

**\*\* TERMINATION OF LEASE \*\***

This Termination of Lease is made and dated this 1st day of September, 2015, by and between **KITTITAS COUNTY, a municipal corporation**, hereinafter referred to as the Lessor, and **DALE AND CLARA BALL, HUSBAND AND WIFE, d/b/a, ELLENSBURG CEDAR**, hereinafter referred to as the Lessee,

**WITNESSETH:**

That Lessor and Lessee entered into a Lease on October 1, 2008, copies of which are attached hereto and by this reference incorporated herein.

That Lessee has requested to the county to terminate the lease entered into on October 1, 2008, and be terminated as of September 1, 2015.

That Lessee is requesting termination due to the fact that Lessee is selling the building on the leased lot to another party and discontinuing his business operations from the site.

THEREFORE, both Lessee and Lessor hereby terminate the attached lease of October 1, 2008, as of September 1, 2015 and Lessee terminates all interest in the property, which is the subject matter of said lease.

**LESSEE**

Dale Ball  
Dale Ball, Owner

Clara Ball  
Clara Ball, Owner

DATE SIGNED: 08.24.15

**KITTITAS COUNTY  
BOARD OF COUNTY COMMISSIONERS**

Gary Berndt  
Gary Berndt, Chair 9/1/15

Obie O'Brien  
Obie O'Brien, Vice-Chair

Paul Jewell  
Paul Jewell, Commissioner

DATE SIGNED: 9/1/15





THIS AMENDMENT TO LEASE is made and dated this 5<sup>th</sup> day of November, 2013, by and between Kittitas County, a municipal corporation in the State of Washington, hereinafter referred to as the LESSOR, and DALE AND CLARA BALL, HUSBAND AND WIFE, d/b/a ELLENSBURG CEDAR, and hereinafter referred to as the LESSEE.

**WITNESSETH:**

**WHEREAS**, LESSOR and LESSEE entered into a Lease on October 1, 2008, a copy of which is attached hereto and by this reference incorporated herein; and

**WHEREAS**, according to Paragraph 3 "Adjustment of Rental", it states " the rental rate shall be re-adjusted and fixed by the Board of County Commissioners every five years as required in RCW 36.34.180";

**WHEREAS**, it has been agreed between LESSOR and LESSEE that the following CPI Index will be used for future rental increases.

**"CPI – All Cities-All Items Size Class D Under 50,000"**

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties to a change in rental rates and contract terms as follows:

1) **"Paragraph #2 – Rent" – Rental Rates for 10/01/13 thru 9/30/18 Term.**

**Lot C-31 – 1.09 Acres – 47,480.40 sq. feet**

Term	Previous Rate Per Year (\$.065 per Sq Ft)	Rental Rate (\$.066 per Sq Ft)
10/01/12 – 09/30/13	\$ 3,086.23	
10/01/13 – 09/30/14		\$ 3,134.37
10/01/14 - 09/30/15		\$ 3,134.37
10/01/15 - 09/30/16		\$ 3,134.37
10/01/16 - 09/30/17		\$ 3,134.37
10/01/17 – 09/30/18		\$ 3,134.37
10/01/18		Renegotiate

All other terms and conditions of the aforementioned lease shall remain the same.

IN WITNESS WHEREOF, the Lessor and Lessee have signed their names and affixed their seals the day and year first above written.



Mark Jarnik  
Clerk of the Board

Approved as to Form:

\_\_\_\_\_  
Prosecuting Attorney  
WSBA # \_\_\_\_\_

**LESSOR:**

BOARD OF COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON

Obie O'Brien

Obie O'Brien, Chair

Paul Jewell

Paul Jewell, Vice-Chair

**ABSTAINED**

\_\_\_\_\_  
Gary Berndt, Commissioner

**LESSEE:**

Dale Ball

Dale Ball, Owner

Clara Ball

Clara Ball, Owner


**KITTITAS COUNTY AIRPORT  
DEPARTMENT OF PUBLIC WORKS**
**LEASE**

THIS LEASE made and dated this 1<sup>st</sup> day of October, 2008, is by and between the **COUNTY OF KITTITAS**, Washington, the Lessor hereinafter referred to as the "**County**", and **DALE & CLARA BALL**, husband and wife, d/b/a **ELLENSBURG CEDAR** the Lessee, hereinafter referred to as the "**Lessee**".

