

## ARTICLE 8.

### GENERAL PROVISIONS

**8.01 NOTICES.** All notices and communications required or permitted under this Agreement shall be in writing, and any communication or delivery hereunder shall be deemed to have been duly made if actually delivered or sent by mail, telegram or telefacsimile when received by the party charged with such notice and addressed as set forth in the initial paragraph of this Agreement. Each party shall have the right to change its address at any time, and from time to time, by giving written notice thereof to the other party.

**8.02 SURRENDER OF LEASE.** Lessee shall have the right at any time without the Tribe's consent to surrender all or any portion of the Contract Acreage and be relieved of all obligations as to the acreage surrendered. Lessee shall have the right to within a reasonable time after the expiration of this Agreement to remove all property and fixtures placed by Lessee on said Contract Acreage, including the right to draw and remove all casing, except in those wells which the Tribe has made an election to take over a Well, in accordance with Article 6.01 (c).

**8.03 FORCE MAJEURE.** All of Lessee's obligations and covenants hereunder may be suspended from time to time when compliance with any provision of this Agreement is prevented or substantially impaired by conditions or circumstances which are not reasonably foreseeable and are not reasonably controllable or preventable by Lessee, provided that Lessee strictly complies with the procedures outlined below.

(a) Within five (5) days after suspending any operation pursuant to force majeure conditions, Lessee shall provide the Tribe written notice setting forth the precise nature of the force majeure, the scope of operations suspended, and the anticipated period of suspension. Upon recommencing the suspended operations, Lessee shall promptly notify the Tribe of the termination of those conditions for which suspension was necessitated.

(b) In the event that notification of a force majeure condition is not timely made as provided herein, it shall be conclusively presumed that a force majeure condition did not exist for any time period more than five (5) days prior to the date of actual notification.

### **8.04 CONSENT TO JURISDICTION.**

(a) Lessee and the Tribe acknowledge that the matters related to the performance of this Agreement are matters in which the Tribe has a paramount subject matter interest. Should a dispute arise between the parties, which is not resolved following good faith efforts to do so through negotiation, or should any third party challenge or contest any activity undertaken pursuant to this Agreement, the matter in dispute shall be submitted to jurisdiction of the Southern Ute Indian Tribal Court for resolution. Should the matter in dispute also be subject to federal court jurisdiction, then, following the exhaustion of tribal administrative and judicial remedies, and following the exhaustion of federal administrative remedies, if applicable, said matter may be submitted by either party to the federal court for appellate review as permitted by law. As between parties to this Agreement, a prevailing party shall be entitled to an award of

reasonable attorney's fees, costs and expenses incurred in those judicial proceedings resulting in the favorable decision.

(b) For the limited purposes of interpreting this Agreement and for obtaining performance of this Agreement, the Tribe hereby waives its sovereign immunity from suit in the forums provided for above, and the Tribe shall be deemed a necessary party in any judicial or administrative proceeding in which the terms of this Agreement or operations conducted hereunder are substantially at issue. This limited waiver of immunity is not intended to constitute a waiver of the Tribe's immunity from damage claims brought against the Tribe or its officials by any person or entity that is not a party to this Agreement.

**8.05 ASSIGNMENTS - PREFERENTIAL RIGHTS.**

(a) Except as provided herein, neither Lessee, its successors or assigns shall assign, directly or indirectly, any right obtained under this Agreement or any interest in the Contract Acreage.

(b) No assignment of any right obtained under this Agreement or any interest in the Contract Acreage, including overriding royalty interests, shall be of any validity unless and until the Tribe issues its written consent to such assignment and unless and until the Secretary of the Interior or its authorized representative approves said assignment in writing.

(c) Should Lessee, its successors or assigns, desire to sell or transfer any right in this Agreement or any interest in the Contract Acreage including overriding royalties or back-in interests to any person or entity, it shall notify the tribe of its intention or desire. Should Lessee, its successors or assigns receive an unsolicited offer from a third party to sell or transfer any such right or interest, and should Lessee, its successors or assigns desire to engage in negotiations relative to such unsolicited offer, the provisions of this section shall be applicable. Following notification of its desire or intention, Lessee, its successors or assigns shall negotiate in good faith with representatives of the Tribe in an effort to reach agreement regarding the sale or transfer of such rights or interests. In the event no agreement is reached within thirty (30) days of the date of notification from Lessee, then Lessee shall be free to negotiate with other parties regarding the sale or transfer of any right or interest under this Agreement.

