

**> ATTENTION <**

NOTICE REGARDING  
COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added to this record as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

COLDWELL BANKER HIGH COUNTRY REALTY

The foregoing certificate(s) of

Cynthia LaForte

is/are certified to be correct.

This 4 day of Nov, 2004.

Cherokee County  
Register of Deeds

Daphne Dockery  
By: Christy Taylor  
Assistant/Deputy

Upon recording return to:  
Thomas Harris  
11 Lumpkin Street, Suite 200  
Lawrenceville, GA 30045

STATE OF NORTH CAROLINA  
COUNTY OF CHEROKEE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE SANCTUARY AT VANCE MOUNTAIN

This Declaration of Covenants, Conditions and Restrictions for the Sanctuary at Vance Mountain (hereinafter referred to as "this Declaration") is made on the date hereinafter set forth by Vance Mountain Associates, LLC, a Georgia company (hereinafter referred to as "Declarant").

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain real property located in Cherokee County, North Carolina, which property is more particularly described on Schedule "A" attached hereto and incorporated herein by reference; and

WHEREAS, Declarant intends to develop a development to be known as The Sanctuary at Vance Mountain; and

WHEREAS, Declarant desires to adopt and hereby does adopt certain covenants, conditions and restrictions which shall bind and run with the Property described on Exhibit A hereto (together with such other Additional Property which may hereinafter be annexed to the Property as hereinafter provided), in order to ensure the use of said realty for the common good and general welfare of its Owners, to enhance and protect the desirability, attractiveness, and marketability of such Property, and to maintain the desired character of the community to secure for each present or future owner, the full benefit and enjoyment of their respective properties; and

WHEREAS, upon the recording in the Records of Cherokee County, these Covenants, Conditions and Restrictions shall inure to the benefit of and be binding upon each Owner and his/her/its heirs, grantees, successors, and assigns, and shall apply to and govern the realty and its present or future parcels, common roads and areas, and the use thereof;

NOW THEREFORE, the Declarant hereby declares that all of the property described in Exhibit "A" (together with such other Additional Property which may hereinafter be annexed to the Property as hereinafter provided, or otherwise made subject to this Declaration) shall be held, sold and conveyed subject to this Declaration of Covenants, Conditions and Restrictions.

Article I  
DEFINITIONS

Except where the context otherwise provides, when used in this Declaration the following words, shall have the following meanings:

- 1.01 "Additional Property" means all additional property which may be annexed to the Property and/or made subject to this Declaration.
- 1.02 "Association" means The Sanctuary at Vance Mountain Homeowners' Association or The Sanctuary at Vance Mountain Homeowners' Association, Inc.
- 1.03 "Board" means the Board of Directors of the Association which shall be its

- governing body.
- 1.04 "Bylaws" means the Bylaws adopted by the Association.
- 1.05 "Common Area" or "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) and personal property submitted to this Declaration which is owned or leased by the Declarant or the Association for common use and enjoyment of the Owners of the Property or any Additional Property.
- 1.06 "Common expenses" means all expenditures lawfully made or incurred by or on behalf of the Association together with all funds lawfully assessed for the creation and maintenance of reserves.
- 1.07 "Declarant" means Vance Mountain Associates, LLC, a Georgia limited liability company, and its successors and assigns, including but not limited to, any person or entity which acquires all or substantially all of the Development then owned by Declarant (or its successors in interest) by conveyance or assignment or by judicial or non-judicial foreclosure, and who come to stand in the same relation to the development as did his/her/its predecessor in interest.
- 1.08 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for The Sanctuary at Vance Mountain
- 1.09 "Lot" means any plot or parcel of land, other than a road or common area, designated for separate ownership and occupancy and shown on a plat for the Subdivision, and any plat of any Additional Property. Where the context indicates or requires, the term Lot shall include any structure or improvement on such Lot.
- 1.10 "Member" means any member of the Association.
- 1.11 "Owner" or "Lot Owner" means one or more persons who are record title owners of a Lot (including Declarant). The term "Owner" shall not include (in his/her/its capacity as such), any mortgagee, lien holder, person having an equitable interest under any contract for the sale or lease of a Lot, or any lessee or tenant of a Lot.
- 1.12 "Officer" means an officer of the Association.
- 1.13 "Property" means that real property located in Cherokee County, North Carolina, which property is more particularly described on Exhibit "A" attached hereto, and which is the subdivision more commonly known as The Sanctuary at Vance Mountain. Where applicable, the term "Property" shall also include any Additional Property.
- 1.14 "Property Owners' Development" or "Development" means the entire Subdivision known as The Sanctuary at Vance Mountain which is subject to this Declaration, together (where applicable) with any Additional property.
- 1.15 "Subdivision" means the subdivision known as The Sanctuary at Vance Mountain.
- 1.16 "Common expenses" means all expenses lawfully incurred by or on behalf of the Declarant or the Association and/or all funds lawfully assessed for the creation and maintenance of reserves.

Article II  
GENERAL COVENANTS and RESTRICTIONS

- 2.01 Except as hereafter provided, all Lots are for single family residential purpose only and only one (1) residence shall be erected on any one Lot, provided however, that the owner of any Lot may erect an attached garage or guest house, or a detached outbuilding, for use in connection with such residence (but not as a separate rental residence), so long as such garage, outbuilding or guest house is constructed using substantially the same construction materials as the residence, has the same exterior finish, and is architecturally compatible with such residence. Notwithstanding the foregoing, on any Lot owned by Declarant, Declarant shall be entitled to construct multi-family residences which shall also be used for residential purposes only. Also, notwithstanding anything contained in these Covenants to the contrary, for so long as Declarant owns one or more Lots in the Subdivision, Declarant shall retain the right and have absolute discretion (but not the obligation) to permit the

construction of multi-family dwellings on any Lot, whether or not Declarant is the owner of such Lot. Property owners or their assigns cannot move into a newly constructed dwelling until it is completed and inspected by the local building authority, a Certificate of Origin issued and approved in writing by the declarant or his staff.

- 2.02 Only wood, logs, Hardy Plank, stone and brick shall be permitted for construction of exterior walls of all improvements located on the Property. All single family residences shall have an enclosed garage sufficient to accommodate a minimum of two cars, together with an electric garage door. Multi family residences will not be required to have garages. No vinyl or metal houses, carports, sheds or other structures or buildings shall be constructed, erected, or allowed to remain on any Lot.
- 2.03 After the conveyance of a Lot by the Declarant, no Lot shall be further subdivided nor may any boundary lines be changed without the express written permission of the Declarant (in its absolute discretion). The Declarant shall have authority to grant such permission only during the period in which it is an Owner. After the Declarant has sold the last Lot to an Owner, builder, or non-Developer Owner, no Lot or tract shall be further subdivided nor may any boundary lines be changed except as may be ordered by a Court of competent jurisdiction in the event of a boundary line or encroachment dispute. Notwithstanding the foregoing, one or more Lots may be combined by an Owner of such Lots for the construction of a single residence thereon. In such event, except as otherwise expressly provided in these Covenants, such combined Lots shall be counted as separate Lots (for example for assessment and voting purposes.)
- 2.04 Single-Family Dwellings: Each single-level house shall have a minimum of eighteen hundred (1,800) square feet of heated living space, excluding garage and basement, and each multi-level house shall have a minimum of fourteen hundred (1400) square feet of heated living space on the main floor and no less than eighteen hundred (1800) square feet of heated living space, excluding garage and basement.
- Multi-Family Dwellings: Each residential dwelling within a multi-family dwelling shall have a minimum of one thousand (1,000) square feet of heated living space, excluding garage and basement.
- 2.05 No house trailer, mobile home, modular home, pre-manufactured house or housing, camper, tent vehicles, travel trailer, motor home or other temporary type residence shall be placed or located upon any Lot at any time.
- 2.06 No junk, trash, rubbish or hazardous materials or waste, or any thing which emits foul or obnoxious orders, shall be kept, stored, or buried upon any Lot. No use is permitted which may become an annoyance or nuisance to the neighborhood or which may be offensive by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which is hazardous or which creates an excessive danger of fire or explosion. Nor shall any thing or animal which causes repetitive noise which disturbs the peace, quiet, comfort, or serenity of the occupants of the neighboring properties be allowed upon any Lot.
- 2.07 No part of the Property or any improvement thereon shall be put to any commercial, industrial or manufacturing use, nor shall the same be used for any activity or business which solicits the presence of the general public for the purpose of purchasing and/or selling goods or services. Private home offices shall not be considered a violation of this restrictive covenant so long as the aforesaid criteria are maintained. Furthermore, nothing herein contained shall prohibit the inviting of prospective buyers to any Lot or residence for the purpose of selling such Lot or residence.
- 2.08 No motorcycles, four wheelers, dirt bikes and/or other vehicles with external engines shall be permitted to ride along the Lots or roads of the subdivision except as may be necessary to enter and exit the Subdivision. Notwithstanding the foregoing, the use of golf carts and mule-type utility vehicles shall be allowed to operate along the roads and Lots. All vehicles within the Subdivision shall be sufficiently muffled so as not to disturb the neighborhood.
- 2.09 The parking of buses, trucks, and other vehicles rated higher than one ton is prohibited in the Subdivision and on its roads.
- 2.10 All electrical and other utility lines shall be placed underground and all water supply and sewage disposal facilities shall comply with the

applicable governmental codes. No satellite dishes over thirty-six (36) inches in diameter shall be allowed on any Lot.