The County herewith agrees to let unto Lessee and Lessee herewith agrees to lease from the County the following described real property, situated in Kittitas County, Washington, to-wit:

**LOT C-31 OF THE KITTITAS COUNTY AIRPORT BINDING SITE PLAN  
1.09 ACRES - 47,480.40 SQ. FT.**

This lease is made in accordance with the provisions of Chapter 36.34RCW. This lease is subject to the provisions of Chapter 59.12 RCW as currently existing or hereafter amended.

- 1) **TERM**- The term of this lease shall be for <sup>FIVE</sup>~~ten~~ (5) years and will commence on the 1st day of October, 2008, and shall terminate on the last day of September, 2008. <sub>13</sub>
- 2) **RENT**- Rent shall be paid in advance for each year at a rate determined by the Lessor, plus leasehold tax, and fire protection. Lessee may pay half the rent every six months on October 1 and April 1, and shall be as follows:

Term	Rental Rate ( \$.065 per Sq Ft)	Leasehold Tax	Total Per Year
10/01/08-09/30/09	\$ 3,086.23	\$ 396.27	\$3,482.50
10/01/09-09/30/10	\$ 3,086.23	\$ 396.27	\$3,482.50
10/01/10-09/30/11	\$ 3,086.23	\$ 396.27	\$3,482.50
10/01/11-09/30/12	\$ 3,086.23	\$ 396.27	\$3,482.50
10/01/12-09/30/13	\$ 3,086.23	\$ 396.27	\$3,482.50
09/30/13	Renegotiate	Renegotiate	Renegotiate

- 3) **RENTAL RATE ADJUSTMENT:** Pursuant to RCW 36.34.180 the rental for every five year period thereafter, or part thereof, at the commencement of such period, shall be readjusted and fixed by the Board of County Commissioners;

- (a) After the fifth year, the Lessor shall have the right to readjust the rent on or before October 1<sup>st</sup> of the fifth year of this lease for each following five year

INDEX OVER THE PREVIOUS FIVE YEARS. It is agreed between LESSOR and LESSEE that the following CPI Index will be used for future rental increases:

**"CPI – All Cities-All Items Size Class D Under 50,000."**

- (b) If there is a mathematical dispute and the Lessee does not agree that the CPI index, above listed, yields the rental rates for one of the subsequent five year terms, the Lessee may request arbitration. If the Lessee elects to arbitrate, the Lessee shall select one arbitrator and the Lessor shall select one arbitrator and the two so chosen shall select a third arbitrator. The arbitrators shall have the authority to calculate the rental rate for the next five years based upon the above-listed CPI index, and both parties shall be bound by the decision of the arbitrators. The cost of arbitration shall be borne by the Lessee.
- 4) **LEASEHOLD TAX:** Unless exempt from the requirement to pay leasehold taxes, the Lessee shall pay to the County, the leasehold tax as set forth by the State of Washington, in Chapter 61, Laws of 1976, Second Executive Session (RCW 82.29A) or as amended. The tax shall be due and payable at the same time the rental charged herein is due and payable.
- 5) **FIRE PROTECTION ASSESSMENT:** In addition to any rental herein provided, the Lessee shall pay a fee which shall be in lieu of taxes for fire protection services. The annual rate shall be based upon the annual fire assessment determined by the Kittitas County Assessor and Kittitas Valley Fire & Rescue to be calculated on January 1<sup>st</sup> of the current year. The assessment shall be due and payable concurrently with the annual lease payment.
- 6) **MAINTENANCE:** The Lessee covenants, promises, and agrees that it will perform all routine maintenance on said premises hereby demised so as to keep the same in as good as condition as the same now exists. Damage by fire, acts of God and reasonable wear, tear, and usage are excepted.

