method may not be applied to evaluate the effectiveness of a potential hedging derivative. Skip to question 35 for another quantitative method.

34. Under the synthetic instrument method, a potential hedging derivative instrument is effective if the actual synthetic rate is substantially fixed. The results of this analysis should be evaluated as follows:	N/A	N/A
	_____	_____
34a. Is the actual synthetic rate within a range of 90 to 111 percent of the fixed rate of the potential hedging derivative instrument?	N/A	N/A
	_____	_____

**Dollar-offset method-fair value or cash flow hedge (§58):**

35. The dollar-offset method evaluates effectiveness by comparing the changes in expected cash flows or fair values of the potential hedging derivative instrument with the changes in expected cash flows or fair values of the hedgeable item. This evaluation may be made using changes in the current period or on a life-to-date basis. Do changes in either the hedgeable item or the potential hedging derivative instrument divided by the other result within a range of 80 to 125 percent in absolute terms?	N/A	N/A
	_____	_____

If "yes" to question 35, the derivative instrument is an "effective" as either a cash flow or fair value hedge under the Dollar Offset Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.

If "no" to question 35, the derivative instrument is not an "effective" cash flow or fair value hedge under the Dollar Offset Method and must be further evaluated. Skip to question 36 for another quantitative method.

**Regression analysis method (§59):**

Cash flow hedges. If a potential hedging derivative instrument is employed as a cash flow hedge, the relationship analyzed should be relevant cash flows, rates, or fair values of the potential hedging derivative instrument and the hedgeable item. See §60.

Fair value hedges. If a potential hedging derivative instrument is employed as a fair value hedge, the relationship analyzed should be the changes in fair values of the potential hedging derivative instrument and the hedgeable item.

For either a cash flow or fair value hedge, under the regression analysis method:

36a. Is the R-squared of the regression analysis is at least 0.80?	N/A	N/A
36b. Does the F-statistic calculated for the regression model demonstrate that the model is significant using a 95 percent confidence interval?	N/A	N/A
36c. Is the regression coefficient for the slope is between -1.25 and -0.80?	N/A	N/A

*If "yes" to all of questions 36a-c, the derivative instrument is either an "effective" cash flow hedge or fair value hedge under the Regression Analysis Method. Apply hedging derivative financial reporting treatment and disclosures as outlined in the IRM.*

*If "no" to any one of questions 36a-c, the derivative instrument is not an "effective" cash flow or fair value hedge under the Regression Analysis Method and must be further evaluated. Skip to question 37 for another quantitative method.*

**Other Quantitative Methods (§62):**

The University may use a quantitative method to evaluate effectiveness not specifically identified in Statement No. 53 if the method meets all of the following criteria:

37a. Through identification and analysis of critical terms, does the method demonstrates that the changes in cash flows or fair values of the potential hedging derivative instrument substantially offset the changes in cash flows or fair values of the hedgeable item?	N/A	N/A
37b. Can replicable evaluations of effectiveness be generated that are sufficiently complete and documented such that different evaluators using the same method and assumptions would reach substantially similar results?	N/A	N/A
37c. Have the substantive characteristics of the hedgeable item and the potential hedging derivative instrument that could affect their cash flows or fair values been considered?	N/A	N/A

*If "yes" to all of questions 37 a-c, another quantitative method may be used to demonstrate effectiveness.*

*If "no" to any of questions 37 a-c, another quantitative method may not be used to demonstrate effectiveness.*

**Information Attachment** (Rev. July 23, 2007)

**NGS Participant Name:** \_\_\_\_\_

**Participant Primary Contact**

Name: Phone: Fax: E-mail:	Address:
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**Additional Participant Contact for Business Issues**

Name: Phone:  Fax: Cell Phone/Pager: E-mail:	Address:   Notes:
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**Contact For Gas Billing & Accounting Issues**

Name: Phone:  Fax: E-mail:	Billing Address:
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**Individual Account Information**

**Account Number(s)**

Meter	Meter Number	Meter Address	Further Information
A			
B			

(expand file to add additional meters as needed)

