

FACILITIES USE AGREEMENT

This Facilities Use Agreement (hereinafter this “**Agreement**”) is entered into on the date of the last signature affixed hereto by and between the North Carolina Department of Natural and Cultural Resources (hereinafter “**Department**”) and \_\_\_\_\_ (hereinafter “**Permittee**”). Department and Permittee are collectively hereinafter referred to as the “**Parties.**” The use of the pronouns “it” or “its” shall include the masculine, feminine, neuter, singular, or plural as required by context. This Agreement relates to the facilities of Department’s Division named at the top of Exhibit A.

In consideration of the obligations of Department and Permittee one to the other and the terms and conditions contained herein, the Parties agree as follows:

1. Department grants to Permittee the use of the specific facilities or space described in Section 1.1 of Exhibit A on the date and for the period of time specified in Section 1.2 of Exhibit A, subject to the terms and condition of this Agreement.
2. Permittee is permitted to use the specific facilities or space for, and only for, the purposes stated in Section 2.1 of Exhibit A which are hereinafter referred to as the “**Event.**”
3. Permittee shall pay to Department the total of the fees and charges stated in Section 3.1 of Exhibit A plus all applicable taxes for the use of Department’s facilities, space, or equipment, etc. Permittee shall pay a non-refundable deposit in the amount stated and by the date specified in Section 3.1 of Exhibit A by check or other means acceptable to Department, made payable to and delivered to the Site identified in Section 1.1 of Exhibit A. Permittee shall pay in the manner described above the balance amount stated in Section 3.1 of Exhibit A by the date specified. If Permittee does not make the payments on time, Department shall have the right either to charge a late payment fee of fifteen (15) percent of the late payment or to forego the late fee and cancel this Agreement without refund and make the facilities or space available to others.
4. Permittee designates the person identified in Section 4.1 of Exhibit A as its Contract Administrator, who shall be Permittee’s primary point of contact with Department for all issues regarding this Agreement and to whom Department shall send notices related to this Agreement. Department designates the person identified in Section 4.1 of Exhibit A as its Contract Administrator, who shall be Department’s primary point of contact with Permittee for all issues regarding this Agreement and to whom Permittee shall send notices related to this Agreement.
5. This Agreement is made upon the following terms and conditions, and Permittee shall keep, observe, perform, and comply with each term and condition throughout its use of Department’s facilities or space:
  - (a) Permittee shall punctually pay the fees and taxes indicated herein in the manner specified.
  - (b) The facilities or space shall only be used by Permittee for the purpose(s) set forth herein.

- (c) This Agreement shall not be assigned. The use of the facilities or space shall not be assigned, transferred, or sublicensed by Permittee.
- (d) Permittee shall not make any alterations to the facilities or space. Permittee shall not attach any tape, screws, nails, or fasteners of any kind to the facilities or space without the prior written permission of Department.
- (e) Permittee and its employees, agents, contractors, personnel, and Event attendees shall faithfully comply with Department's rules and regulations as they may be amended or supplemented from time to time. Permittee shall not make, nor allow its employees, agents, contractors, personnel, or Event attendees, to make any unlawful or disruptive use of the facilities or space.
- (f) If Department, at any time, in its reasonable discretion, shall deem the conduct of Permittee or its employees, agents, contractors, personnel, or Event attendees to be objectionable or improper, Permittee shall be notified to discontinue or rectify such conduct, and if such conduct is not immediately discontinued or rectified to the satisfaction of Department, then Department, in its sole and absolute discretion, may terminate this Agreement and Permittee shall immediately cease its use of Department's facilities or space with no refund by Department.
- (g) Permittee shall give Department immediate written notice of any accident occurring in connection with Permittee's use of Department's facilities or space. Permittee shall give Department immediate written notice of any damage to or defect in any structure, improvement, property, plumbing, HVAC system, electrical system, or other systems, facilities, equipment, or features belonging to Department.
- (h) Permittee is responsible for ensuring that Department's facilities, space, and premises are restored to their original condition immediately following the Event's conclusion. If any damages have occurred, an assessment of the cost of these damages will be determined solely by Department. This cost is the sole responsibility of Permittee, and Permittee must pay this cost to Department no later than thirty (30) days from the date of the Event. Damaged turf shall be replaced at the expense of Permittee.
- (i) Permittee shall be responsible for the removal of food, beverages, and rental materials, as well as for the general clean-up of the facilities or space.
- (j) All caterers are required to have a food service permit issued by the County Department of Public Health and liability insurance in order to provide services for the Event.
- (k) Permittee shall be responsible for rental equipment and goods. Permittee shall be responsible for its personal property. Department assumes no responsibility for loss of or damage to Permittee's rental equipment or goods or Permittee's personal property.
- (l) Rice, bird seed, artificial flower petals, live animals, and similar items are not permitted inside or outside. Balloons are permitted inside, but are not permitted outside, and may not be released outside.