The Lessee further agrees that it will not commit waste, and that it will keep said premises and grounds, including those owned by the Lessee in a safe, sanitary and orderly condition and in general shall comply with all the applicable governmental rules, ordinances and regulations as may be required or imposed by such authorities on said premises hereby demised, and shall comply with any direction pursuant to law of any public officer or officers who shall be empowered to enforce all local, state, and federal rules, regulations and ordinances upon the Lessee with respect to the demised premises or the use, occupancy, or control thereof, or the conduct of any business therein, and shall not suffer any improper or offensive use of said premises.

The Lessee shall at all times comply with the rules and regulations relative to noxious weeds of the Weed District in which said leased premises is located. Lessee shall maintain the grounds in a neat and clean condition. This shall include mowing or spraying of grass and weeds. All herbicides or other materials used for the control or nurturing of grass and weeds shall be used in strict accordance with all federal, state and local statutes, rules and regulations. The Lessee shall have the right to install or place signs or posters anywhere on or about the leased premises which are not in violation of law, rules or regulation and which do not produce a hazard for the County or other Lessees or persons at the airport. All such installations shall be approved by the Airport Manager and shall be at the expense of the Lessee and shall be within the public liability coverage.

The Lessee shall not construct any buildings nor alter any existing facilities without first having the written consent of the County herein, which consent shall not be unreasonably withheld.

- 7) **PURPOSE:** Lessee may use the premises for the following permitted uses:
- a. Light industrial use.
  - b. Any other use for which there is express prior written consent by the County.
- 8) **RULES AND REGULATIONS:** The Lessee agrees to comply with all the pertinent rules and regulations of the federal, state and local governments, as well as the rules, regulations, ordinances and the Minimum Standards for Aeronautical Activities at the Kittitas County Airport (Bowers Field) (including, but not limited to, the regulations of the D.O.E, F.A.A., and E.P.A., relating to agricultural aerial spray operations and hazardous waste disposal) as are presently in effect and may in the future be adopted. The Lessee acknowledges receipt of the Minimum Standards for Aeronautical Activities approved by the Board of County Commissioners.
- 9) **ENVIRONMENTAL PROTECTION:** Lessee agrees to comply with all applicable federal, state, and local laws and regulations governing environmental pollution control in effect on the date of execution of this lease.
- 10) **INSPECTION:** Lessee agrees that the County and its employees, and agents from the Department of Ecology, Environmental Protection Agency, and any other governmental agency involved in environmental protection, have the right to make inspections any time during normal operating hours, without notice. If it is determined that Lessee has violated federal or state environmental control laws or regulations, upon ten (10) days written notice, Lessee must immediately commence and diligently pursue a permanent solution to the satisfaction of federal, state or local agencies, or vacate the premises (as specifically provided for in the Default Section herein). All costs required to remedy the problem shall be at the expense of the Lessee.