**Contact Information for Gas Supply Issues and Emergency Notification**

Name: Phone:  Fax: E-mail: 24-hour Phone:	Address:   Notes:
--	----------------------------

**STATE OF CALIFORNIA**  
**Department of General Services**  
**Natural Gas Services Program**  
**Gas Services Agreement**  
**Agreement Signature Cover Page** (Rev June 2, 2009)

This Agreement is entered into between the Department of General Service (hereinafter "DGS") and

(hereinafter "Participant")

The term of gas deliveries under this Agreement shall commence on \_\_\_\_\_ and shall terminate at 11:59 PM on: (Pick one and Initial)

\_\_\_\_\_ **June 30, 2010**(simple one Fiscal Year term option)

\_\_\_\_\_ **June 30, 2010**, but shall continue for the longer of (i) additional 12-month Fiscal Year (July 1 to June 30) periods beyond that date, commencing on July 1 of each subsequent fiscal years, unless terminated by either party effective as of June 30 of the then current Fiscal Year, by giving written notice to the other party on or before February 15 of the current fiscal year or (ii) the term of any Special Purchase Attachment or Amendment made a part of this document. (Short-Term Evergreen term option, automatically renewing for an additional one year term unless deliberately ended)

\_\_\_\_\_ **June 30, 2014** (multi-year option, fixed 5 year ending date)

\_\_\_\_\_ **June 30, 2014**, but shall continue for the longer of (i) the term of any Special Purchase Attachment or Amendment made a part of this document or (ii) at the end of the Fiscal Year five (5) years after written notice delivered on or before February 15<sup>th</sup> of any year by either party. (Long-Term Evergreen option, automatically renewing annually to maintain a five year term unless sooner terminated)

The parties agree to comply with all parts of this Agreement, which includes:

**Agreement Signature Cover Page** (1 page)

**Information Attachment** (1 page)

**Terms and Conditions Attachment** (6 pages)

**Special Purchase Attachments** (optional, can be multiple, 2 pages each)

Any subsequent **Amendments** to this Agreement

**Participant**

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

**Department of General Services**

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

**Kimberly Hunt, Chief, DGS Office of Insurance and Risk Management**

Mailing Address: DGS, The Ziggurat, Attn: Marshall D. Clark, Natural Gas Services,  
MS-408, PO Box 989052, West Sacramento, CA, 95798-9052

**STATE OF CALIFORNIA**  
**Department of General Services**  
**Natural Gas Services Program**

**Gas Services Agreement – PG&E Full Requirements (Rev Jan 24, 2008)**

**Terms & Conditions Attachment**

**1. DEFINITIONS:**

**1.1 Commodity Cost:** the monthly cost of natural gas commodity purchased by DGS for the Participant. The cost shall be the actual cost incurred by DGS to acquire gas for Participant, including the gas supplier markup, but without any mark-up by DGS. If the Participant has one or more Special Purchases, the associated costs shall be included in the DGS Commodity Cost. If gas is physically stored for the Participant, that cost may be presented as a separate **Storage Cost**.

**1.2 DGS Fee:** \$.0065 per therm of gas delivered to the Participant, but not to exceed a maximum of \$27,000 per Account per fiscal year, subject to the right of DGS to decrease either sum. These costs are calculated in conformance with the State Administrative Manual (SAM) Section 8752.

**1.3 PG&E:** the Pacific Gas & Electric Company, which supplies natural gas transportation to the Participant's meter(s).

**1.4 PG&E Cost:** all costs and charges (including where applicable intrastate transportation costs) from PG&E for natural gas transportation and related services on its system to the Participant's Account. This will be the cost charged by PG&E, without any mark-up by DGS.

**1.5 Requirement (s):** the amount of natural gas needed by the Participant to service its operations. This is a "full-requirements" agreement, meaning that the Participant will be supplied all the natural gas it requires, without limitation. **Estimated Requirements** shall be established no later than 5 working days before the beginning of the month for which the estimates are made.