- 2.11 The pitch of all roofs must be 8/12 or greater except on rear dormers and porches. Roofing materials must be cedar, slate, tin, or asphalt fiberglass, and shall be dark shades including charcoal grey, black, brown, dark green, dark maroon, or dark tan. All metal roofs must be pre-painted by the manufacturer.
- 2.12 Prior to initial occupancy of a residence and at all times thereafter, all areas of the grounds and landscaping must be covered with natural growth, mulch, gravel, bark, ivy, shrubs, trees, straw, grass, or sod. No bare dirt shall be exposed except during construction.
- 2.13 All lawn and other equipment and tools, including lawn mowers, blowers, tractors, edgers, tillers and the like, must be kept in an enclosed storage area when not in use.
- 2.14 All concrete blocks used in the construction of any residence must be covered with wood, stone or brick comparable in appearance to that utilized on the remaining portions of the residence.
- 2.15 No structure shall be erected or placed on any Lot closer to the front, side and or back lot lines than the minimum building set back lines reflected on the plat of the Lot. Where two or more Lots are acquired or joined as a single building site, the setback lines shall be the outermost lines which border the adjoining lots.
- 2.16 All construction must be completed within twelve (12) months from the start thereof.
- 2.17 No animals shall be kept or maintained on any part of the Property, except ordinary household pets for the pleasure and use of the occupants, but not for any commercial use or purpose. Pigs and fowl shall not be considered ordinary household pets. There shall be no intentional breeding of animals for commercial purposes on the Property. No outside animal cages, pins or runners shall be allowed on any Lot. Owners' dogs which are outside the house must be kept on a leash and accompanied by the Owner, or may be kept in an invisible fence. Dogs shall not be allowed to roam or stray outside of their Owner's lot unaccompanied by such Owner.
- 2.18 No household appliances and no utility trailer, wrecked, unregistered or non-operational motor vehicle shall be kept in a location in which the same can be viewed by Lot Owners or from the Subdivision roads. Further, no trash, garbage, or rubbish or other waste shall be kept upon any Lot except in closed sanitary containers which must be placed behind the house and out of view from the roads except on garbage pick-up day.
- 2.19 No mining or drilling for oil, gas, or other minerals is allowed on any portion of the Property.
- 2.20 Garage sales, rummage sales, yard sales, moving or estate sales, and any other such sales that solicit the presence of the public are prohibited.
- 2.21 Port-a-Pots or comparable freestanding, enclosed toilets shall be installed on every Lot in which construction of the primary residence is in progress, and the same shall be kept upright at all times. In the event an Owner or builder is simultaneously constructing residences upon multiple Lots, a single Port-a-Pot may be utilized for all such Lots so long as it is reasonably accessible thereto. In no event shall a Port-a-Pot remain on a Lot for a period exceeding twelve months and the same shall be removed immediately upon completion of construction.
- 2.22 No barbwire or chain link fences may be constructed or maintained on any Lot. Wood privacy fences may be installed upon written permission received from the Developer or the Association, in its discretion.
- 2.23 No signs may be erected or posted on any Lot with the exception of signs which solely advertise any Lot or residence constructed thereon for sale by Owner or through a realtor. This restriction is not binding upon the Declarant for so long as it is an Owner, and does not prohibit the posting of signs by the Declarant or the Association on its Common Areas and Roads.
- 2.24 Mailboxes, post numbers and letters on mailboxes will be of a uniform standard throughout the Subdivision. The initial mailboxes, numbers and

letters will be provided by Declarant, and the Owner(s) shall reimburse the Declarant the actual cost therefore.

- 2.25 Upon initial construction and thereafter, exterior paint colors must be pre-approved by Declarant or the Association in order to assure to create or assure substantial conformity and harmony with other structures in the Subdivision.
- 2.26 All Lots, landscaping and grounds must be kept mowed, maintained and free of debris and uncontained garbage. Upon the failure of the Owner to mow and/or maintain such Owner's Lot, landscaping and grounds, the Declarant or the Association shall be authorized to enter and entitled to mow and/or reasonably maintain the same, and the reasonable cost thereof may be assessed against the Owner.

Article III  
ROADS and COMMON AREAS

- 3.01 Each Owner shall have the right to use the Common Areas in common with all other Owners. The right to use the Common Areas shall be subject to and governed by this Declaration, the Bylaws, and any reasonable Rules and Regulations adopted by the Declarant or Association. The Common Areas shall be used only by the Owners and their agents, servants, tenants, invitees, and licensees for purposes incidental to the use of the Lots, including but not limited to recreational uses.
- 3.02 The Common Areas shall be maintained by the Association. The use, maintenance, and operation of the Common Areas shall not be obstructed, damaged, or unreasonably interfered with by any person.
- 3.03 Where provided on the Subdivision Plat and/or plats to individual Lots, Lots extend to the center line of the Subdivision roads. The Declarant reserves a temporary construction easement to the portion of each such Lot reflected on the Plat/plats as a road for the purpose of constructing such road and/or installing utilities. Such easement shall extend 30 feet outward from the centerline of the road.
- 3.04 After construction of the roads and installation of the utilities, the responsibility for maintaining the roads and utilities shall belong to the Association. The Association shall retain an easement along the roads for repair and maintenance of the roads and utilities and alongside each road for a distance reasonably necessary for such purpose.
- 3.05 Owners and their guests, invitees, agents, tenants and licensees, shall have an easement over and across the Subdivision roads (including without limitation all roads in the Additional Property, if any) roads of any for ingress and egress, and access to the Lots and Common Areas, and all other purposes consistent with ownership of a Lot in the Subdivision. The roads shall be used only by the Owners and their agents, servants, tenants, guests, invitees, and licensees for purposes incidental to the ownership and normal and customary use of the Lots and/or the Common Areas.
- 3.06 The right to use the Roads shall be subject to and governed by this Declaration, the Bylaws, and any reasonable Rules and Regulations adopted by the Declarant or the Association, except that the right of access to and from the Owner's Lot and the Common Areas shall not be abridged.
- 3.07 Owners shall be liable to the Declarant or the Association, as the case may be, for any damage caused to the roads and common areas by the Owner or Owner's invitees, employees and subcontractors, agents, tenants and/or guests.
- 3.08 Except as otherwise provided on a Subdivision plat or the plat of any Additional Property, roads, rights-of way, and easements for the purpose of vehicle traffic, ingress and egress, and/or installation and/or maintenance of utilities, may not be extended across any Lot for the purpose of gaining access to any adjoining Lot or any non-Subdivision property. The foregoing provision shall not apply to or be binding upon the Declarant or anyone acting on its behalf.
- 3.09 In construing the foregoing paragraph, two or more adjoining Lots which have been combined for the construction of a single dwelling shall be considered a single Lot such that it shall be permissible to travel across one such Lot in order to gain access to the other. Notwithstanding the foregoing, should one such Lot be improved and the other remain

unimproved, upon the sale of the unimproved Lot apart from the improved Lot, the provisions of the preceding paragraph shall apply and be re-imposed.

- 3.10 Construction set-back lines may be set forth on the Subdivision Plat and/or plats of the Lots. To the extent that no such set-back line is reflected thereon, the minimum setback lines of Lots shall be as follows: On the front, thirty feet (30') from the center line of the road; Ten feet (10') on the sides; and Ten feet (10') on the back. Notwithstanding anything contained in this Declaration to the contrary, for so long as Declarant owns one or more Lots in the Subdivision, Declarant shall retain the right and have absolute discretion (but not the obligation) to allow variances from the setback requirements set forth in this paragraph. The right to grant such variances shall inure to Declarant and to any designee of Declarant.
- 3.11 The Declarant expressly reserves the right to amend the Plat of the Subdivision or the plat of any Additional Property even if the amended Plat alters the boundaries and amount of acreage/square footage of any Road or Common Area, or improvements thereon.
- 3.12 Notwithstanding anything contained herein or in any deed to the contrary, the Declarant or the Association may, in its sole discretion, hereafter be authorized and entitled to dedicate all roads encumbered by this Declaration, to any city, county, state or governing authority, to be owned and maintained in accordance with such authority's ordinances, regulations, statutes, or the like, even if the same should otherwise conflict with the provisions of this Declaration.
- 3.13 Notwithstanding anything contained in this Declaration to the contrary, the Declarant reserves the absolute, exclusive, continuing easement and right to construct, erect, place, repair, maintain and replace, from time to time, along any present or future roadway, any utility lines, pipes, conduits, devices, implements or related components, fixtures, apparatuses and assemblages that are reasonable, appropriate, necessary and/or useful in furnishing and satisfying the residential utility uses and needs of the Property subject to this Declaration, or any portion thereof, and/or all such Lots, including, but not limited to the following utility services: electricity, water, sewer, cable, and gas.

Article IV

ASSESSMENTS AND CREATION OF LIEN AND PERSONAL OBLIGATION

- 4.01 Each Owner (excluding Declarant), by acceptance of a deed or instrument conveying title to a Lot, shall pay to the Declarant or the Association a fee of \$400.00 for each such Lot purchased by such Owner, which shall constitute an assessment for the first year of ownership of such Lot. The assessment for all such Lots shall be prorated as of the date of closing.
- 4.02 Each year following the calendar year in which each Owner purchases a Lot, there shall be an annual Assessment levied by the Declarant or the Association against each Lot owned by any Owner (excluding Declarant) to be used exclusively for providing for the common welfare of the residents of the Development, including but not limited to, the acquisition, improvement, repair and/or maintenance of the Roads and Common Areas, electronic gate (if any), outside lighting, water irrigation system (if any), and landscaping; the enforcement of this Declaration; and/or the payment of the necessary operating costs, debts and administrative and other expenses of the Association.
- 4.03 The Declarant or the Association shall not be obligated to spend in any calendar year, all the sums collected and may carry forward as surplus any balances remaining after payment of expenses incurred. Nor shall the Declarant or the Association be obligated to apply any surplus to offset any assessment in any succeeding year, but may accumulate funds in order to provide financial security for the protection and maintenance of the Roads and Common Areas and/or the common needs of the Property as a whole.
- 4.04 Each Owner (excluding Declarant) also covenants to pay to the Declarant or the Association any special assessments for capital improvements and expenses deemed necessary by the Declarant or the Association, which may from time to time be levied against each Lot owned by such Owner.
- 4.05 Annual assessments shall be prorated equally amongst the Owners by dividing the total number of Lots in the Subdivision (together with the

total number of Lots contained in such Additional Property which may be encumbered by this Declaration) by the number of Lots owned by each such Owner. (However, see Paragraph 7.5 relating to annexation of Additional Property.)