- 11) **UTILITIES:** The Lessee shall pay for all utility services supplied or available to the premises.
- 12) **LEASEHOLD IMPROVEMENTS:** Upon termination of this lease, for whatever reason and under whatever circumstances, all improvements remaining upon the leased premises become the property of Lessor, free and clear, without any liability to Lessee. Should Lessor desire the removal of Lessee's improvements upon the date of lease termination, Lessor shall give Lessee written notice to remove all improvements and return the premises to its state as before the lease at least thirty (30) days prior to the termination date for the lease. Upon removal, the premises shall be left in a neat and orderly condition, without debris and shall be graded level. Should the premises not be left in such condition, after Lessee received such notice, Lessor may remove improvements and repair the premises and seek reimbursement from Lessee in any manner allowed by law.
- In consideration for a lease term of **five (5) years**, Lessee promises and agrees to construct the structure(s) described on Exhibit "A" attached hereto and incorporated herein by this reference, as provided for in RCW 36.34.180. Also in accord with RCW 36.34.180, Lessee agrees that, should Lessee fail to construct the structure(s) described in Exhibit "A" within the first three years of the term of this lease, this lease shall automatically terminate and Lessee forfeits any and all interest in the premises. No construction may be made without prior obtaining of appropriate permits, the responsibility for which is that of Lessee.
- 13) **COUNTY'S LIABILITY:** The County shall not be liable for any damage occasioned by failure to keep said premises in good repair and shall not be liable for any damage done or occasioned by plumbing, water, or sewage, or the breaking, leaking or running of any cistern, tank, water closet, water faucets, or waste pipes in or above or on or about said buildings or premises, nor for damage occasioned by water, snow or ice being upon or coming through the roof, skylight, trapdoor, or otherwise, nor for any damage arising from the accident or neglect of the Lessee or any of its members or any Lessees or occupants of adjacent or continuous property.
- 14) **ASSIGNMENT:** The Lessee shall not assign this lease nor any portion thereof nor sublet the premises nor any portion thereof, without the written consent of the County, however, the County shall not unreasonably withhold such consent.
- 15) **HOLD HARMLESS:** The Lessee shall indemnify and save the County, its officers and employees harmless from all loss, damage, liability, or expense (including expense of litigation) arising out of or resulting from the actual injury to, or death of, any person, or from any actual loss of or damage to property belonging to any person upon or incident to the leased premises.
- 16) **INSURANCE:** The Lessee shall carry and maintain for the mutual benefit of the County

and the Lessee, general public liability insurance against claims for bodily injury, death, or property damage occurring on, in or about the premises hereinabove described.

The limits of liability of said premises liability coverage shall be in an amount not less than \$1,000,000 – (each occurrence), throughout the term of this lease. The County reserves the right to increase the amount of coverage stated in order to facilitate future economic growth. The County shall also be named as additional insured. The Lessee shall provide the County a certificate of insurance as evidence of proper insurance coverage at the time of the execution of this lease, and upon each anniversary date of any insurance coverage. The County shall be notified not less than thirty (30) days in advance by a written notice of cancellation, or any change in the insurance policy.

- 17) **DESTRUCTION BY FIRE:** In the event that the demised premises shall be damaged by fire or other casualty to such an extent that the same are untenable, then this lease shall, at the option of either the County or the Lessee, be immediately terminated and shall be of no further force and effect; provided, however, that the rental shall be prorated for the portion of the time that the Lessee is able to occupy the premises and all unused rent paid in advance shall be returned. To the extent of any proceeds from fire insurance provided on the demised premises by Lessee, the same shall belong to Lessor to make use of as it sees fit.
- 18) **INSPECTION:** At all times during the term of this lease or any extension thereof, the County shall have the right to enter into and upon the demised premises during reasonable business hours for the purpose of examining and inspecting the same and determining whether the Lessee shall have complied with all of its obligations hereunder in respect to the care and maintenance of the premises and all other terms and conditions thereof.
- 19) **RIGHT OF U.S. GOVERNMENT:** The County holds title to the property herein leased, partially by virtue of a deed from the United States Government. A copy of said deed is available for inspection at the office of the Kittitas County Department of Public Works, and is hereto made a part of this instrument as though fully set forth herein. Lessee agrees that it will do nothing which will cause the Lessor to be in violation of the terms of said deed. Lessee further with agrees that it has had ample opportunity to review said deed and is aware of all of the terms and conditions therein.
- 20) **BANKRUPTCY:** It is further agreed and understood that in case of the insolvency or bankruptcy of the Lessee or any assignment for the benefit of creditors or the appointment of a receiver for the Lessee, this lease shall be immediately forfeited and shall be of no further force and effect and that the Trustee in Bankruptcy, Receiver, or Assignee for the benefit of creditors shall not have any rights whatsoever in the demised premises.
- 21) **AFFIRMATIVE ACTION:** The Lessee assures that it will undertake an affirmative



action program as required by 14 CFR Part 152, Subpart E., to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered sub-organizations provide assurance to the County that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR 152, Subpart E., to the same effect.

