

LEASE OF LAND FOR GRAZING

LEASE AGREEMENT

Grazing lease agreement made, effective as of this 29 day of Dec, 2006, between WINDMILL RANCHES HOMEOWNERS ASSOCIATION, INC., a non-profit New Mexico corporation, hereinafter referred to as "Lessor", and GRIDER, INC., a New Mexico corporation, hereinafter referred to as "Lessee".

RECITALS

The parties recite and declare:

- A. Lessee has certain livestock for which lessee desires to have certain grazing rights.
- B. Lessor has certain land that would be appropriate for the grazing of lessee's livestock.

In consideration of the above recitals, the terms and covenants of this agreement, and other valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

ARTICLE I PROPERTY AND TERM

- A. Lessor leases to lessee the premises located in the County of Lincoln, State of New Mexico, known as the Windmill Ranches Development, consisting of "Common Area" granted to Lessor, along with privately owned parcels, as shown on the recorded survey plats of the development and herein referred to collectively as the "premises". The premises are described as follows: See Attachment A attached hereto and incorporated herein.
- B. This lease shall commence on the above-stated effective date and shall be for an initial term often (10)) years from the date of this lease, or until terminated as provided in this lease agreement, on the terms and conditions set forth in this agreement.
- C. Upon the expiration of the initial ten (10) year lease term, lessee may, at Lessee's option renew this lease for subsequent, additional ten (10) year terms at the rate of \$4.50 per cow unit (as defined herein).

ARTICLE II LESSEE'S USE OF LAND

- A. The premises shall be used by Lessee solely and exclusively for the grazing of livestock as a cow/calf or stocker yearling operation.
- B. At no time shall the number of livestock pastured exceed 300 mother cow/calf pairs, bulls and replacement cows unless agreed to in writing by lessor. In other words, an animal unit under this lease shall be one mother cow and one calf, one bull or one replacement cow.
- C. Lessee shall not permit Lessee's livestock to graze, or run at large over parcels that have been fenced, for the purpose of excluding, Lessee's livestock.

ARTICLE III RENTAL, INSURANCE & FILINGS

- A. Lessee shall pay rental commencing on the date of this agreement, at the rate of \$15,200.00 per annum, payable annually with one installment in advance for a 6 month period due and payable within 5 days from the date of this agreement, for the term of this lease agreement. If at any time the number of cattle exceed 300 cow units, the difference between 300 cow units and actual number of livestock will be adjusted at the end of the year at the rate of \$4.50 per cow unit per month of actual pasturage. Any increase of cow units over and above 300 must be mutually agreed upon by Lessee and Lessor, and evidenced in writing and executed by both parties.

- B. Lessee is aware the number of acres available for grazing on the premises may be reduced over a period of time if parcels are fenced in such a way as to exclude livestock from grazing pursuant to the Covenants, Conditions and Restrictions recorded against the premises. (See Attachment B attached hereto and incorporated herein)
- C. All past due lease payments payable hereunder shall bear an interest rate of fifteen percent (15%) per annum, from the due date until received.
- D. Lessor shall pay all property taxes and general property insurance for the Common Area.
- E. Lessee any related personal property taxes due. Lessee will provide Lessor with copies of all filings and reports, including proof of timely payment of any required taxes when requested. Lessee will obtain and pay for general liability insurance and provide Lessor with a copy of the certificate of insurance for property.

ARTICLE IV FENCES AND STRUCTURES

- A. Lessee shall not build structures of any character upon the leased premises without the prior, express, and written consent of Lessor, except as specifically provided for elsewhere within in this agreement.
- B. Lessee fully understands that Lessor's successors, assigns or purchasers/owners of any parcel on the premises shall have full, unfettered rights to fence their parcel in such a way as to exclude Lessee's livestock from grazing on their parcel, at which time Lessee's grazing rights to said parcel shall terminate. Individual parcel owners may also move existing fences, however, the building or moving of any fences must be in strict conformance with the terms stated in the Covenants, Conditions and Restrictions.
- C. Lessor agrees to create thirty foot (30') wide easements inside and adjacent to all individual parcel lines on the premises to allow corridors for livestock to move and graze throughout the premises in the event that parcel owners opt to fence Lessee's livestock off of their parcels. Lessor may however, revoke such easements when two (2) or more parcels are owned by one entity, but only in accordance with the terms stated in the Covenants, Conditions and Restrictions.
- D. Lessee shall, at Lessee's own expense, repair or replace any existing fences, which are in need of repair or replacement . Lessor agrees to be responsible for the installation of cattle guards per the terms stated under Article X of this lease.
- E. Lessee shall not remove or relocate any pre-existing fences that are on the premises at the commencement of this lease without the prior, express, and written consent of Lessor. Lessee may not remove or relocate fences installed by parcel owners so long as they do not prohibit livestock from accessing any pre-existing stock ponds/tanks, per the terms stated in the Covenants, Conditions and Restrictions.