- (m) Candles and similar devices are prohibited except that Candles in closed containers are permitted on the conditions stated if, and only if permission is granted as indicated in Section 5.1 of Exhibit A. Sky lanterns, fireworks, sparklers, and similar items are prohibited.
- (n) All aspects of the Event, including decorations, caterer, music, and special lighting requirements or needs must be pre-approved by Department.
- (o) No alcoholic beverages shall be possessed, served, or consumed at the facilities, space, or State property unless permission is granted as indicated in Section 5.2 of Exhibit A. If alcoholic beverages are permitted, then Permittee must comply with the following requirements:
  - i. Permittee is responsible for ensuring that all required alcoholic beverage permits have been obtained and for ensuring compliance with all applicable statutes, rules, permits, and policies related to alcohol or the North Carolina Alcohol Beverage Commission.
  - ii. Permittee shall provide personnel to ensure that NO alcohol will be served by or to, or possessed or consumed by, anyone under the legal drinking age of 21 years.
  - iii. Self-service of alcoholic beverages is prohibited. Open containers of alcoholic beverages may not leave the facilities or space.
- (p) Permittee will not have access to the Department's electric power.
- (q) The possession or use of any restricted (without a prescription) or illegal substance at the facilities, space, or on State property by Permittee or its employees, agents, contractors, personnel, or Event attendees will result in immediate expulsion from the facilities, space, and State property, event cancellation without refund, and notification of the proper authorities and law enforcement officials in accordance with the laws of the State of North Carolina.
- (r) Smoking shall be prohibited in all indoor facilities. Persons smoking in indoor facilities may be expelled from the facilities, space, and State property.
- (s) Permittee must adhere to the ending time and other related requirements of this Agreement. Permittee and its employees, agents, contractors, personnel, and Event attendees must vacate the facilities or space by the ending time. If the Event, including clean-up and removal of all items brought to the facilities or space by Permittee, lasts longer in duration than the contracted rental time, additional overstay time will be charged at the rate specified in Section 5.3 of Exhibit A.
- (t) Department reserves the right to limit the noise level at the Event.
- (u) Department reserves the right to charge Permittee additional fees as a result of extra security, failure to honor time requirements, use of other or additional Department staff, extra cleaning, and incurred damages. Any and all damages incurred by the facilities, space, or State real or personal property shall be the responsibility of Permittee and shall subject Permittee to forfeiture of the original security deposit in full and any additional charges deemed necessary to restore the facilities or space and State real or personal property to its original condition. If a security deposit is required, the amount

is specified in Section 3.1 of Exhibit A. The security deposit is refundable within thirty (30) days of the end of the Event except as limited by this Paragraph.

- (v) Department reserves the right to restrict the access to or remove from the facilities, space, or State property any employee, agent, contractor, personnel, or Event attendee of Permittee who Department determines, in its discretion, to be in non-compliance with any of the terms and conditions of this Agreement. Subject to any other provision in this Agreement stating otherwise, Department will provide Permittee with a reasonable opportunity to remedy any problems with its employees, agents, contractors, personnel or Event attendees prior to removal by Department.
- (w) Use of a Drone on State Property: Department will allow the use of a small, unmanned aircraft system, or drone, by a licensed operator (either an employee or subcontractor of the Permittee) at the Event. The operator of the drone must meet and follow all local and Federal rules and regulations governing the operation of a drone. The drone may not be flown directly overhead of people. The operation of the drone is allowed during daylight hours only. The drone operator and Permittee are solely liable for any and all damages, injury and/or, death resulting from the drone's operation, use, misuse, or failure.
- (x) At all times while at or using the facilities or space or State property, Permittee and its employees, agents, contractors, personnel, and Event attendees shall faithfully comply with all federal, state, and local laws, ordinances, regulations, rules, and orders.