- 22) **DEFAULT:** In the event that the Lessee shall violate this lease, or any of its conditions or terms as herein stated, the Lessor may terminate this lease by giving ten (10) days written notice of the conditions or terms being violated and if said violations are not corrected within the ten-day period, the lease may be canceled, and the County shall be entitled to peaceably retake possession of the premises, provided the Lessee shall have the right to remove improvements as herein provided.
- 23) **NOTICES:** Any notice given by one party to the other in connection with this agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, as follows:
1. If to Lessor, addressed to: Kittitas County Department of Public Works, 411 N. Ruby, Ste. #1, Ellensburg, WA 98926, Attention: Airport Manager.
  2. If to Lessee, addressed to: Ellensburg Cedar, Attn: Dale Ball, 508 W. 11<sup>th</sup>, Ellensburg, WA 98926.

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt.

- 24) **ATTORNEY FEES:** In case Lessor shall bring suit to recover any rent due hereunder, or for breach of any provision of this lease, or to recover possession of the leased premises, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this lease, the prevailing party shall recover reasonable attorney's fees which shall be determined and taxed by the court as part of the costs of such action. All covenants, agreements, terms and conditions contained in this lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.
- 25) **VENUE:** In the event there is any litigation between lessor and Lessee arising out of this lease, the venue for such action shall lie in Kittitas County, notwithstanding any contrary provision of the Revised Code of Washington.
- 26) **INTEGRATION:** Exhibits and Recitals are incorporated herein by this reference. This Lease embodies the entire agreement between the parties with respect to the subject

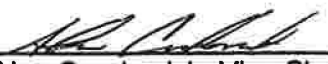
matter herein contained. No amendments or modifications hereof shall be enforceable unless in writing, signed by the party to be charged.



IN WITNESS WHEREOF, the Lessor and Lessee have signed their names and affixed their seals the day and year first above written.

**LESSOR****BOARD OF COUNTY COMMISSIONERS**

  
Mark McClain, Chair

  
Alan Crankovich, Vice Chair

  
Linda K. Huber, Commissioner

  
Clerk of the Board

**LESSEE**

Approved as to form:

\_\_\_\_\_  
Prosecuting Attorney  
WSBA # \_\_\_\_\_

  
Dale Ball, Owner

  
Clara Ball, Owner

Address:  
508 W. 11<sup>th</sup>  
Ellensburg, WA 98926  
Telephone: (509) 962-9443  
Federal I.D: 91-1373806

# KITTITAS COUNTY AIRPORT BINDING SITE PLAN

LOCATED IN PORTIONS OF SECTIONS 23, 24, 25, & 26, T.18N., R.18E., W.M.  
KITTITAS COUNTY, STATE OF WASHINGTON

## LEGEND



SECTION CORNER COMMON TO FOUR SECTIONS

QUARTER CORNER COMMON TO TWO SECTIONS

## GRAPHIC SCALE

( IN FEET )  
1 inch = 200 ft



## Encompass

ENGINEERING & SURVEYING

108 EAST 2ND ST.  
CLE ELUM, WA 98922  
PHONE: (509) 674-7433  
FAX: (509) 674-7410

## SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of KITTITAS COUNTY PUBLIC WORKS in NOV. 2007.

DAVID P. NELSON DATE 11/18/07  
Certificate No. 18092

## RECORDER'S CERTIFICATE 200802260032

Filed for record this 20 day of FEB. 2008 at 3:35 PM in book 11 of PLATS at page 113 at the request of

DAVID P. NELSON  
Surveyor & Notary

JERALD V. PETTIT  
County Auditor

*[Signature]*  
Deputy County Auditor

## KITTITAS COUNTY AIRPORT

LOCATED IN PTNS. OF SECTION 23, 24, 25 & 26, T.18N., R.18E., W.M., KITTITAS COUNTY, STATE OF WASHINGTON

DWN BY M.FAIOLA	DATE 01/2008	JOB NO. 06183
CHKD BY D.NELSON	SCALE 1"=200'	SHEET 4 OF 7