**1.6 Special Purchase:** any gas commodity, gas storage services, or gas transportation services purchased by DGS at the Participant's specific request as an optional service, as specified in one or more Special Purchase Attachments attached hereto and incorporated herein by reference. If there is a Special Purchase(s), the volumes or services in such Special Purchase(s) shall be deemed the first delivered to or used by the Participant.

**2. DGS NATURAL GAS SERVICES FOR THE PARTICIPANT:**

**2.1** DGS shall, via contract(s) with gas supplier(s) and other parties, arrange for the acquisition of gas commodity in accordance with applicable state law and PG&E requirements, for the delivery of all the Participant's Requirements for the Account(s) identified in the Information Attachment of this Agreement.

**2.2** DGS will arrange the necessary natural gas nominations and scheduling with PG&E, subject to the PG&E's capability to deliver gas to Participant.



2.3 DGS will provide Participant monthly with reporting of gas usage and detailed invoicing of costs, in a format suitable for auditing of the Participant's gas procurement account and annually, a fiscal year summary showing gas deliveries and costs.

2.4 DGS will make payments to the appropriate entities of the Commodity Cost, the DGS Fee, PG&E Cost, and any special adjustments, as necessary, for Participant's Requirements.

2.5 DGS will monitor, and where it deems necessary or appropriate for the operation of the program, participate in the California Public Utilities Commission (CPUC) and Federal Energy Regulatory Commission (FERC) natural gas related proceedings. This is for the purpose of attempting to modify the impact of regulatory proposals.

2.6 Whenever possible, DGS will provide information, advice, and additional assistance on any matters dealing with the gas supply for the Participant's Account.

### **3. PARTICIPANT OBLIGATIONS:**

3.1 The Participant agrees to purchase the Requirements for the Account(s) listed in Information Attachment from DGS and to pay DGS promptly for those purchases. In no event shall the Participant otherwise acquire gas commodity, financial structures or hedges, storage services, or transportation services for its Account(s) during the term of this Agreement.

3.2 The Participant hereby appoints DGS as the Participant's agent for the term of this Agreement to coordinate the Participant's procurement of natural gas for the Account(s) described in Information Attachment. The Participant also authorizes DGS, on behalf of the Participant, to have PG&E provide to DGS all billing and usage records and all invoices for transportation, storage or balancing services related to those Account(s). The Participant agrees to execute such documents as are reasonably required by DGS, PG&E, or others in order to provide this commodity and services for the Participant.

3.3 Participant agrees to assist DGS in estimating the future monthly Requirements for the Participant's Account(s) and approve those projections for use by DGS and its supplier(s) in procuring and scheduling gas supply.

3.4 Participant agrees to notify DGS in advance whenever possible, or as soon as known, of any scheduled or unscheduled changes in operations that would significantly affect the Estimated Requirements approved by Participant. Significant changes in operations would include, but not be limited to, shutting off of major equipment, scheduled or unscheduled outages, new facilities being added to the load, etc. Should the Participant fail to advise DGS of any changes in operations as soon as such changes become known, and if there are extra costs to the DGS Program as a result, the Participant will be liable to DGS for any increased costs incurred.

3.5 Participant agrees to promptly notify DGS of any changes in the Participant Contact Information provided in Information Attachment.

### **4. PAYMENT:**

4.1 DGS shall provide the Participant with monthly invoice(s) of the cost for natural gas service to the Participant Account(s) served under this Agreement. The invoice will specify the Commodity Cost, DGS Fee, PG&E Cost, and any special adjustment(s), with supporting documentation.

**4.2** The Participant shall make payment directly to DGS no later than thirty (30) days from the date the invoice is received. If available, payment shall be made by state intrafunds transfer or electronic funds transfer. If such payment methods are not available, payment shall be by other means mutually agreeable to the parties that will ensure receipt of payment of the invoiced sums no later than thirty (30) days from the date the invoice is received.

**4.3** Any interest charges incurred and paid by DGS according to Government Code 926.19 that are a direct result of late payment by Participant shall be charged to the Participant.