- 4.06 There shall be a continuing charge and lien upon every Lot upon which the aforesaid annual and special assessments are made to secure payment thereof, and all interest thereon, together with late fees and the costs of collection including without limitation, reasonable attorneys' fees. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots, whether arising from a mortgage, deed to secure debt, or other instrument, except for (a) any first position mortgage or security deed recorded in the appropriate deed records in the county in which said Lot is located, in which an interest in the Lot has been given to secure repayment of money lent to finance construction, repair or purchase of an improvement on the said Lot; and (b) any liens made superior by operation of law. All persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded, other than as provided above, shall be deemed to consent that their liens or encumbrances shall be inferior to future liens for assessments, whether or not prior consent is specifically set forth in the instruments creating their liens or encumbrances.
- 4.07 Assessments shall be due and payable on the date an assessment statement is rendered by Declarant or the Association. Interest shall accrue on all unpaid assessments at a rate of eighteen (18%) per annum from the due date. Notwithstanding the foregoing, charges for interest shall be waived so long as payment is received within 30 days from the due date. Any assessment not paid within 30 days of the due date shall further incur a single late charge of \$50.00.
- 4.08 Notwithstanding anything contained herein to the contrary, the Declarant shall not be subject to or liable for payment of any special or annual assessment(s).
- 4.09 The Assessments herein described constitute a personal liability of the Owner and not merely a lien against the Lot. The sale of an Owners' Lot shall not relieve such Owner from personal liability for any assessment or fees which are owed at the time of such sale.

Article V  
ARCHITECTURAL CONTROLS

- 5.01 No structure, building, or other improvement (including without limitation remodeling and repainting) shall be constructed, erected, placed, modified, or altered on any Lot until building plans and specifications and a site plan showing the locations of all proposed improvements and landscaping have been submitted and approved in writing by Declarant (or its authorized agent, assignee, delegatee). Said plans and specifications shall be submitted by sending them via certified mail return receipt requested or by commercial overnight delivery service by a firm which is regularly engaged in the business of document delivery such as Federal Express, DHL, and the like. As regards any proposed paint or other color of any item, a sample of the same shall be provided. The Declarant shall seek to assure conformity and harmony of external design and appearance in the Subdivision. Prior to the construction of the initial structure in the Subdivision, the Declarant shall establish design standards and shall make the same available to any prospective purchaser who may request the same in writing. Declarant (or Declarant's designee) shall endeavor to approve or disapprove any proposed plans within ninety (90) days after said plans and specifications have been submitted to Declarant, however, Declarant's failure to approve or disapprove such plans and specifications within such period of time shall not constitute a waiver of the approval required by this Covenant.
- 5.02 Building plans shall include at a minimum all exterior finishes, approximate dimensions, location of improvements with respect to set-back lines, roof type, and colors.
- 5.03 After Declarant relinquishes control over the Board to the Owners, the duty of examining and approving the aforesaid plans and specifications as set out above shall be delegated automatically to the Association (See Article VI, below). The Association shall be authorized to form an Architectural Control Committee which may promulgate building and design standards which may exceed, but may not be inconsistent with those described in this Declaration. If no Architectural Control Committee is

thus formed, the responsibility for examining and approving such proposed plans shall belong to the Board.

Article VI  
HOMEOWNERS' ASSOCIATION

- 6.01 Declarant has formed a property owners association known as "The Sanctuary at Vance Mountain Homeowners' Association." Such Association is formed as a not-for-profit civic organization. The Association shall maintain the Subdivision roads and common areas, collect dues and assessments from Owners for common expenses and reasonable reserves, implement and observe the architectural controls described herein, and conduct such other reasonable and necessary activities not inconsistent herewith which will, in the reasonable opinion of the Board, promote, directly or indirectly, the recreation, health, safety, welfare, common benefit and enjoyment of the Owners. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation (if any), and every other right or privilege reasonably implied in order to carry out its purposes and duties.
- 6.02 All Owners are members in the Homeowners Association.
- 6.03 The Association shall elect a Board which shall consist of at least five members who shall be elected by the members annually. The Board shall have the authority to conduct the business of the Association. All Board members must be current Owners.
- 6.04 The Association has adopted By-Laws consistent with this Declaration to govern the operation of the Association which By-laws govern, among other things, the election or appointment of members of the Board, election of Officers of the Association, the term of office and method of removal of Board members and Officers, notice requirements for regular and special meetings, the timing and mechanics of elections and Annual and Special Meetings, matters relating to the Budget and Assessments, the method of Amending the Bylaws, and such other matters reasonably related to the proper operation and functioning of the Association.
- 6.05 The Association, by and through its Board, shall maintaining records of its financial transactions and activities which shall be reasonably available to the Members. No part of the net earnings of the Association shall inure to the benefit of any owner, member, director, officer or any private individual, except that reasonable compensation may be paid for services rendered to or for the Association which are outside the usual scope of services performed by a Board member.
- 6.06 The Association may be established as a non-profit corporation.
- 6.07 Notwithstanding the foregoing, the Declarant reserves the right to appoint the members of the Board and the Officers, (all of which persons appointed by Declarant may be non-Owners), and to have fewer than five Board members, until the first of the events described in paragraph 6.08 below. During the period of time in which Declarant is entitled to appoint the members of the Board, the Association shall not be required to conduct operations pursuant to the Bylaws. The Bylaws shall become effective only at such time as the Declarant turns over control of the Association to the Owners.
- 6.08 The Declarant shall turn over control of the Association to the Owners at such time as the first of the following events occur:
- a) When 99% of the Lots on the Property and such other Additional Property which may be subjected to these covenants have been conveyed, by either the Declarant or by a Builder who purchased the Lot from the Declarant for the purpose of erecting a dwelling thereon, to an individual Owner for residential occupancy; or
  - b) Twenty-five years after the recording of this Declaration; or
  - c) At such earlier time as the Declarant may, in its discretion, determine.
- 6.09 Voting Rights. The Association shall have two classes of voting membership, to-wit, Class A and Class B.

Every person who is an Owner, with the exception of Declarant, shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one person has an ownership interest in the same Lot, the vote for such Lot shall be exercised as such persons

determine between/amongst themselves. However, in no event shall more than one vote be cast with respect to any single Lot. In the event of an attempt by two or more of such persons to cast the vote for a single Lot, the vote for such Lot shall not be counted. The membership of Class A members shall automatically terminate upon the sale of a Member's Lot.

The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership and, during its existence, the Class B member shall be entitled to vote on all matters coming before the Association. The Class B member shall be entitled to three (3) votes for each Lot owned by it. The Declarant's Class B membership shall cease and shall be converted to Class A membership at such time as ninety-five percent (95%) of the Lots which may be developed on the Property and on the Additional Property subjected to these covenants has been conveyed, by either the Declarant or by a Builder who purchased the Lot from the Declarant for the purpose of erecting a dwelling thereon, to an individual Owner for residential occupancy.

- 6.10 The Association shall have the right, but not the obligation, to suspend or restrict any and/or all privileges and benefits (including the right to vote and the right of enjoyment of the Common Areas) of or for all Owners who have not paid their fees, dues and assessments; to levy late charges for all unpaid and owing fees, dues and assessments; to file liens in the chain of title as to any Lot having past due fees, dues, and assessments; and to enforce collection of fees, dues and assessments by an action at law for damages, which right of action shall include the right to recover all reasonable and necessary attorneys' fees and expenses incurred in connection therewith. The rights herein granted are in addition to, and not in lieu of, any other rights which may belong to the Declarant and the Association by virtue of this Declaration and by law.

ARTICLE VII  
ANNEXATION OF ADDITIONAL PROPERTY

- 7.01 ANNEXATION. Declarant reserves the right to annex Additional Property to the Subdivision and to thereby bind such Additional Property by these Covenants, whether or not such Additional Property adjoins the original Subdivision Property. In the event Declarant annexes Additional Property and thereby subjects the same to this Declaration, the Declarant shall be entitled to connect any and all portions of said Additional Property to the Subdivision roads and to connect any and all portions of the Additional Property to any and all Subdivision utilities (including but not limited to water, electric, cable, sewer and gas), without incurring any connection fee or paying any amount for such right whatsoever.
- 7.02 CONSTRUCTION EASEMENT RELATING TO ANNEXED ADDITIONAL PROPERTY. The Declarant reserves a temporary construction easement to the portion of each Lot in the Additional Property reflected on the Plat/plats as a road for the purpose of constructing such road and/or installing utilities. Such easement shall extend 30 feet outward from the centerline of the road.
- 7.03 MAINTENANCE EASEMENT. After construction of the roads and installation of the utilities in the Additional Property, the responsibility for maintaining the roads and utilities shall belong to the Association. The Association shall retain an easement along the roads for repair and maintenance of the roads and utilities and alongside each road for a distance reasonably necessary for such purpose.
- 7.04 ARCHITECTURAL CONTROLS RESPECTING ADDITIONAL PROPERTY. Notwithstanding anything contained herein to the contrary, should Declarant annex Additional Property after Declarant has turned over control of the Association to the Owners, until 95% of the Lots in the Additional Property have been conveyed, by either the Declarant or by a Builder who purchased the Lot from the Declarant for the purpose of erecting a dwelling thereon, to an individual Owner for residential occupancy, as to such Additional Property, the building plans, specifications and site plans described in Paragraph 5.01 above shall be submitted for approval to Declarant or its agent, and not to the Board or its Architectural Control Committee (unless Declarant delegates such right and responsibility to the Board or such Committee). During the period of time in which Declarant is authorized to examine and approve said plans, Declarant may promulgate building and design standards which may exceed, but may not be inconsistent with those described in this Declaration. After 95% of the Lots in the Additional Property have been conveyed as

described above in this paragraph, the duty of examining and approving such plans and specifications shall be delegated automatically to the Association as set forth in paragraph 5.03 above.

- 7.05 In the event Declarant annexes Additional Property, annual assessments shall be prorated equally amongst the Owners (but not Declarant) by dividing the sum of (i) the total number of Lots in the Subdivision plus (ii) the total number of Lots contained in such Additional Property which have been conveyed on or before the date of assessment to a Lot Owner other than Declarant, by the number of Lots owned by each such Owner.