(d) Upon a conclusion of negotiations between Lessee, its successors and assigns, and any third party regarding a sale or transfer of any right or interest under this Agreement, any agreement reached by said parties as a result of said negotiations shall be subject to a preferential right of first refusal by the Tribe, which may be exercised by the Tribe within thirty (30) days of notification of the final sale or transfer agreement entered into between Lessee, its successors and assigns, and said third party.

(e) Failure of Lessee to honor the preferential rights of first negotiation and first refusal provided for above shall constitute a material breach of this Agreement. Upon the occurrence of such an event, the Tribe may avail itself of any remedies provided by law or equity, including cancellation of this Agreement, invalidation of the sale or transfer of applicable

rights or interests to third parties, the imposition of a constructive trust upon said third parties with respect to transferred rights or interests.

(f) Should negotiations between the Tribe and Lessee, its successors or assigns and the Tribe prove unsuccessful, and should the Tribe not exercise its rights of first refusal with respect to any proposed sale or transfer, or should the Tribe waive its preferential rights with respect to any such proposed transaction, the Tribe's consent to assignment to a third party shall not be unreasonable withheld. In granting or withholding its consent, the Tribe may consider, among other things, the overall financial burden on the Agreement resulting from consummation of the proposed sale or transfer, the financial and technical ability of a proposed transferee, and the reputation of a proposed transferee to carry out the obligations assumed by it under this Agreement.

**8.06 FINANCING AND SECURITY INTERESTS.** Lessee, its successors and assigns may pledge and encumber the Participating Interest in this Agreement for the purpose of obtaining financing needed to carry out the terms of this Agreement, provided that (i) the Tribe is notified in writing of any such proposed pledge or encumbrance, (ii) the Tribe consents to the issuance of security interests in the Agreement, including the assignment of rights or interests needed to secure such financing, (iii) the issuance of security interests is approved by the Bureau of Indian Affairs. Perfection and recording of such security interests shall be conducted in accordance with applicable federal and tribal law or regulation. In no event shall such security interest obtain a higher priority, lien or security position than the Tribe's perpetual governmental lien on Royalty Interest proceeds and severance tax obligations.

**8.07 REMEDIES.** Except where in conflict with the provisions of this Agreement or federal or tribal law, the parties shall have all the remedies available to them under the laws of Colorado with regard to any breach of the terms and condition hereof, and for purposes of this Agreement, where no conflict would exist between federal or tribal law and the terms of this Agreement, the laws of the State of Colorado shall govern the rights, obligations and remedies of the parties.

**8.08 CONFLICTS.** In the event of a conflict between the terms of this Agreement and the terms of any of the exhibits hereto, the terms of this Agreement shall control.

**8.09 SECRETARY OF INTERIOR APPROVAL.** This Agreement is subject to the requirement of approval hereof by the Secretary of the Interior or his authorized delegate. If such approval is not received on or before 90 days from the date of this Agreement, Lessee shall have the option, upon written notice to the Tribe, to terminate this Agreement with no liability whatsoever to Lessee or to the Tribe.

**8.10 INUREMENT.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

**8.11 ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding between the parties and supersedes any and all prior agreements, understandings and negotiations, written or oral, relating to the subject matter hereof.

**8.12 AMENDMENTS.** The Agreement may be modified and amended only by written instrument executed by the parties hereto, subject to approval of the Bureau of Indian Affairs, where applicable, under the provisions of 25 CFR Part 225.

**8.13 COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be considered as an original for all purposes.

Executed to be effective as of the date first set forth above.

