

COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT

This Compatible Development and Surface Use Agreement (this "Agreement") is made and entered into this 28th day of June 2013 by and between **Willow Bend, Inc.** ("Willow Bend"), (referred to as "Owner") with an address of 3168 5th Street, Boulder, Colorado 80304, and **Great Western Operating Company**, a Colorado limited liability company ("GWOC") with an address of 1700 Broadway, Suite 650, Denver, Colorado 80290. GWOC and Owner may be referred to as a "Party" or collectively as the "Parties".

RECITALS

- A. Willow Bend owns that certain real property located in the E/2 of Section 18, Township 1 South, Range 67 West, Adams County, Colorado as more particularly described as PARCELS 4, 5, 6, 7 & 8, as shown on the Conceptual Site Plan dated 2-20-04, attached hereto and fully incorporated hereby as **Exhibit A-1** and being a part of that property more particularly described on **Exhibit A-2** attached hereto, and Owner's right to develop the surface estate is subject to the rights of the oil and gas leasehold estate, all or a portion of which is owned by GWOC.
- B. GWOC is the lessee and holder of the Oil and Gas Leases covering all or parts of the Described Premises, currently operates wells on the Described Premises, and has the right to develop its oil and gas leasehold estate by drilling additional wells ("Future Wells") on the Described Premises. Existing Wells and Future Wells are sometimes referred to herein as "Wells".
- C. The Parties are parties to that certain Surface Use Agreement between Willow Bend, Inc. and HRM Resources, LLC dated December 27, 2010 and attached as Exhibit B to that certain Surface Use Agreement not recorded, (the "Existing SUA").
- D. This Agreement provides for and is limited to the compatible development of the surface estate and the oil and gas estate for the Described Premises.

NOW THEREFORE, in consideration of the covenants and the agreements set forth herein, including the representations set forth in the recitals, the parties agree as follows:

1. Oil and Gas Operations Areas and Production Facilities Area.

a. Existing Wells: GWOC agrees to limit its oil and gas operations conducted in connection with certain Existing Wells, to those locations identified as the Oil and Gas Operations Areas as depicted on **Exhibit B** attached hereto and incorporated herein by this reference ("Existing OGOAs"). Any other existing wellsite or areas not shown on Exhibit B shall no longer be available for continued use by GWOC and, by this Agreement, all rights to same are waived and relinquished. The Existing OGOAs may be used for maintenance of wells and equipment, production operations, workovers, well recompletions and deepenings, fracturing, twinning and the drilling of replacement wells, provided that the production facilities for all existing wells shall be located only within the Production Facilities Area. The Existing OGOAs shall be limited in size and configuration as depicted on **Exhibit B**. Within the Existing OGOA's, the Owner may, at its sole cost: (i) plant native grasses and other shallow root

Colorado. The defaulting party agrees that it shall be responsible for all costs and expenses, including reasonable attorney's fees, incurred by the non-defaulting party as a result of said default as may be determined by a court of law or equity.

18. **No Warranty.** Owner makes no warranty of title in entering into this Agreement.

19. **Indemnification.** The GWOC shall defend, indemnify and hold the Owner harmless from any damage, injury, claim, judgment or other liability arising, either directly or indirectly, on account of any damage or injury to any person or property resulting from the GWOC's use of or activities on the Described Premises, including use by GWOC's employees, agents, representatives, contractors, contractor's assignees, or other working interest owners.

20. **Liability for Damage Resulting from Produced Water.** GWOC shall be responsible for complying with the rules and regulations applicable to the removal and/or disposal of waters produced by its operations as established by the State of Colorado and other applicable authorities, and the GWOC agrees to indemnify, defend and hold Owner harmless from any claims, demand, judgment or liability arising as a result of damages to persons or property caused by or in connection with the removal or utilization of said water. Nothing in this paragraph shall be interpreted to allow GWOC to discharge produced water on the Described Premises. Nothing herein permits GWOC to use free of cost produced water or other water from Described Premises. In the event that GWOC seeks to use said water, GWOC shall negotiate with Owner a fair and reasonable price and location.

21. **Authority to Execute Agreement.** Each party represents that it has the full right and authority to enter into this Agreement with respect to the surface rights or oil and gas interests or oil and gas leasehold interests that it owns in the Described Premises, as applicable.

22. **No Waiver of Rights.** GWOC does not waive the rights it has pursuant to its oil and gas interests to explore for, drill and produce the oil and gas underlying the Described Premises or for ingress and egress to the Oil and Gas Operations Areas, and Owner does not waive the ownership rights it has, except as specifically limited in this Agreement. Notwithstanding the foregoing, GWOC acknowledges and agrees that by execution hereof it has agreed to limit its activities as set forth herein.

23. **Communication and Contacts Between Owner and GWOC.** Any notice provided for in this Agreement that is to be sent via telephone, e-mail, first class or express mail shall be addressed as follows:

Owner:

Willow Bend, Inc.
3168 5th Street
Boulder, CO 80304
Attn: James Postle

GWOC:

Great Western Operating Company
2005 Howard Smith Avenue East
Windsor, CO 80550

24. **Successors and Assigns.** This Agreement and all of the covenants therein shall be binding upon the parties hereto, their successors and assigns and the benefits of this Agreement shall inure to their successors and assigns. This Agreement and all of the covenants in it shall be covenants running with the land.
25. **Recording.** Owner shall record this Agreement with the Clerk and Recorder of Weld County and provide evidence to GWOC of the recording.
26. **Governing Law.** The validity, interpretation and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Colorado without reference to its conflicts of laws provisions.
27. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with such laws; however, the remainder of this Agreement shall be in full force and effect. In the event that any part of this Agreement would otherwise be unenforceable or in conflict with applicable laws due to the term or period for which such part is in effect, the term or period for which such part of this Agreement shall be in effect shall be limited to the longest period allowable which does not cause such part to be unenforceable or in conflict with applicable laws.
28. **Incorporation of Exhibits.** Exhibits A through D are incorporated into this Agreement by this reference.
29. **Counterpart Executions.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

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GREAT WESTERN OPERATING COMPANY, LLC

STATE OF COLORADO)
)ss
COUNTY OF WELD)

IN WITNESS WHEREOF, I hereunto set my hand and affixed my official seal the day and year first above written.

GARY P. STEELE
NOTARY PUBLIC
STATE OF COLORADO
MY COMMISSION EXPIRES 9/11/2015

Notary Public



POSTLE PROPERTIES III, LLC,
a Colorado limited liability company

By: JP

James Postle, President

STATE OF COLORADO)

)ss

COUNTY OF Boulder)

On this 28th day of June, 2013, before me personally appeared James Postle, who, being by me duly sworn, did say that he is the President of Willow Bend, Inc, and that he signed the foregoing instrument on behalf of said Willow Bend, Inc. and acknowledged the instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I hereunto set my hand and affixed my official seal the day and year first above written.

My Commission Expires: July 2, 2017

(SEAL)



Maureen C. Simpson
Notary Public