**5. ERRORS IN BILLING AND DISPUTE OF PAYMENT AMOUNT:**

**5.1 Errors:** If either DGS or the Participant believes that there is an error in the amount billed to the Participant, the other party should be notified immediately. Upon notification or discovery of any error, DGS shall review the bill for errors and calculate what correction needs to be made. DGS will incorporate any needed correction in the next available invoicing cycle. The Participant understands that DGS billings are based on PG&E's reports of its meter readings. If as a result of changes to meter readings or other adjustments from by PG&E, DGS needs to acquire additional volumes of gas or incurs credits for excess volumes delivered in prior periods or fiscal years, said costs or credits will be passed through by DGS to the Participant.

**5.2 Continued Performance:** Both DGS and the Participant shall continue to perform their respective obligations under this Agreement until any such error or dispute of error is resolved as herein provided. The Participant agrees that full payment will be made for all DGS invoices, without reduction for any error or alleged error in billing.

**5.3 Good Faith Resolution:** If there is a dispute between the Participant and DGS as to either (i) the existence of a billing error or (ii) the amount of a billing error, both the Participant and DGS shall endeavor in good faith to resolve any dispute concerning a bill by mutual agreement within thirty (30) days after the matter arises. If a settlement cannot be made within 30 days, either party may pursue whatever remedies it so chooses in law or equity.

**6. BUDGET CONTINGENCY:**

**6.1** DGS and Participant understand that due to constitutional limitations (California State Constitution, Article XVI, Section 1) pertaining to multiple-year contracts, if the final official budget appropriations of any year covered under this Agreement do not appropriate funds for the procurement of natural gas by DGS ("defunding") or for the procurement of utility services for Participant ("defunding"), this Agreement shall be of no further force and effect.

**6.2** If DGS is defunded, DGS shall have no liability and shall not be obligated to perform any provisions of this Agreement. If the Participant is defunded, it shall have no liability to pay any funds for natural gas delivered and DGS shall not be obligated to perform any provisions of this Agreement.

**6.3** DGS and Participant understand that if the final official budget appropriations of any subsequent year covered under this Agreement does not appropriate adequate utility funds for procurement of utility services for the Participant, DGS shall have the option to reduce the quantities of natural gas purchased for and provided to Participant to the limit of the budget for utility services, with no further liability occurring to either DGS or to the Participant.

**6.4** Notwithstanding the foregoing, if natural gas is used by Participant after it has been either defunded or had its funding reduced, the first gas used shall be the gas procured under this

Agreement and such gas will be paid for under this Agreement on the terms and conditions specified.

6.5 Participant and DGS agree that both, as to their respective budget authorizing bodies, shall use best efforts to seek continuing appropriation for utility services for all Requirements that are a part of this Agreement.

6.6 DGS and Participant agree that this Section 6 shall not be utilized by Participant to terminate the obligation of the Participant to take and/or pay for gas based upon the price of natural gas commodity or transportation services. The provisions of this Section 6 shall only be utilized by Participant or DGS in the event of the de-funding or restricted funding of the operations of the facility, program and/or department and not as it relates solely to natural gas procurement

## **7. FORCE MAJEURE:**

7.1 **Excuse of Performance:** Neither DGS nor the Participant shall be liable to the other for failure to perform to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in this section.

7.2 Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of firm transportation and/or storage by transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. DGS and Participant shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

7.3 Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of transportation, or if acquired, storage services, unless all transportation to the Participant is curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, (iv) the Participant's inability to use or resell gas purchased hereunder; or (v) the loss or failure of DGS's gas supply or depletion of reserves, except as provided in this Section. The party claiming Force Majeure shall not be excused from its responsibility for PG&E imbalance charges.

7.4 The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

7.5 In the event the Participant claims an event of Force Majeure has occurred at any of its Account(s), it shall advise DGS and DGS shall advise its gas supplier(s) and other parties as

necessary. If the supplier disputes the claim, the Participant agrees to indemnify, defend and hold DGS harmless from any claims arising from such a dispute. DGS shall include a parallel provision in its purchase transaction with its gas supplier(s) and other parties as necessary.

