



**AMENDED AND RESTATED
DECLARATION OF COVENANTS, EASEMENTS
AND RESTRICTIONS FOR**

ACHASTA

LOTS 143, 144, 145, AND 146 OF THE 11TH DISTRICT (ORIGINALLY HALL COUNTY), LAND LOT 127 AND 167 OF THE 1ST DISTRICT 1ST SECTION (ORIGINALLY HABERSHAM COUNTY) AND LAND LOTS 1041, 1042, 1092, 1093, 1094, 1095, 1139, 1140, 1183, 1184, 1185, 1186, 1187, AND 1188 OF THE 12TH DISTRICT, 1ST SECTION, LUMPKIN COUNTY, DAHLONEGA, GEORGIA

This document is a compilation and summary of the Amended and Restated Declaration of Covenants, Easements and Restrictions applicable to **ACHASTA** recorded in the Office of the Clerk of Superior Court, Lumpkin County, Georgia, Deed Book 1046, pages 377-407, and as amended, as of **September 9, 2009**.

Any person relying on these covenants should make reference to the actual documents recorded in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia as set out herein and as further amended.

ISSUE DATE September 9, 2009

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS FOR ACHASTA (herein called the "Amended and Restated Declaration") is made this 24th day of May, 2007 by **BIRCH RIVER CHESTATEE COMPANY, LLC**, a Georgia Limited Liability Company, 100 Linger Longer Road, Greensboro, Georgia, 30642 (hereinafter referred to as "Company").

W I T N E S S E T H:

WHEREAS, the Company is the Owner of certain real property located in the 143rd and 144th Districts, G. M. of Lumpkin County, Dahlonega, Georgia, and being more specifically described on Exhibit "A" affixed hereto and made part hereof known as **ACHASTA**; and

WHEREAS the Company desires to create a separate and distinct set of Covenants Easements and Restrictions to govern **ACHASTA**; and

WHEREAS, the Company believes that the lands herein described which are and remain subject to this Amended and Restated Declaration shall benefit from the covenants, easements, restrictions, charges, liens and agreements established herein for the purpose of governing the improvement, use, enjoyment, occupancy and Ownership of the lands described herein; and

WHEREAS, in order to implement the aforesaid purposes and intentions, Company deems it necessary to establish this Amended and Restated Declaration and create an organization to which common property can be conveyed and to which the Company can delegate the power, authority and responsibility to maintain the common property and administer this Amended and Restated Declaration.

NOW THEREFORE, in consideration of the premises and of the benefits to be derived by the Company and accruing to the property described herein and to the Owners of the property within **ACHASTA**, the Company does hereby declare that above-referenced Declaration of Covenants, Conditions and Restrictions for **ACHASTA** and all amendments and supplements thereto are hereby amended and restated herein and hereby. The properties described herein are hereby subject to this Amended and Restated Declaration and henceforth shall be owned, held, transferred, sold, conveyed, occupied, used and mortgaged or otherwise encumbered subject to this Amended and Restated Declaration, and the property described herein shall be subject to the covenants, restrictions, easements, agreements charges and liens provided for in this Amended and Restated Declaration. This Amended and Restated Declaration shall be binding upon all persons claiming under and through the Company, its grantees and successors in title to any portion of the properties described herein. Every grantee of and interest in any property now or hereafter made subject to this Amended and Restated Declaration, by acceptance of a deed or other conveyance of such interest, whether or not (a) expressed in such conveyance, (b) signed by the grantee, or (c) otherwise consented to in writing by such grantee, shall take such property subject to and be bound by this Amended and Restated Declaration and be deemed to have accepted and assented to all of the terms, conditions and provisions set forth in this Amended and Restated Declaration.

ARTICLE ONE DEFINITIONS

When used in this Amended and Restated Declaration, the following words shall have the following meanings:

- 1.1. **"Association"** shall mean **ACHASTA COMMUNITY ASSOCIATION, INC.**, a Georgia non-profit membership corporation, whose purpose is to manage and administer the Company's Ownership of all Common Property and to manage and administer the Company's enforcement of this Amended and Restated Declaration.
- 1.2. **"ARB"** shall mean the **ACHASTA ARCHITECTURAL REVIEW BOARD**, the members of which will be initially selected by the Company, but subsequently appointed by the Board of Directors of the Association.
- 1.3. **"ACHASTA"** shall mean that certain golf and residential community owned by the Company located within the 143rd and 144th Districts, G. M.D., Lumpkin County, Dahlonega, Georgia, as the same may exist from time to time.
- 1.4. **"Bridge"** shall mean that certain concrete bridge providing pedestrian, vehicular and golf cart access over and across the Chestatee River and any other bridges which may be built within **ACHASTA** from time to time.
- 1.5. **"City"** shall mean the City of Dahlonega, Lumpkin County, Georgia.
- 1.6. **"City Sewer System"** shall mean the municipal sanitary sewer lift station, pumps and transmission lines installed by the City adjacent to the Properties which deliver effluent to the City's sanitary sewer treatment facilities as referred to in and shown on the Development Easements.
- 1.7. **"City Water System"** shall mean the municipal water system, storage tanks, pumps, transmission and distribution lines installed for the provision of potable drinking water in **ACHASTA**.
- 1.8. **"Club"** shall mean **The Club at ACHASTA**.
- 1.9. **"Club Facilities"** shall mean the golf course(s) and other facilities and amenities owned, operated and/or maintained by the Club.
- 1.10. **"Social Membership"** shall mean a **"Social Membership"** in the Club as the same is defined in the membership plan from time to time.
- 1.11. **"Company"** shall mean **BIRCH RIVER CHESTATEE COMPANY, LLC**, a Georgia Limited Liability Company, as it is now or hereafter constituted together with any successor in interest to the Company who expressly assumes responsibility for the continued development of the **Acreage Tract** as part of **ACHASTA** and assumes the rights and obligations of the Company under this Amended and Restated Declaration. It is expressly provided herein that the Company may delegate its responsibilities as Company hereunder to such individuals, corporations or otherwise by appropriate agreement or Power of Attorney.
- 1.12. **"Common Property"** shall mean any portion of the property designated and defined from time to time by the Company as "Common Property" together with any improvements now or hereafter