ARTICLE VIII  
MISCELLANEOUS

- 8.01 ENFORCEMENT. If anyone shall violate any of the provisions of this Declaration (as the same may be amended from time to time), it shall be lawful for any Owner, the Declarant (so long as it is an Owner), and/or the Association to prosecute any proceeding at law and/or in equity to enjoin such violation and/or to recover damages as may be proven, including but not limited to the recovery of reasonable attorneys' fees and expenses incurred in the enforcement hereof. The failure of the Declarant, the Association, or of any Owner to enforce any violations of this Declaration shall in no event be considered a waiver of the right to do so thereafter as to the same or any other violation.
- 8.02 SEVERABILITY. Each term, provision, restriction, and condition of this Declaration is severable and distinct from each and every other term, provision, restriction, and condition herein contained. Should any one or more such terms, provisions, restrictions, and conditions be deemed illegal, invalid, or enforceable, its/their failure shall not affect the validity or enforceability of the remaining terms, provisions, restrictions, and conditions, which shall remain in full force and effect.
- 8.03 BINDING PERIOD OF THIS DECLARATION. This Declaration shall run with the land and be binding for a period of twenty-five (25) years from the date of recording, after which time it shall automatically be renewed unless terminated as provided herein. Each such renewal shall be for a successive period of ten (10) years, and there shall be no limit on the number of times such covenants shall be renewed.
- 8.04 TERMINATION OF COVENANTS. These covenants (or any of them) may be terminated by the action of the Owners owning no less than two-thirds of the total number of Lots in the Property and any Additional Property which may be subjected to this Declaration. Such termination of covenant shall be evidenced and documented by the execution of a document containing a legal description of the entire area affected by the covenant, a list of the names of all record owners of Lots affected by the covenant, and a description of the covenant(s) to be terminated (which may be incorporated by reference to another recorded document), and the signatures of the Owners of no fewer than two-thirds of the total number of Lots in the Property and any Additional Property which may be subjected to this Declaration. By signing such document, each such person shall verify that he or she is a record Owner of property affected by the covenant. Such document shall be recorded in the office of the Clerk of the Superior Court of Cherokee County.
- 8.05 AMENDMENT OF COVENANTS. The Declarant (but not the Association) retains the absolute right to amend this Declaration, in whole or in part, as it may deem necessary, by the recording of an amendment upon the records of the Office of the Register of Deeds, Cherokee County, North Carolina, and all such amendments shall be binding upon all Lot Owners purchasing Lots after the date of recording of any amendments. The Association may amend in whole or in part this Declaration by a written instrument executed by the Owners of no less than two-thirds of the total number of Lots in the Property and any Additional Property which may be subjected to this Declaration. Any such Amendment shall become effective upon recording the same in the Office of the Register of Deeds, Cherokee County, North Carolina.
- 8.06 RESERVATION OF RIGHTS TO DECLARANT. Notwithstanding anything contained herein to the contrary, the Declarant reserves the right to amend the size of any Lot including but not limited to the right to subdivide or combine any one or more Lots, and to change the boundaries thereof, including the Common Areas, and may record an amended Plat or survey contrary to any Subdivision Plat or the Plat of any Additional Property which is of record

at the time of any Owner's purchase of any Subdivision Lot.

- 8.07 GOVERNING LAW, JURISDICTION and VENUE. These covenants shall be construed in accordance with North Carolina law. In the event a dispute involving Declarant, the Association, and/or any Owner, by acceptance of a deed conveying title to any property encumbered by this Declaration, the parties expressly consent to the jurisdiction of the Courts of the State of North Carolina, and to the venue of a court of competent jurisdiction located in Gwinnett County, Georgia.
- 8.08 VARIANCES. Notwithstanding anything contrary contained herein, the Declarant and the Association shall be authorized but never obligated to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Subdivision.
- 8.09 PREPARER. This Declaration was prepared by Denise R. Griffin, Attorney at Law, 295 Culver Street, Suite B, Lawrenceville, Georgia 30045; Georgia Bar #310777.
- 8.10 SELF-HELP. In addition to any other remedies allowed at law or in equity, the Association or its duly authorized agent, shall have the power to enter upon a Lot or any portion of the Common Area to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Owner, and shall be collected as provided for the collection of assessments.

VANCE MOUNTAIN ASSOCIATES, LLC

Thomas W. Harris  
BY: THOMAS W. HARRIS, Manager

DATE: October 28, 2004

Christopher V. Ellis  
Witness

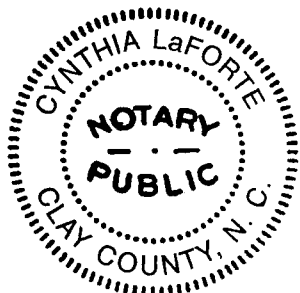
Witness

STATE OF North Carolina  
COUNTY OF Clay

I, Cynthia LaForte, a Notary Public for said County and State, do hereby certify that **THOMAS W. HARRIS**, Manager of Vance Mountain Associates, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Cynthia LaForte  
Notary Public

My Commission Expires: 4/7/08



## EXHIBIT A

## Description:

All that tract or parcel of land containing **216.564 acres**, more or less, lying in District No. 4, Hothouse and Notla Townships and being more particularly described and shown on a plat of survey for Thomas Harris by James C. Jones, P. L. S., No. L-3207 dated October 20, 2003, recorded in Plat Cabinet E, Slide 4, in the Registry for Cherokee County, North Carolina, which plat is hereby incorporated into and made a part of this deed by reference thereto and to which plat is hereby made for a full, complete and accurate metes and bounds description of said 216.564 acres, more or less.

There is also hereby conveyed the perpetual, non-exclusive right of way and easement for access to and from the above described land to and from the Orton Road (SR #112) as conveyed by Right of Way Deed dated November 27, 1978, recorded in Deed Book 398, Page 88, of the Cherokee County Registry; and also further perpetual, non-exclusive right of way and easement over the extension of the above referenced to existing road, 35 feet in with, 17.5 feet on each side of the centerline thereof, beginning in the centerline at the exact point the said existing road meets a northwest corner of the above described 216.564 acre tract and runs with the centerline of the road and the common line of APAC-Tennessee, Inc. and Ashland Inc. and grantee eighteen (18) courses and distances as follows: North 53 deg 07' 17" East a distance of 26.22 feet; North 32 deg 10' 46" East a distance of 40.38 feet; North 24 deg 42' 31" East a distance of 46.10 feet; North 26 deg 16' 11" East a distance of 45.57 feet; North 32 deg 07' 51" East a distance of 23.04 feet; North 41 deg 28' 32" East a distance of 39.17 feet; North 56 deg 02' 07" East a distance of 29.15 feet; North 68 deg 48' 02" East a distance of 30.05 feet; North 85 deg 40' 43" East a distance of 29.08 feet; South 62 deg 39' 38" East a distance of 12.98 feet; South 60 deg 32' 27" East a distance of 28.77 feet; South 53 deg 49' 34" East a distance of 36.38 feet; South 54 deg 42' 32" East a distance of 72.74 feet; South 60 deg 09' 05" East a distance of 34.28 feet; South 55 deg 21' 31" East a distance of 27.28 feet; South 51 deg 03' 25" East a distance of 33.37 feet; South 55 deg 09' 27" East a distance of 105.35 feet and South 44 deg 46' 03" East a distance of 25.80 feet to the end of the centerline of this right of way at a point that is located South 77 deg 27' 10" West a distance of 20 feet from an iron pin set on the northeast side of said road.

This conveyance is subject to all existing easements and rights of way for public roads and highways and public utilities, if any, extending into, through, over or across the above described property.

This conveyance is further subject to all matters set forth and shown on the above referenced plat of survey.

Being the same property conveyed unto Thomas Wheeler Harris, by Warranty Deed from Bowater Incorporated, dated October 23, 2003, filed of record October 24, 2003, in Deed Book 1068, Page 546, in the Office of the Register of Deeds, Cherokee County, North Carolina.

This instrument prepared by Richard E. Steinbronn, Attorney at Law,  
26 Tennessee Street, Murphy, North Carolina 28906

**AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE SANCTUARY AT VANCE MOUNTAIN**

WHEREAS the undersigned is the owner of a parcel of land containing approximately 216 acres more or less lying and being in Hothouse and Notla Townships, Cherokee County, North Carolina more particularly described in instrument recorded in Deed Book 1126, Page 1, in the Register of Deeds Office, Cherokee County, North Carolina; and

WHEREAS, by instrument recorded November 4, 2004, in Deed Book 1126, Page 7, Cherokee County Registry, the owner of said property placed certain Covenants and Restrictions upon said property known as The Sanctuary at Vance Mountain and the undersigned owner desires to amend said Covenants and Restrictions as herein incorporated; and

WHEREAS, the undersigned is now the owner of more than a majority of lots and/or property in aid Sanctuary at Vance Mountain and pursuant to Article 8.1 of said Covenants and Conditions is entitled to amend said Covenants and Restrictions under the original provisions thereof;

NOW, THEREFORE, for the protection of the owners of any portion of said lands the same shall be subject to these Amended conditions, reservations, covenants and agreements which shall run with the land as follows:

Article 7.0 of the Covenants and Restrictions is hereby amended as follows

7.01 Declarant reserves the right to annex Additional Property to the Subdivision which lies no further in distance than 4000 feet from the farthest boundary of the original property lines or any annexed properties thus producing a new outer boundary, and to thereby bind such additional property (or properties) by these Covenants, whether or not such additional property or properties adjoins the original Subdivision Property. Any annexed property may be used to create a new outer boundary which may then be used to annex a new property no further in distance than 4000 feet. The 4000 foot distance may be calculated either from the boundary of the original or annexed property or from anywhere along the easement from Orton Road. Each additional annexed property will then be subject to the conditions outlined herein. Each annexed property may then be accessed by the easement created to service the original 216 acre tract known as Coker Road or Sanctuary Drive.

All other of the Covenants and Restrictions shall remain in effect as they are written and recorded in Deed Book 1126 Page 1, in the Register of Deeds Office, Cherokee County, North Carolina.

IN TESTIMONY WHEREOF, the Grantor has hereunto affixed his hand and seal this 15 day of December, 2004.

VANCE MOUNTAIN ASSOCIATES, LLC

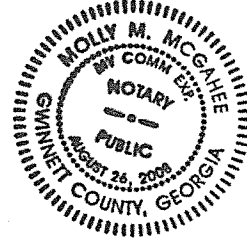
By: Thomas Wheeler Harris  
THOMAS WHEELER HARRIS, Manager

STATE OF Georgia  
COUNTY OF Gwinnett

I, Molly M. McGhee a Notary Public for said County and State, do hereby certify that THOMAS WHEELER HARRIS, Manager of Vance Mountain Associates, LLC a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the Company.