7.6 In the case of a disputed claim of Force Majeure, the volumes of gas from any special purchase during the period of the alleged period of Force Majeure will be liquidated by DGS. The funds collected from the liquidation shall be escrowed by DGS in an interest bearing account and segregated from the other funds. Any proceeds or losses from such liquidation plus interest will be allocated as agreed by the Parties and gas supplier or in the absence of an agreement pursuant to the decision of the arbitration of the dispute over Force Majeure.

7.7 **Regulatory Changes:** The parties recognize that the delivery of natural gas services, including interstate and intrastate transmission services, storage, and other matters is subject to regulatory change. In the event that regulatory changes are implemented which in the opinion of DGS and/or its contractor(s) will affect the terms and conditions of natural gas delivery to California and/or within California, the parties agree to negotiate in good faith amendments to this Agreement in order to re-establish the same relative balance in risk and reward between DGS and the Participant as is currently contemplated in this Agreement. Notwithstanding anything in this section to the contrary, in no event shall a regulatory change relieve the Participant from paying for Requirements received.

## **8. DEFAULT:**

8.1 The failure of either the Participant or DGS to fulfill any duties or obligations under this Agreement or any Attachment or Amendment to this Agreement shall be an event of default. Upon occurrence of an event of default, the non-defaulting party shall give the other party a written Notice of Default.

8.2 Either party shall have 25 days after receipt of such a Notice to cure the default or, if the default cannot be cured within such time, to take steps to commence to cure the default and diligently pursue such cure, provided, however, if the event of default by the Participant is a failure to make payments to DGS as specified, Participant shall have only ten (10) days to cure the default, unless specified otherwise. If upon the passage of the time specified above the defaulting party shall not have cured or commenced the cure as specified, the non-defaulting party may terminate this Agreement. If the non-defaulting party elects to terminate this Agreement, it shall so inform the defaulting party in writing.

8.3 A waiver of a breach or default under this Agreement shall not be deemed to waive any subsequent breach or default. The failure of a party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition by that party.

## **9. GENERAL CONDITIONS:**

9.1 Except as provided in this Agreement, DGS, and the agents and employees of DGS, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the Participant.

9.2 The Participant acknowledges and agrees that to the extent DGS is providing any services via contract with other parties (such as gas suppliers), DGS shall have no liability for the actions of any third party, except those actions specifically directed by DGS.

9.3 DGS agrees that any third party contractor with DGS shall be required by DGS to indemnify, defend and save harmless the State of California, its officers, agents and employees from any and Basic DGS Gas Service Agreement

all claims, actions, losses or judgments arising out of or in connection with services provided under this Agreement to Participant.

**9.4** If the third party contractor supplying gas defaults, DGS will use its powers to claim indemnity from the gas supplier for the benefit of all Participants, if any such action is needed. Any benefits so derived will be shared with all Participants affected, on a pro-rata share basis, to the degree that they have been harmed. If DGS is not able to provide continuing gas service at the agreed upon prices and level of service, Participant shall have the option of cancellation of this Agreement, 30 days after written notice to DGS of that intention.

**9.5** This Agreement is not assignable by either party, either in whole or in part, without the written consent of the other party.

**9.6** Time is of the essence in this Agreement.

**9.7** No alterations or variations of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no understanding or Agreement not incorporated herein shall be binding on any of the parties hereto.

**9.8** All Parties to this Agreement agree that they, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. DGS agrees to maintain such records for possible audit for a minimum of three (3) years after final payment.

**9.9** This Agreement constitutes the final, complete and exclusive statement of the terms of the Agreement between the Participant and DGS as to the matters referenced and supersedes all prior and contemporaneous understandings or Agreements of the Parties.

**9.10** If a Participant has several Participant Accounts, this Agreement shall apply to all Participant Accounts that are identified in Information Attachment.

**9.11 Notices:**

To Participant: as specified in Information Attachment.

To DGS:

Marshall D. Clark, Natural Gas Services Program Manager  
DGS Energy Services Programs  
PO Box 989052  
West Sacramento CA 95798-5092

Telephone: 916.375-5990  
FAX: 916.375-4550  
Mobile: 916.871.2025  
E-mail: [marshall.clark@dgs.ca.gov](mailto:marshall.clark@dgs.ca.gov)