6. Permittee shall comply with the special Site requirements in Section 6.1 of Exhibit A and shall comply with the special Event requirements in Section 6.2 of Exhibit A. The special Site and Event requirements shall control over the other provisions in this Agreement in the case of conflicting provisions.

7. If Permittee violates any provision of this Agreement, Department has the right to give Permittee notice thereof and immediately terminate this Agreement if Permittee does not immediately correct the violation, in the sole and absolute discretion of Department.

8. Release/Indemnity: Permittee assumes all the risk associated with its use of the facilities, space, and State real and personal property, and Permittee hereby releases and forever discharges Department and the State of North Carolina, and their employees, officials, and agents, from any and all claims, demands, damages, actions, causes of action, rights, costs, expenses and compensation whatsoever, including attorney's fees, or suits of any kind or nature whatsoever, both known or unknown, arising from or related to this Agreement. Permittee shall indemnify, defend, and hold harmless the Department and the State of North Carolina, and their employees, officials, and agents, from and against all claims, costs, expenses, damages, and/or liability for injury, death, or damage, to persons or property arising from or relating to the use of the facilities, space, or State real or personal property by Permittee, or resulting from any breach or default in the performance of Permittee's obligations under this Agreement, including, but not limited to, attorney's fees and court costs.

9. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, pandemic, or other catastrophic natural event or act of God.

10. North Carolina General Statute §133-32, as applicable, prohibits the offer to, or acceptance by, any employee of Department of any gift from anyone with a contract with Department, or from any person seeking to do business with Department. By execution of this Agreement, Permittee attests, for its entire organization, including its employees or agents, that it is not aware that any such gift has been offered, accepted, or promised by any employees of its organization.

11. Permittee agrees that it shall be responsible for the proper custody and care of any State personal property furnished to Permittee for use in connection with the performance of this Agreement and will reimburse the State for loss of or damage to such State personal property.

12. A failure of either Party to insist upon or enforce any provision of or right under this Agreement, shall not be a waiver of any such provision or right. No waiver by either party of any term or provision hereof shall be binding unless made in writing and signed by both Parties.

13. If any provision(s) of this Agreement is held to be invalid, illegal, or unenforceable, then such provision(s) shall be severed from this Agreement and the remaining provisions shall remain in full force and effect.

14. The Parties are neither partners nor joint venturers.

15. The laws of the State of North Carolina without regard to its choice of law principles shall govern this Agreement and all disputes related thereto. North Carolina shall be the venue for resolving all disputes arising under or related to this Agreement including, but not limited to, contract and tort matters.

16. This Agreement represents the entire agreement between the Parties on the subject matters contained herein. This Agreement supersedes all previous communications, representations, understandings, and agreements related these subject matters. No modification of this Agreement shall be valid unless in writing and signed by the Parties.

17. The following shall survive the termination or expiration this Agreement: (a) all obligations and liabilities that accrue under this Agreement before the termination or expiration of this Agreement, (b) all indemnity obligations imposed by this Agreement, (c) all provisions of this Agreement that impose an obligation after termination or expiration of this Agreement, (d) all obligations under this Agreement which by their nature or context are intended to be performed after the termination or expiration of this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

IN TESTIMONY WHEREOF this Agreement has been executed by the individual party or the authorized officer or representative of the parties hereto as applicable.

**Permittee:**

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

Print Name: \_\_\_\_\_

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

**North Carolina Department of Natural and Cultural Resources**

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

Print Name: \_\_\_\_\_

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

\*\*\* This Agreement must be signed by the Department by either a Division Head or a Deputy Secretary.