Molly M. McGhee  
NOTARY PUBLIC

My Commission Expires: Aug. 26, 2008



The foregoing certificate(s) of  
Molly M McGhee  
is/are certified to be correct.  
This 20 day of Dec, 2004.  
Cherokee County  
Register of Deeds

By: Daphne Jackson  
Misty Taylor  
Assistant/Deputy

1244  
0400

FILED  
CHEROKEE COUNTY  
DAPHNE DOCKERY  
REGISTER OF DEEDS

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FILED	Aug 07, 2006
AT	04:13:22 pm
BOOK	01244
START PAGE	0400
END PAGE	0405
INSTRUMENT #	01439

This instrument was prepared by Gerald R. Collins, Jr., The Collins Law Firm, A Professional Corporation, P.O. Drawer 740, Murphy, North Carolina 28906.

STATE OF NORTH CAROLINA  
COUNTY OF CHEROKEE

## SECOND AMENDMENT TO THE DECLARATION OF COVENANTS FOR THE SANCTUARY AT VANCE MOUNTAIN

This Second Amendment to the Declaration of Covenants is made and executed this 1 day of August, 2006, by the Declarant, Vance Mountain Associates, LLC, a Georgia Limited Liability Company (hereinafter referred to as "Declarant").

### WITNESSETH:

WHEREAS, the Declarant is the developer of the Sanctuary at Vance Mountain, a subdivision located in Cherokee County, North Carolina; and

WHEREAS, the Declarant, as the developer, made and recorded the original restrictive covenants binding said subdivision entitled: "*Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain*" which restrictive covenants were recorded 4 November 2004 in Book 1126, at Page 7, Cherokee County Registry; and

WHEREAS, the First Amendment to said *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* was recorded 20 December 2004 in Book 1133, at Page 254, Cherokee County Registry; and

WHEREAS, Article VIII, Section 8.05 of said restrictive covenants sets forth the amendment procedure for amending said Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain and provides that said restrictive covenants may be amended by the Declarant by recording the amendment in the Cherokee County Registry; and

WHEREAS, due to the nature of the terrain upon which most if not all lots in the subdivision are located, the Declarant has determined that it would be in the best interest of the subdivision and all lot owners therein if (a) each lot owner, prior to breaking ground for the construction of structures, is required by the restrictive covenants to prepare and formulate written site plans, excavation plans and foundation plans; and (b) each lot owner, prior to breaking ground for the construction of structures, is required by the restrictive covenants to obtain an inspection of and approval of said site plans, excavation plans and foundation plans by a certified soil engineer; and (c) each lot owner, at all times before, during and after construction, is required by the restrictive covenants to fully comply at all times with (1) said site plans, excavation plans and foundation plans as well as all recommendations and/or modifications to said plans made, at any time, by said engineer; and

WHEREAS, due to the Declarant's interest in insuring that sedimentation and erosion within the subdivision is strictly controlled and the water in area streams and watercourses is of the highest quality possible, the Declarant has determined that it would be in the best interest of the subdivision

and all lot owners therein if (a) each lot owner, prior to breaking ground for the construction of structures, is required by the restrictive covenants to first obtain a sedimentation and erosion control plan prepared by a certified soil engineer for all construction activities on each lot and (b) each lot owner is required by the restrictive covenants to fully comply with said recommendations before, during and after any and all land disturbing activities that take place on said lot; and

WHEREAS, the Declarant has determined that it would be in the best interest of the subdivision and all lot owners therein if provision is made for more specific, future definition and identification of common areas; and

WHEREAS, the Declarant has determined that it would be in the best interest of the subdivision and all lot owners therein to describe and define the road and utilities rights of way and easements reserved by the Developer and granted to all owners of lots located in said subdivision,

NOW, THEREFORE, the Declarant hereby declares that said *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* recorded 4 November 2004 in Book 1126, at Page 7, Cherokee County Registry as amended by said First Amendment to said Declaration recorded 20 December 2004 in Book 1133, at Page 254, Cherokee County Registry, be and the same hereby are amended, as follows:

I. Article V of the *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* is amended to add Section 5.04 which shall read as follows:

5.04 Each lot owner shall, prior to breaking ground for the construction of any structure, prepare, formulate and/or obtain a written site plan, a written excavation plan and a written foundation plan for the construction of any structure to be constructed and/or located upon each lot owned by each such owner. Each lot owner shall select, employ and pay a certified soil engineer to review said written site plan, written excavation plan and written foundation plan, and said plans shall be submitted by each such owner to said certified soil engineer. Upon receipt of said written site plan, written excavation plan and written foundation plan, the certified soil engineer (selected by each such lot owner) shall (a) inspect each such lot and said plans; and (b) approve said plans and/or said plans as modified in accordance with recommendations of said engineer. Said approval by said engineer of said plans shall be obtained prior to beginning any construction, and said plans bearing evidence of and/or seal of approval by said engineer shall be delivered to the Declarant or (after the Declarant relinquishes control to the Owners pursuant to Article VI, Section 6.08 of this Declaration) the Architectural Control Committee prior to beginning any construction. Before, during and after construction, each lot owner shall fully comply at all times with (1) said site plan, said excavation plan and said foundation plan; and (2) all recommendations and/or modifications to said plans made, at any time, by said certified soil engineer.

II. Article V of the *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* is amended to add Section 5.05 which shall read as follows:

5.05 Each lot owner shall, prior to breaking ground for the construction of any structure and/or prior to engaging in any land disturbing activities, obtain a sedimentation and erosion control plan prepared by a qualified professional in the field of erosion control for all land disturbing activities conducted on each lot. Said qualified professional in the field of erosion control shall include but not be limited to professional engineers licensed in the State of North Carolina. Each lot owner shall select, employ and pay said qualified professional in the field of erosion control. This requirement set forth in this Article V, Section 5.05 shall apply to land disturbing activities (a) where the quantity of land disturbed is less than one acre and (b) where the quantity of land disturbed is greater than one acre. Each sedimentation and erosion control plan shall be prepared by the qualified professional in the field of

erosion control in accordance with the standards then in effect pursuant to the North Carolina Sedimentation Pollution Control Act of 1973 and all amendments thereto and all agency rules and regulations promulgated thereunder, without regard to project size; provided, however, "land disturbing activities" shall not include normal lawn care and maintenance activities nor flower/vegetable gardening activities. Said sedimentation and erosion control plan shall be delivered by the lot owner to the Declarant or (after the Declarant relinquishes control to the Owners pursuant to Article VI, Section 6.08 of this Declaration) the Architectural Control Committee prior to beginning any land disturbing activities. No land disturbing activities may be conducted by any lot owner unless and until an applicable erosion control plan is approved by the Declarant and/or the Architectural Control Committee. Each lot owner shall initiate, institute and, at all times, fully comply with said sedimentation and erosion control plan prepared by said engineer, and each lot owner shall insure that all recommended erosion control measures and practices are followed and maintained during the entire time that said land is disturbed and prior to the time that all remedial measures are fully implemented and completed. In addition to the foregoing, in the event more than one acre of land is to be disturbed by any lot owner, then said lot owner shall, in addition to the foregoing requirements, fully comply with all rules and regulations of the North Carolina Department of Environment and Natural Resources including but not limited to the filing of an erosion control plan with all applicable state agencies prior to breaking ground.

III. Article I, Section 1.05 shall be amended to read as follows:

1.05 "Common Area" means all real property (together with any and all improvements now or hereafter located thereon) submitted to this Declaration which (a) is owned by the Declarant or (after the Declarant relinquishes control to the Owners) by the Association for common use and enjoyment by the owners of lots located within the subdivision and (b) is marked, indicated, delineated and/or identified as Common Area upon any recorded plat depicting one or more such common areas and depicting all or any portion of the subdivision.

IV. Article III, Section 3.03 shall be amended to read as follows:

3.03 Where provided on the Subdivision Plat and/or plats to individual Lots, Lots extend to the centerline of the subdivision roads. The Declarant reserves unto itself, its successors and assigns, a permanent and perpetual, alienable, releasable, non-exclusive, 60 foot wide (30 feet on each side of the centerline) road and utilities right of way and easement over, through and across all subdivision access roads and/or all access roads located within the subdivision, whether currently existing or not, whether shown on any recorded plat or not, to provide ingress, egress and regress to and from the public road, North Carolina Secondary Road 1112, also known as Orton Road, and for the benefit of (a) the Property, (b) Additional Property, (c) all lots within the subdivision and (d) any other land hereafter acquired by the Declarant.

It is expressly intended by the Declarant that said 60 foot wide easement shall include but not be limited to the absolute, exclusive, continuing and unmitigated right and easement to locate, install, construct, erect, place, inter, disinter, reinter, repair, maintain and replace, from time to time and at any time, any and all utility lines, pipes, conduits, devices, implements, fixtures, apparatuses and/or assemblages and/or any related components, including but not limited to electric power, telephone, cable, water, sewer and gas lines serving any and all lots located within the subdivision and/or furnishing and satisfying the utility uses and needs of the Property subject to this Declaration or any portion thereof.

Also hereby reserved by the Declarant herein is the right to repair, maintain and clear

any brush, trees, weeds and/or other obstructions from said 60 foot wide road and utilities right of way and easement as may be necessary to construct and/or maintain said road and the shoulders of said road as well as the right to enter, within the described boundaries of said right of way and easement, any lot within said subdivision for the purpose of inspecting, repairing any and all pavement, gravel, grass, shoulders, utility lines, equipment and/or fixtures erected, installed and/or maintained over, through, upon, across and under all subdivision roads and any subdivision lot.

It is intended that said 60 foot wide road and utilities right of way and easement appurtenant hereinabove described shall be for the joint use and benefit of the Declarant and the lot owners, their heirs and assigns in perpetuity. Every conveyance of land subject to the Declaration shall be deemed to be subject to said 60 foot wide road and utilities right of way and easement while conveying to the Grantee thereunder a similar right appurtenant to his lands/lot for the benefit, use and enjoyment of said easements in common with the Declarant, its successors and assigns. Each lot owner, his guests, invitees, agents, tenants and licensees shall have a permanent and perpetual, non-exclusive, 60 foot wide (30 feet on each side of the centerline) road and utilities right of way and easement over, through and across all subdivision access roads and/or all access roads located within the subdivision to provide ingress, egress and regress to and from the public road, North Carolina Secondary Road 1112, also known as Orton Road and to and from all other lots and all common areas. Said subdivision access roads shall be used only by the Owners, their agents, servants, tenants, guests, invitees and licensees for purposes incidental to the ownership and normal and customary use of the Lots and/or the Common Areas.