APPROVED:

U. S. DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

By:   
Superintendent  
Southern Ute Agency


Date: 9/4/03

SOUTHERN UTE INDIAN TRIBE

By:   
Leonard C. Burch, Chairman  
Southern Ute Indian Tribal Council

Date: May 29, 2002

THE SOUTHERN UTE INDIAN TRIBE DBA  
RED WILLOW PRODUCTION COMPANY

By:   
Title: President and COO

Date: May 29, 2002

SG INTERESTS VII, LTD.

By: Gordy Oil Company  
General Partner

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**APPROVED:**

U. S. DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

SOUTHERN UTE INDIAN TRIBE

By: \_\_\_\_\_  
Superintendent  
Southern Ute Agency

By: \_\_\_\_\_  
Leonard C. Burch, Chairman  
Southern Ute Indian Tribal Council

Date: \_\_\_\_\_

Date: \_\_\_\_\_

THE SOUTHERN UTE INDIAN TRIBE DBA  
RED WILLOW PRODUCTION COMPANY

SG INTERESTS VII, LTD.  
By: Gordy Oil Company  
General Partner

By: \_\_\_\_\_

By: [Signature]

Title: \_\_\_\_\_

Title: Vice President - Land

Date: \_\_\_\_\_

Date: Apr. 13, 2003

**EXHIBIT "A"**

attached hereto and made a part hereof that certain minerals agreement between the Southern Ute Indian Tribe, as Lessor, and Red Willow Production Company and SG Interests VII, Ltd., as Lessees

**Well Notice Requirement Sheet**

Please furnish the following data for any wells drilled and/or recompleted pursuant to the attached minerals agreement.

1. 24 hour notice prior to spudding or moving on location with completion rig.
2. Daily Drilling/Completion Report by FAX or by mail. We would appreciate this report as soon as possible and on a daily basis. Also, provide a 24-hour notice of intent to log core, or drill stem test via Daily Drilling Report.
3. One (1) field print & one (1) final print of all wireline surveys and mud logs, or one (1) LIS (Log Information standard) format digital log data, (3" diskette) within a month of when logging or tests were performed.
4. All sundry notices, state and government reports, and plats when approved.
5. Well Completion or Recompletion Report when submitted.
6. Allocation of commingled production reports from Colorado Oil and Gas Conservation Commission.
7. 24 Hour notice of first delivery.
8. Daily Production volumes to be supplied at the end of each month following first delivery for a period of 3 total months.
9. Verbal notice of coring programs.

When information becomes available we will appreciate your company providing it to us as soon as possible. Please send or fax reports & logs to:

Southern Ute Indian Tribe  
Energy Department  
Attn: Exploration and Production Division  
P.O. Box 737  
Ignacio, CO 81137  
Fax: (970) 563-0398

**EXHIBIT "B"**

attached hereto and made a part hereof that certain minerals agreement between the  
Southern Ute Indian Tribe, as Lessor, and Red Willow Production Company and SG Interests  
VII, Ltd., as Lessees

**Form of Affidavit of Compliance**

**LESSEE LETTERHEAD**

**DATE**

To: Southern Ute Indian Tribe  
Energy Department  
Attn: Exploration and Production Division  
Post Office Box 737  
Ignacio, Colorado 81137-0737

Subject: Affidavit of Compliance  
Minerals Agreement No. \_\_\_\_\_  
La Plata County, Colorado

Lessee has completed a Well, as the term is defined in the subject minerals agreement, described  
as:

WELL NAME:  
LOCATION: Footage, Section, Twn., Rng.  
TOTAL DEPTH:

As Lessor, please provide your acknowledgment of Lessee's compliance with the terms of the  
subject minerals agreement by executing this document, acknowledging the signature and  
returning an original to Lessee as expeditiously as possible.

Sincerely,

**LESSEE REPRESENTATIVE SIGNATURE**

ACCEPTED AND ACKNOWLEDGED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

Title: Chairman, Southern Ute Indian Tribe

STATE OF COLORADO

COUNTY OF LA PLATA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, Chairman of the Southern Ute Indian Tribal Council, on behalf of Southern Ute Indian Tribal Council.

My commission expires:

\_\_\_\_\_

[Seal, if any]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial number, if any