**EXHIBIT A**  
**TO FACILITIES USE AGREEMENT**

**Section 1.1**

Site Name: Vance Birthplace State Historic Site  
Street Address: 911 Reems Creek Road, Weaverville, NC 28787  
Specific Facilities or Space: Picnic Shelter and adjacent 1/6 acre picnic area field

**Section 1.2**

Starting on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ at \_\_\_\_\_ O'clock, AM/PM;  
Ending on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ at \_\_\_\_\_ O'clock, AM/PM.

If a portion of the time described above is restricted to setting up or removal for the Event, specify those times here:

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**Section 2.1**

Description of the Event: (include estimated number of guests and vehicles)

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Caterer Name & Telephone Number: (if applicable)

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Florist Name & Telephone Number: (if applicable)

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Rental Company Name & Telephone Number: (if applicable)

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Items to be Rented:

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**Section 3.1**

Facilities or Space Rental Fee: \$ \_\_\_\_\_  
Equipment Rental Fee: \$ N/A  
Other Fees or Charges: \$ 25.00  
Taxes Due: \$ \_\_\_\_\_  
\*\*\*Security Deposit \$ 250.00  
**Total of all above items:** \$ \_\_\_\_\_

Non-refundable Deposit Amount: \$ \_\_\_\_\_  
Date Non-refundable Deposit is Due: \_\_\_\_\_  
Balance Amount Due: \$ \_\_\_\_\_  
Date Balance is Due: \_\_\_\_\_

\*\*\* Note: The Security Deposit is refundable if no damages are caused.

**Section 4.1**

Permittee's Contract Administrator:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

Department's Contract Administrator:

Name: Kimberly Floyd  
Title: Vance Birthplace State Historic Site Manager  
Address: 911 Reems Creek Road  
City/State/Zip: Weaverville, NC 28787  
Telephone Number: 828-645-6706  
Email: Kimberly.floyd@ncdcr.gov



**Section 5.1**

Are candles in closed containers permitted?       Yes       No

Conditions applicable to the use of candles in closed containers:

Candles in closed containers are only permitted when a licensed caterer requires them for maintaining necessary temperatures for food such as a wick candle for a chafing dish.

**Section 5.2**

Is alcohol permitted?       Yes       No

\*\*\*If alcohol is permitted, Permittee must comply with all of Paragraph 5(o) of this Agreement.

**Section 5.3**

Overstay time will be charged to Permittee at the rate of \$ 150.00 per hour.

**Section 6.1**

The following special requirements apply to the Site:  
See Attachment A to Exhibit A.

**Section 6.2**

The following special requirements apply to the Event:

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## **Attachment A to Exhibit A Vance Birthplace SHS Facility Use Agreement**

The Vance Birthplace State Historic Site preserves seven (7) historic structures and maintains a Visitor Center and Museum. The picnic shelter and adjacent 1/6-acre picnic area field are available to rent for private events during normal operating hours and outside of normal hours, as staffing allows. Our policies help to ensure proper maintenance, use, and enjoyment of our site. We request your cooperation in following the policies outlined below to keep the Vance Birthplace vital for future generations. Please remember that our primary responsibilities are to protect our historic site and collections and to allow public access to the site.

### **To reserve space for a function:**

A Facility Use Agreement must be fully executed a minimum of forty-five (45) days in advance of the rental date.

### **Rental Facilities:**

Rentals are NOT allowed inside the historic structures or the site visitor center. The hayfield adjacent to the Historic Site is PRIVATE PROPERTY; please notify your guests of this and ensure that no one in your group trespasses on this property.

**Capacity:** Our picnic shelter can accommodate a maximum of fifty (50) people. The total rental capacity is 150 people.

### **Rental Rates:**

The rental time includes all time spent on the Historic Site property, including set-up, photography, and clean-up. All evening events must conclude by 10:00 pm to allow for the necessary clean-up of the event. The \$25 Application Fee is due at the time of submission.

*Weekday Pricing Schedule – Monday through Friday 9 am to 5 pm*

\$150 for the first two (2) hours and \$100 per hour after that, up to a maximum of eight (8) hours.