NOTICE IS HEREBY GIVEN THAT THE SUBDIVISION ACCESS ROADS ARE NOT AND WILL NOT BE CONSTRUCTED TO A MINIMUM STANDARD SO AS TO ALLOW THEIR INCLUSION ON THE STATE HIGHWAY SYSTEM, AND SAID ROADS WILL, THEREFORE, NOT BE MAINTAINED BY THE STATE HIGHWAY SYSTEM OF NORTH CAROLINA.

V. Article III, Section 3.04 shall be amended to read as follows:

- 3.04 At such time as the Declarant relinquishes control to the Owners pursuant to Article VI, Section 6.08 of this Declaration, the Declarant shall convey to the Association by appropriate instrument recorded in the Cherokee County Registry a permanent and perpetual, non-exclusive, 60 foot wide (30 feet on each side of the centerline) road and utilities right of way and easement over, through and across all subdivision access roads and/or all access roads located within the subdivision to provide ingress, egress and regress to and from the public road, North Carolina Secondary Road 1112, also known as Orton Road in language substantially similar to if not identical to that set forth above in Section 3.03 of this Declaration including but not limited to the express right and easement to construct and maintain any and all appurtenances within the area of said easement. After said permanent and perpetual, non-exclusive, 60 foot wide (30 feet on each side of the centerline) road and utilities right of way and easement over, through and across all subdivision access roads and/or all access roads located within the subdivision has been conveyed to the Association, the Association shall have the sole and absolute duty and responsibility to maintain all access roads and all utilities (to the extent not maintained and/or undertaken by the utility service providers themselves) located within the subdivision, and the Declarant shall thereafter be automatically and simultaneously released from any further duty and/or obligation.

VI. Article III, Section 3.05 shall be amended to read as follows:

3.05 The Declarant further reserves the right to grant said 60 foot wide, non-exclusive road and utilities right of way and easement for the benefit of additional properties owned by third parties and/or non-subdivision real property, in its sole, absolute and unfettered discretion.

VII. Article III, Section 3.08 shall be amended to read as follows:

3.08 Except as otherwise provided on a subdivision plat or the plat of any Additional Property, subdivision access roads, rights of way and easements for the purpose of vehicular traffic, ingress, egress and regress and/or installation and/or maintenance of utilities may not be extended across any Lot for the purpose of gaining access to any adjoining Lot.

Except as provided in Article III, Section 3.05, subdivision access roads, rights of way and easements for the purpose of vehicular traffic, ingress, egress and regress and/or installation and/or maintenance of utilities may not be extended to any non-subdivision property, and said subdivision access roads shall not be used by nor for the benefit of any non-subdivision property.

No proscription contained herein in this Section 3.08 of Article III shall be deemed nor construed to apply to or be binding upon the Declarant, its successors and assigns.

VIII. Article III, Section 3.13 shall be deleted in its entirety.

IX. Article VII, Section 8.05 shall be amended to read, as follows:

8.05 The Declarant (but not the Association) retains the absolute right to amend this Declaration, in whole or in part, as it may deem necessary, by the recording of an amendment upon the records of the Office of the Register of Deeds, Cherokee County, North Carolina. The Association may amend in whole or in part this Declaration by a written instrument executed by the Owners of no less than two-thirds of the total number of Lots in the Property and any Additional Property which may be subjected to this Declaration. All Amendments created and/or adopted pursuant to this Article VIII, Section 8.05 shall become effective upon recording the same in the Office of the Register of Deeds, Cherokee County, North Carolina. All Amendments created and/or adopted pursuant to this Article VIII, Section 8.05, shall be binding upon all lots in the Subdivision and upon all Lot Owners.

X. Except as hereinabove modified, changed and amended, all terms and conditions as set forth in the *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* recorded 4 November 2004, in Book 1126, at Page 7, Cherokee County Registry as amended by the First Amendment to said *Declaration of Covenants, Conditions and Restrictions For The Sanctuary at Vance Mountain* recorded 20 December 2004 in Book 1133, at Page 254, Cherokee County Registry, shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed in its company name by its duly authorized Manager, the day and year first above written.

VANCE MOUNTAIN ASSOCIATES, LLC

By: Thomas W. Harris (SEAL)  
Thomas Wheeler Harris, Manager

STATE OF Georgia  
COUNTY OF Gwinnett

I, Molly M. McGhee, Notary Public of the county and state aforesaid, certify that Thomas Wheeler Harris, Manager of Vance Mountain Associates, LLC, a Georgia limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument as the Manager of said limited liability company and on behalf of and as the act of the said limited liability company, Vance Mountain Associates, LLC. Witness my hand and official stamp or seal, this the 15<sup>th</sup> day of August, 2006.

(Notary Seal)

Molly M. McGhee  
Notary Public  
My Commission Expires: Aug. 26, 2008



FILED  
CHEROKEE COUNTY NC  
DAPHNE DOCKERY  
REGISTER OF DEEDS  
FILED Oct 21, 2011  
AT 03:31:40 pm  
BOOK 01422  
START PAGE 0657  
END PAGE 0658  
INSTRUMENT # 04832  
EXCISE TAX (None)

STATE OF NORTH CAROLINA

COUNTY OF CHEROKEE

THIRD AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR SANCTUARY AT VANCE MOUNTAIN

WHEREAS, the undersigned developer of Sanctuary at Vance Mountain, pursuant to the amendment provisions contained in the Declaration of Covenants, Conditions and Restrictions governing Sanctuary at Vance Mountain, recorded in Deed Book 1126, Page 7, Cherokee County, North Carolina Registry reference to which is made hereby for incorporation herein desires to amend said instrument as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual benefits contained therein, the undersigned developer of Sanctuary at Vance Mountain hereby amends the said Declaration of Covenants, Conditions, and Restrictions governing Sanctuary at Vance Mountain as follows:

1) In Section 2.02, the following sentence is added at the end of the paragraph: For any house which is constructed on a lot which is located outside of the main entrance gate for the Sanctuary at Vance Mountain, said house shall not be required to have a garage.

2) In Section 2.04, the entire first paragraph is stricken, and replaced with the following: Each single level house shall have a minimum of sixteen hundred (1600) square feet of heated living space, excluding the garage and basement, and each multi level house shall have a minimum of eighteen hundred (1800) square feet of heated living space on the main floor and no less than sixteen (1600) square feet of heated living space, excluding garage and basement. For any house which is constructed on a lot which is located outside of the main entrance gate for the Sanctuary at Vance Mountain, each single level house shall have a minimum of fourteen hundred (1400) square feet of heated living space, excluding garage and basement, and each multi level house shall have a minimum of twelve hundred (1200) square feet of heated living space on the main floor and no less than fourteen hundred (1400) square feet of heated living space, excluding garage and basement.

3) In Section 2.05 the following is added: A temporary RV may be kept on site once construction of a home begins, and may remain on site for a period not to exceed nine (9) months, for the purpose of the lot owner to oversee the construction of a home on the owners lot. After a house has been constructed and a Certificate of Occupancy has been issued by the Cherokee County Building Department, RVs and pop up campers may be kept on a lot by the owner of said lot, so long as said

RVs and pop up campers are kept inside a garage, or behind or beside the house structure, so as to remain out of view from the roadway.

4) In Section 2.11, the following sentence is added at the end of the paragraph: For any house which is constructed on a lot which is located outside of the main entrance gate for the Sanctuary at Vance Mountain, the pitch of all roofs must be 6/12 or greater, except on rear dormers and porches.

5) In Section 4.01, the annual fees are amended to \$600.00 for each lot. The following sentence is added at the end of the paragraph: The annual fee for each lot may be raised or lowered in the future, and is subject to change.

\_\_\_\_ IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its duly authorized Member/Manager, and the undersigned Member/Manager has executed this instrument on the 17 day of Oct, 2011.

Vance Mountain Associates, LLC

Thomas Wheeler Harris  
By: Thomas Wheeler Harris  
Member/Manager

STATE OF Georgia

COUNTY OF Barrow

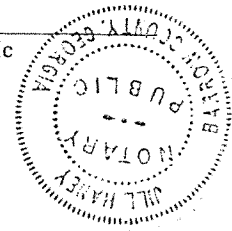
I, Jill Haney, a Notary Public of the County and State aforesaid, certify that Thomas Wheeler Harris, being personally known to me, Member/Manager of Vance Mountain Associates, LLC, a Georgia limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 17 day of Oct, 2011.

My Commission Expires:

JILL HANEY  
NOTARY PUBLIC, BARROW COUNTY, GEORGIA  
MY COMMISSION EXPIRES FEBRUARY 9, 2013

Jill Haney  
Notary Public



1440  
0100

FILED  
CHEROKEE COUNTY NC  
DAPHNE DOCKERY  
REGISTER OF DEEDS  
FILED Jun 21, 2012  
AT 03:35:48 pm  
BOOK 01440  
START PAGE 0100  
END PAGE 0101  
INSTRUMENT # 02989  
EXCISE TAX (None)

## DOCUMENT COVER SHEET

<b>Document Title(s) (or transactions contained therein):</b> Amendment to Declaration of Covenants, Conditions and Restrictions for Sanctuary at Vance Mountain
<b>Grantor/Trustor/Mortgagor(s):</b> Vance Mountain Associates, LLC
<b>Grantee/Trustee/Mortgagee(s):</b>
<b>Document Prepared By:</b> David E. Cowan
<b>Return Original Document to:</b> David E. Cowan

STATE OF NORTH CAROLINA  
COUNTY OF CHEROKEE

AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR SANCTUARY AT VANCE MOUNTAIN

WHEREAS, the undersigned developer of Sanctuary at Vance Mountain, pursuant to the amendment provisions contained in the Declaration of Covenants, Conditions and Restrictions governing Sanctuary at Vance Mountain, recorded in Deed Book 1126, Page 7, Cherokee County, North Carolina Registry reference to which is made hereby for incorporation herein desires to amend said instrument as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual benefits contained therein, the undersigned developer of Sanctuary at Vance Mountain hereby amends the said Declaration of Covenants, Conditions, and Restrictions governing Sanctuary at Vance Mountain as follows:

Owners are allowed to park RVs in the driveway for a period not exceeding three days in any calendar month. Owners shall not be allowed to park an RV in the street at any time.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its duly authorized Member/Manager, and the undersigned Member/Manager has executed this instrument on the 20 day of June, 2012.