ARTICLE V WATER RIGHTS

- A. Lessor, its successors and assignees own the rights to all waters, both ground and surface, located on the Common Area and the rights to all "pre-existing" stock ponds/tanks located on individual parcels.
- B. In addition to grazing rights, under the terms of this lease, Lessee shall have lease of the waters and related facilities located within the Common Area and of all pre-existing stock ponds/tanks and related facilities located on privately owned parcels for the purpose of watering livestock. Lessor agrees to create easements to and around such waters located on privately owned parcels to allow for access of livestock and the maintenance and repair of any facilities located thereon by Lessee. The owners of any parcels said waters are located on may not prohibit livestock or lessee from entering the water easement area and may not fence off access to the area from Lessee or Lessee's livestock.

**ARTICLE VI
LABOR AND MATERIALS**

Lessee shall pay for all materials joined or affixed to the premises pursuant to this lease and pay in full all persons who perform labor on the premises, and will not permit or suffer any mechanics' liens or material suppliers liens of any kind or nature to be enforced against the premises for any work done or materials furnished on the premises at Lessee's instance or request.

**ARTICLE VII
INDEMINIFICATION**

Lessee shall indemnify Lessor and all individual parcel owners, from and against, any and all liability, cost, and expense for loss of or damage to property, and for injuries to or deaths of persons arising directly or indirectly from the use of the premises by Lessee.

**ARTICLE VIII
TERMINATION**

- A. In spite of anything elsewhere contained in this lease agreement, this lease may be terminated due to the breach of lessee pursuant to Article VIII(c) indicated below. Lessee shall, at the termination of this lease agreement, have ninety (90) days to vacate the leased premises.
- B. Notwithstanding a breach of this lease, upon termination, any rental fees paid to Lessor in advance shall be prorated and the unused portion shall be returned to Lessee within thirty (30) days of vacating the premises.
- C. The failure by Lessee to observe and perform any provision of this lease, shall constitute a breach of this lease by Lessee. Upon any such breach, Lessor shall deliver to Lessee written notice specifying the breach. Lessee shall have thirty (30) days from receipt of said notice to cure the breach. In the event the breach remains uncured, in addition to any other remedies available to Lessor at law or equity, Lessor shall have the immediate option to terminate this lease and all rights of Lessee hereunder by delivering to Lessee ten (10) days written notice to terminate this lease. Upon termination of this lease, the terms listed under Article XII of this lease shall apply.

Lessor: Windmill Ranches Homeowners Association, Inc.
P.O. Box 448
Socorro, New Mexico 87801

Lessee: Grider, Inc.
P.O. Box 990
Carrizozo, New Mexico 88301

**ARTICLE X
LESSOR'S ACCESS TO PREMISES**

Lessee agrees to cooperate in providing general and reasonable access accommodations to the premises for the benefit of Lessor, their successors, assigns and purchasers of parcels on the premises. Lessee and Lessor agree that Lessor is solely responsible for installing cattle guards and/or gates at any location where Lessee's necessity to confine livestock by installing a fence would obstruct Lessor's access to roadways, easements, or the premises. Lessee agrees that Lessor shall not be responsible for gates being left open by any party.

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**ARTICLE XI
ATTORNEY FEES**

In the event either Lessor or Lessee shall bring suit to, compel performance of, or to recover for breach of any covenant, agreement, or condition contained in this lease agreement, the prevailing party shall be entitled to recover from the other party costs and reasonable attorneys' fees.

ARTICLE XII

- B. Signatures made through facsimiles may be used as originals of this lease agreement.

Lessee shall, at the termination of this lease agreement, have ninety (90) days to vacate the leased premises, leaving it in the same condition it was in at the time of Lessee's entry on such premises under this agreement, except for the reasonable use and wear, acts of God, or damage by causes beyond the control of Lessee. Upon vacating, Lessee shall leave the demised premises free and clear of all rubbish and debris.

ARTICLE XIII NO WAIVER

The failure of either party to this agreement to insist upon the performance of any of the terms and conditions of this agreement, or the waive of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waive had occurred.

ARTICLE XIV GOVERNING LAW

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New Mexico.

ARTICLE XV EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

ARTICLE XVI ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

ARTICLE XVII MODIFICATION OF AGREEMENT

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if place in writing and signed by each party or an authorized representative of each party.

ARTICLE XVIII PARAGRAPH HEADINGS

The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

Page 4 of 5 ARTICLE IXX COUNTERPARTS & FACSIMILES

- A. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
- B. Signatures made through facsimiles may be used as originals of this lease agreement.

EXECUTED this 29 day of DECEMBER 2006

LESSOR: **WINDMILL RANCHES HOMEOWNERS ASSOCIATION, INC.**
a New Mexico non-profit corporation

By: 
Paul Henry, Its: President

LESSEE: **GRIDER, Inc.**

By: 
James Grider