*Weekend and After-Hours Pricing Schedule – Saturday and Sunday, or any rental occurring before 9 am or after 5 pm.*

\$150 per hour a la carte with a 2-hour minimum and 8-hour maximum.

4-Hour Discount Deal: \$500 flat rate (save \$100)

6-Hour Discount Deal: \$750 flat rate (save \$150)

8-Hour Discount Deal: \$1,000 flat rate (save \$200)

### **Additional Rental Fees:**

A non-refundable application fee of \$25 is due at the time of application submission.

### **Application Procedure:**

A completed facility use agreement form should be submitted at minimum of forty-five (45) days prior to your event. You will be contacted within ten (10) business days, at which time site staff will notify the renter if the application is approved. If the application is accepted, you will have two (2) WEEKS to submit the required \$250.00 Refundable Security Deposit. After we receive your Security Deposit, we will hold the reservation for up to two (2) WEEKS. Within that two-week period, you must submit the first payment (50% of the estimated total cost, which can be determined under section 3.1 of the Facility Use Agreement) or the reservation will be forfeited. The remaining balance must be paid a minimum of one (1) WEEK prior to the event.

### **Site Specific Rental Requirements:**

1. *Set-Up, Deliveries, & Clean-Up* – Your rental time must include any time needed for set-up, delivery of tents or other equipment, and clean-up. A representative from the site will be present in the Visitor Center for the duration of the rental. The renter is responsible for checking in at the Visitor Center before beginning any set-up and checking in with the site representative for a final walk through before leaving the property at the end of the rented time. Museum staff will not accept or sign for deliveries. The picnic shelter and grounds must be left as they were prior to the rental, including cleaning, returning chairs to their original set-up, and removing garbage from the Site. The outdoor trash receptacle must close to prohibit bears. **Historic Site staff are not able to provide support services for your event.**
2. *Tents, Tables, & Chairs* – The Vance Birthplace does not have any equipment available for rent. If the Permittee requires a tent, tables, chairs, linens, etc. these will need to be acquired by the Permittee. Site staff do not set up and break down for rentals. The rental company coming on property must be confirmed with the Department’s Contract Administrator before the day of the event.
3. *Food & Drinks* – Caterers must be approved by the Contract Administrator prior to the event date. If your caterer has not used our facility before, we strongly encourage them to visit our site several days prior to the event to familiarize themselves with the facility and rules. This consultation is free. There are no available kitchen facilities; however, closed-bottom fire containers such as chafing dishes are permitted. The fire ring by the Spring House is not available for public use. The caterer and the group are responsible for keeping areas clean during and after use. All grease and food scraps must be collected in a container and removed from the property at the end of the rental. DO NOT pour grease, oil, or fat into any drain.
4. *Vehicles* – are restricted to public roads and parking areas; do not drive on grass. Assistance for carrying items to and from isolated areas is the responsibility of the person and/or organization conducting the event.
5. *Parking* – Free parking is available on the blacktop parking lot (during normal historic site hours, renters are limited to five (5) parking spaces of the ten (10) standard spaces available; renters or guests who need to park in accessible spaces are not restricted by this limit). Overflow parking is available across the street in the gravel lot at the Maintenance Building.
6. *Music & Electricity* – At this time, there is no access to electrical outlets.
7. *Restrooms* – There are restrooms located in the Visitor Center, which is open from 9:00 AM to 5:00 PM, Tuesday through Saturday. Renters may have access to these restrooms after hours. If you need access to these restrooms during afterhours events, please specify that on your application. The women’s restroom has four (4) stalls and a full-length

mirror. The men's restroom has two (2) stalls, two (2) urinals, and a full-length mirror. Portable restroom rentals are the responsibility of the renter who must submit a copy of the portable restroom rental agreement to the Department's Contract Administrator in advance of the rental date and make note of this in their facility use agreement.

8. *House Tours* – Per normal operations, visiting groups can look in the historic buildings and partake in scheduled tours. The historic buildings will not be accessible to groups renting the grounds after normal hours.
9. *Supplies* – The Site's supplies (paper towels except when washing hands, garbage bags, ladders, brooms, etc.) are not to be used by the Permittee.