Vance Mountain Associates, LLC

Thomas Wheeler Harris  
By: Thomas Wheeler Harris  
Member/Manager

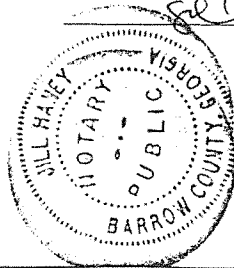
STATE OF Georgia  
COUNTY OF Gwinnett

I, Jill Haney, a Notary Public of the County and State aforesaid, certify that Thomas Wheeler Harris, being personally known to me, Member/Manager of Vance Mountain Associates, LLC, a Georgia limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 20 day of June, 2012.

My Commission Expires:

JILL HANEY  
NOTARY PUBLIC, BARROW COUNTY, GEORGIA  
MY COMMISSION EXPIRES FEBRUARY 8, 2013



Jill Haney  
Notary Public

FILED	Oct 06, 2022	FILED ELECTRONICALLY
AT	02:34:45 PM	CHEROKEE COUNTY NC
BOOK	01722	DAPHNE DOCKERY
START PAGE	0133	END PAGE 0140
INSTRUMENT #	06439	
EXCISE TAX	\$0.00	

Return recorded to:  
THE LANCE LAW FIRM, PC  
40 Church Street  
Hayesville, NC 28904

*\*\*Cross-reference with Book 1126, Page 7-18, Book 1133, Page 254-255, Book 1244, Page 400-405, Book 1422, Page 657-658 and Book 1440, Page 101, Cherokee County Register of Deeds.*

STATE OF NORTH CAROLINA  
COUNTY OF CHEROKEE

**FIFTH AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR THE SANCTUARY AT VANCE MOUNTAIN**

The undersigned Declarant, by their presence hereby makes, declares and imposes upon the referenced parts of the property described, the following AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SANCTUARY AT VANCE MOUNTAIN, and by their signature below as allowed, provided for and pursuant to the Declaration of Covenants for the Sanctuary at Vance Mountain (the "Declaration") which shall be and constitute covenants running with the land and shall be binding under it, and each and all owners and subsequent purchasers, their heirs, personal representatives, successors and assigns of said property or any part, parcel or portion thereof, described as follows on the attached Exhibit A, incorporated herein by reference and made a part hereto.

The undersigned Declarant agrees to amend the Covenant and Restrictions as follows:

- (1) Article IV Assessments and Creation of Lien and Personal Obligation in the Declaration of Restrictions for The Sanctuary at Vance Mountain recorded in Book 1126, Page 7-18, Cherokee County Register of Deeds, Section 4.01 shall be deleted in its entirety and shall be amended as follows:

4.01 Each owner (excluding Declarant), by acceptance of a deed or instrument conveying title to a Lot, shall pay to the Declarant or the Association an annual fee of \$1,000.00 for each such Lot purchased, said amount to be prorated as of the date of closing. However, Lots 1-7 and Lots 157-165 shall pay to the Declarant or the Association an annual fee of \$600.00 for each Lot purchased, said amount to be prorated as of the date of closing.

Except as amended herein, all the provisions of the Declaration as set out in the aforementioned covenants and restrictions, and any amendments thereto, are hereby incorporated by reference as if the same were set out in full.

In witness whereof, the Declarant hereby set their hand and seal this, the 5 day of October, 2022.

**MANOR RESTORATIONS, LLC, a Georgia limited liability company**

By: [Signature]  
Ruthie Smith, Member

By: [Signature]  
Bernie Smith, Member

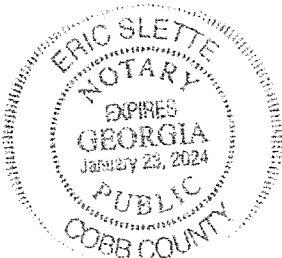
STATE OF GEORGIA  
COUNTY OF COBB

I, Eric Slette, the undersigned Notary Public of the county and state aforesaid, certify that Ruthie Smith and Bernie Smith personally came before me this day and acknowledged that they are Members of Manor Restorations, LLC, a Limited Liability Company, and that they, as the Members, being authorized to do so, executed the foregoing on behalf of the Limited Liability Company.

Witness my hand and official seal this 5 day of October, 2022.

[Signature]  
Official Signature of Notary  
My Commission Expires: 1/23/24

SEAL/STAMP



## EXHIBIT "A"

All that tract or parcel of land containing 216.564 acres, more or less, lying in District No, 4, Hothouse and Notla Townships and being more particularly described and shown on a plat of survey for Thomas Harris by James C. Jones, P. L. S., No. L-3207 dated October 20, 2003, recorded in Plat Cabinet E, Slide 4a, in the Registry for Cherokee County, North Carolina, which plat is hereby incorporated into and made a part of this deed by reference thereto and to which plat is hereby made for a full, complete and accurate metes and bounds description of said 216.564 acres, more or less.

There is also hereby conveyed the perpetual, non-exclusive right of way and easement for access to and from the above described land to and from the Orton Road (SR #112) as conveyed by Right of Way Deed dated November 27, 1978, recorded in Deed Book 398, Page 88, of the Cherokee County Registry; and also further perpetual, non-exclusive right of way and easement over the extension of the above referenced to existing road, 35 feet in width, 17.5 feet on each side of the centerline thereof, beginning in the centerline at the exact point the said. existing road meets a northwest corner of the above described 216.564 acre tract and runs with the centerline of the road and the common line of APAC-Tennessee, Inc. and Ashland Inc. and grantee eighteen (18) courses and distances as follows: North 53 deg 07' 17" East a distance of 26.22 feet; North 32 deg 10' 46" East a distance of 40.38 feet; North 24 deg 42' 31" East a distance of 46.10 feet; North 26 deg 16' 11" East a distance of 45.57 feet; North 32 deg 07' 51" East a distance of 23.04 feet; North 41 deg 28' 32" East a distance of 39.17 feet; North 56 deg 02' 07" East a distance of 29.15 feet; North 68 deg 48' 02" East a distance of 30.05 feet; North 85 deg 40' 43" East a distance of 129.08 feet; South 62 deg 39' 38" East a distance of 12.98 feet; South 60 deg 32' 27" East a distance of 28.77 feet; South 53 deg 49' 34" East a distance of 36.38 feet; South 54 deg 42' 32" East a distance of 72.74 feet; South 60 deg 09' 05" East a distance of 34.28 feet; South 55 deg 21' 31" East a distance of 27.28 feet; South 51 deg 03' 25" East a distance of 33.37 feet; South 55 deg 09' 27" East a distance of 105.35 feet and South 44 deg 46' 03" East a distance of 25.80 feet to the end of the centerline of this right of way at a point that is located South 77 deg 27' 10" West a distance of 20 feet from an iron pin set on the northeast side of said road.

This conveyance is subject to all existing easements and rights of Way for public roads and highways and public utilities, if any, extending into, through, over or across the above described property.

This conveyance is further subject to all matters set forth and shown on the above referenced plat of survey.

Being the same property conveyed unto Thomas Wheeler Harris, by Warranty Deed from Bowater Incorporated, dated October 23, 2003, filed of record October 24, 2003, in Deed Book 1068, Page 546, M the Office of the Register of Deeds, Cherokee County, North Carolina and from Thomas Wheeler Harris to Manor Restorations, LLC by Warranty Deed dated September 29, 2021, filed of record October 1, 2021, in Book 1692, Page 631-633, Office of the Register of Deeds, Cherokee County, North Carolina.

TOGETHER WITH:

All that certain tract or parcel of land containing 14.86 acres, more or less, in Hothouse Township, Cherokee County, North Carolina, and being more particularly described according to a plat of survey by Adams Surveying, Lloyd B. Adams, PLS, dated June 22, 2005, revised August 10, 2005, entitled "An Addition to The Sanctuary", and from said plat of survey as follows:

BEGINNING on an iron rod found, said iron rod being the south west corner of the tract and a corner common to lands now or formerly owned by Watson (Deed Book 1125, Page 122), and Orton (Deed Book 604, Page 142), thence running with the line common to Watson N 69-52 E 170.95 feet to an iron rod found and N 69-51 E 1,134.91 feet to an iron rod set; thence with a line common to Huntman N 09-52 W 305.22 feet to a point in the centerline of an existing access road; thence with a line common to Alexander N 09-52 W 487.00 feet to a plastake found; thence with a line common to Flynn and Orton, respectively, S 48—40 W 1,167.37 feet to an iron rod found with the centerline of a creek thence continuing with the line of Orton S 38-57 W 184.27 feet to an iron pipe found in the center of a creek; thence with the centerline of said creek S 40-41 W 26.43 feet, S 46-53 W 31.94 feet, S 44-35 W 34.95 feet, S 23-12 W 29.00 feet, S 18-47 W 29.77 feet and S 21-18 E 5.91 feet to an iron pipe found in said creek centerline; thence turning and leaving said creek and continuing with the line of Orton S 04-15 W 189.12 feet to the BEGINNING.

THIS PROPERTY IS CONVEYED SUBJECT TO a non-exclusive road and utilities easement, having a width of thirty-five (35') feet, seventeen and one half (17.5') feet on each side of the centerline of the road crossing the property, as set forth in Deed Book 538, Page 86, Cherokee County Registry.

THIS PROPERTY IS CONVEYED TOGETHER WITH a non-exclusive right to use the road extending from the property conveyed out over the lands of Orton to State Road #1112 as a permanent means of ingress, egress and regress to the property conveyed herein. Said easement is more particularly described in Deed Book 361, Page 221, Cherokee County Registry.

FOR SOURCE OF TITLE reference Deed Book 1692, Page 631-633, Cherokee County Registry, Cherokee County Registry.

TOGETHER WITH:

All that certain tract or parcel of land containing 1.55 acres, more or less, in Hothouse Township, Cherokee County, North Carolina, and being described according to a plat of survey dated August 25, 2004, by Charles V. Bryson, P.L.S. L-3182, entitled "Survey for William F. Huntman", and from said plat of survey being more particularly described as follows:

BEGINNING at a 5" Marked Sourwood found with a 3/4" Iron pipe at the base in the margin of a 45' right of way and existing gravel roadway, thence N 05—47-04 W 20.91 feet to a point in the centerline of a 45' right-of-way and existing gravel roadway, thence running with the centerline of the 45' right—of-way and existing gravel roadway the following seven (7) courses and distances: S 59-28-55 E 75.97 feet, S 53-28-25 E 178.77 feet, S 59-39-11 E 49.82 feet, S 76-13-59 E 49.53 feet, N 80-25-64 E 45.39 feet, N 64-02-33 E 110.80 feet, and N 60-26-06 E 48.60 feet, thence leaving the centerline of the 45' right-of-way and existing gravel roadway, and running with the boundary common to lands now or formerly owned by Harris (Deed Book 1068, Page 546) the following two (2) courses and distances: S 05-59-56 E 14.56 feet to a V2" rebar (flush), and S 05-59-56 E 100.35 feet to a 3/4" open pipe found with plastake at base, thence leaving the boundary common to lands now or formerly owned by Harris (Deed Book 1068, Page 546), and running with the boundary common to lands now or formerly owned by Mattmann (Deed Book 364, Page 61) S 79-05-13 W 476.44 feet to a 3/4" open pipe found with plastake at base, thence leaving the boundary common to lands now or formerly owned by Mattmann (Deed Book 364, Page 61), and running with the boundary common to lands now or formerly owned by Potter (Deed Book 538, Page 86) N 05-47-04 W 287.05 feet to the place of BEGINNING, containing 1.55 acres, more or less.

ALSO HEREIN CONVEYED is a non-exclusive, perpetual right of way and easement over and across the existing gravel roadway, said road having a right of way width of forty five (45') feet, twenty two and one half (22.5') feet on each side of the centerline of the right of way thereof for the purpose of ingress, egress, regress and utilities thereon from the above described tract to the public road.

THIS CONVEYANCE IS SUBJECT to the rights of others to use a non-exclusive, perpetual right of way and easement forty five (45') feet in width, twenty two and one half (22.5') feet on each side of the centerline of the right of way thereof over and across the existing gavel road, the centerline of which forms the northernmost boundary line of the above described tract so as to provide ingress, egress, regress.

FOR SOURCE OF TITLE reference Deed Book 1692, Page 631-633, Cherokee County Registry, Cherokee County Registry.

TOGETHER WITH:

All that tract or parcel of land lying and being in District #4 and being Lots 7, 157, 158, 159, 160, 161, 162, 163, 164 and 165 of The Sanctuary at Vance Mountain in the Hothouse Township, Cherokee County, North Carolina, and being more particularly described according to a Plat of Survey, dated January 24, 2022, prepared by J. Douglas Suttles, North Carolina Professional Land Surveyor L-3728, Suttles Surveying, P.A., entitled "Survey for Manor Restorations, LLC", said plat of survey being recorded in Plat Cabinet H, Slide 1303, Cherokee County Registry, said Plat of Survey being incorporated herein by reference and made a part hereof.

THE PROPERTY IS CONVEYED TOGETHER WITH AND SUBJECT TO a non-exclusive, perpetual right-of-way and easement over and along Tracks Hollow, having a width of forty-five (45') feet, with a 12' foot wide gravel surface road running along the center of said right of way, with a portion of the centerline forming the a portion of the boundary of the herein described tract for purposes of ingress, egress, regress, and utilities from the property herein-conveyed on, over, across and through the remaining appurtenant lands of Grantor to the public road.

THIS CONVEYANCE MADE SUBJECT TO electric power line distribution easement in favor of Blue Ridge Mountain EMC recorded in Deed Book 1120 Page 179, in the Register of Deeds Office, Cherokee County, North Carolina.

ALSO HEREIN CONVEYED is the right of way easement as recorded in Deed Book 1107, Page 317, Cherokee County Registry.

THIS CONVEYANCE MADE SUBJECT TO the non-exclusive right of ingress, egress and utility service along an existing roadway which begins at the property herein conveyed, crosses the lands of Orton to its intersection with NCSR 1112 as recorded in Deed Book 1107 Page 317, in the Register of Deeds Office, Cherokee County, North Carolina.

FOR SOURCE OF TITLE reference Deed Book 1692, Page 618, Cherokee County Registry and Deed Book 1181, Page 262, Cherokee County Registry.

TOGETHER WITH:

All that certain tract or parcel of land containing 69.486 acres, more or less, in Hothouse Township, Cherokee County, North Carolina, and being more particularly described according to a plat of survey by Rochester NC, Inc., James N. Cash, PLS L-3187, dated 7/15/05, and revised 8/18/05, entitled "Survey for Thomas Harris", which is recorded in

Plat Cabinet E, Slide 150-A, Cherokee County Registry, which is incorporated herein by reference.

FOR SOURCE OF TITLE reference Deed Book 1692, Page 625, Cherokee County Registry.

TOGETHER WITH:

All that certain tract or parcel of land lying and being in Notla Township, Cherokee County, North Carolina, containing 2.302 acres, more or less, and being designated as Tract 3 on plat of survey by Southern Geosystems, NC, Ltd, certified by James C. Jones, North Carolina Registered Land Surveyor No. L-3207, entitled, "Owenby Estates," dated January 20, 2006, which is recorded in Plat Cabinet E, Slide 190, in the Office of the Register of Deeds, Cherokee County, North Carolina, and from said plat of survey is more particularly described as follows:

BEGINNING at a point in the center of an existing access road known as Burger Road, the centerline of which is also the centerline of a 40-foot ingress, egress and utility easement corridor, 20 feet on each side of the centerline thereof, said BEGINNING point being the northeast corner of the property herein conveyed, being a corner common to Tract 1 shown on the aforementioned survey plat and lands owned, now or formerly, by McClure, et al (Deed Book 1135, Page 171). From said point of BEGINNING, leaving the aforementioned centerline, on a line common to said lands of McClure, South 04 deg 50' 25" West a distance of 13.14 feet to an iron pin (set) at or near the south side of the aforementioned easement corridor; thence continuing, South 04 deg 50' 25" West a distance of 819.33 feet to an iron pin (found) 0.51 feet from an iron pin (set) at the southeast corner of the property herein conveyed, being a corner common to said lands of McClure and lands owned, now or formerly, by Harris (Deed Book 1190, Page 159) said point being located, North 85 deg 46' 36" West a distance of 1136.98 feet from an iron pin (found). Thence leaving the line common to said lands of McClure, et al and along a line common to said lands of Harris, North 85 deg 46' 36" West a distance of 98.54 feet to an iron pin (found) in the center of an existing access road; thence South 69 deg 13' 42" West a distance of 34.55 feet; thence South 83 deg 42' 10" West a distance of 29.09 feet to a point in the center of said access road, said point being the southwest corner of the property herein conveyed, being a corner common to lands owned, now or formerly, by Vance Mountain Associates (Deed Book 1180, Page 633, and Deed Book 1126, Page 1) and Tract 2 shown on the aforementioned survey plat. Thence leaving the line common to said lands of Harris and Vance Mountain Associates, and also leaving the aforementioned access road centerline and along a line common to Tract 2, North 09 deg 49' 23" East a distance of 32.23 feet to an iron pin (set) at or near the east side of a proposed 60-foot easement corridor; thence continuing, North 09 deg 49' 23" East a distance of 622.48 feet to a point

in the center of a branch; thence continuing, North 09 deg 49' 23" East a distance of 14.82 feet to an iron pin (set) on the north bank of the aforementioned branch; thence continuing, North 09 deg 49' 23" East a distance of 199.07 feet to an iron pin (set) at or near the south side of the first mentioned easement corridor for Burger Road; thence continuing, North 09 deg 49' 23" East a distance of 12.35 feet to a point in the center of Burger Road, said point being the northwest corner of the property herein conveyed, corner common to Tract 1 shown on the aforementioned survey plat. Thence along with the aforementioned centerline on a line common to Tract 1, North 86 deg 31' 23" East a distance of 8.59 feet; thence South 83 deg 24' 22" East a distance of 24.73 feet; thence South 79 deg 22' 15" East a distance of 33.51 feet; thence South 67 deg 10' 06" East a distance of 18.52 feet to the point and place of BEGINNING. Containing 2.302 acres, more or less, according to the aforementioned survey plat. Should there be any discrepancy between the aforementioned survey plat and the above metes and bounds description, the survey plat shall prevail.

THIS CONVEYANCE MADE SUBJECT TO the non-exclusive, perpetual right of ingress, egress, regress, and utility service along an existing access road, the centerline of which is also the centerline of a 20-foot easement corridor, 10 feet on each side of the centerline thereof, which begins at the centerline of Burger Road and proceeds in a northwesterly direction across the property herein conveyed as a permanent means of access for Tract 2 as shown on the aforementioned survey plat and as described in instrument recorded in Deed Book 909, Page 128, in the Office of the Register of Deeds, Cherokee County, North Carolina.

THE GRANTOR HEREIN DOES HEREBY CONVEY AND RESERVE UNTO ITSELF, their heirs, successors, and/or assigns the non-exclusive right of ingress, egress, regress, and utility service easement 60 feet in width, 30 feet on each side of a proposed access road to be constructed by Grantee to connect to an existing 10-foot dirt access road, the centerline of which is also the centerline of a 60-foot ingress, egress, regress, and utility easement corridor which runs along the top of the ridge on a line common to said land of Vance Mountain Associates, and lands owned, now or formerly, by Melvin Payne and Tract 1 all shown on the aforementioned survey plat which is incorporated herein by reference for more complete description.

THIS CONVEYANCE MADE SUBJECT TO upper and lower riparian rights for the uninterrupted flow of any creek, river or stream which may border or traverse the property herein conveyed.

FOR SOURCE OF TITLE reference Deed Book 1692, Page 618 and Deed Book 1217, Page 548, Cherokee County, North Carolina, Registry.

Parcel #: 4439 00 88 6992 000 (2.300 ac)