located thereon, including, but not limited to private streets, drives, bridges, parking areas, curbing, gutters, sidewalks, walkways, landscaping, entranceways, fencing, signs or other similar facilities intended by the Company to be devoted to the common use, benefit and enjoyment of the members of the Association as Owners of Lots within **ACHASTA**, their families, guests, tenants and invitees. In addition, Common Property shall mean, without limitation, streets, drives, parking areas, curbing, gutters, sidewalks and walkways built but not yet conveyed to the Association. In addition, the Company may demonstrate its intent to constitute any other part of **ACHASTA** as Common Property in a deed or other instrument of conveyance to or other agreement with the Association or by identifying any portion of the property as Common Property on any plat of survey recorded in Lumpkin County, Georgia, or by such other means as clearly reflect the character of any such property to be Common Property. Provided, however, that the interpretation of what is or is not Common Property shall be strictly construed and, except as provided herein, no Common Property shall arise by virtue of implication; and all Common Property shall be specifically designated as such by the Company. Notwithstanding anything in this Amended and Restated Declaration to the contrary, any road constructed by the Company shall automatically be deemed "Common Property," and no further act or evidence of intent on the part of the Company shall be required. Notwithstanding anything in this Amended and Restated Declaration as the same may be further amended or supplemented to the contrary, the Company or the Association or their successors in interest, shall be entitled at any time, and from time to time, in their sole discretion, without consent by or compensation to the Property Owners or the Association, to add, subtract, sell or exchange, revise, redraw, change the boundary lines of, change the use or designation of, or change in any way, without limitation, any Common property or appurtenance thereto.

- 1.13. **"Concrete Block House"** shall mean a residence whose exterior, other than foundation, contains exposed concrete blocks, painted or unpainted.
- 1.14. **"Contiguous Lot"** shall mean two or more Lots or one Dwelling Unit and one or more Lots, titled in the same Owner, which lie adjacent to one another and which borders adjoin along more than fifty (50%) percent of the common border of each Lot or Dwelling Unit.
- 1.15. **"Dwelling Unit"** shall mean and refer to any property within **ACHASTA** on which construction of a structure designed for use as a single-family dwelling has been completed.
- 1.16. **"Golf Course Lot Owner"** shall be Owner of a Lot which has frontage on the Golf Course and is not a Limited Common Property Owner.
- 1.17. **"Home Occupations"** shall be such occupations where the nature of the occupation does not attract the general public, signs are not necessary (and are specifically herein prohibited) and do not in the opinion of the ARB and Association detract from the residential character of the area.
- 1.18. **Limited Common Area"** shall mean a Limited Common Property and each Lot or Dwelling Unit designated by the Company which is entitled to use of said Limited Common Property.
- 1.19. **"Limited Common Property"** shall mean those areas designated from time to time on plat of survey of the property designated Limited Common Property together with any improvements now or hereafter located thereon, including, but not limited to private streets, drives, parking areas, curbing, gutters, sidewalks, walkways, landscaping, entranceways, fencing, signs., recreational facilities or any other similar facilities intended by the Company to be devoted to the common use, benefit and enjoyment of the Owners of Lots or Dwelling Units within the Limited Common Area as Owners of Lots within **ACHASTA**, their families, guests, tenants and invitees. In addition, Limited Common

Property shall mean, without limitation, private streets, drives, parking areas, curbing, gutters, sidewalks and walkways within any Limited Common Area built but not yet conveyed to the Association. In addition, the Company may demonstrate its intent to constitute any other part of **ACHASTA** as Limited Common Property in a deed or other instrument of conveyance to or other agreement with the Association or by identifying any portion of the property as Limited Common Property on any plat of survey recorded in Lumpkin County, Georgia, or by such other means as clearly reflect the character of any such property to be Limited Common Property. Provided, however, that the interpretation of what is or is not Limited Common Property shall be strictly construed and, except as provided herein no Limited Common Property shall arise by virtue of implication and all Limited Common Property shall be specifically designated as such by the Company. Notwithstanding anything in this Amended and Restated Declaration to the contrary, any road constructed by the Company within a Limited Common Property and associated appurtenances as determined by Company shall automatically be deemed "Common Property" and no further act or evidence of intent on the part of the Company shall be required. Notwithstanding anything in this Amended and Restated Declaration as the same may be further amended or supplemented to the contrary, the Company or the Association, or their successors in interest, shall be entitled at any time, and from time to time, in their sole discretion, without consent by or compensation to the Limited Common Property Owners, or the Association to add, subtract, sell or exchange, revise, redraw, change the boundary lines of, change the use or designation of, or change in any way, without limitation, any Common property or appurtenance thereto.

- 1.20. **"Limited Common Property Owners"** shall be those Owners of Lots or Dwelling Units which front on such areas designated Limited Common Property.
- 1.21. **"Lot"** shall mean and refer to any property within **ACHASTA** subject to the Amended and Restated Declaration whether improved or unimproved and shown as a number parcel on any plat of survey of **ACHASTA** recorded in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, as the same may be revised, modified or amended from time to time. It is the intent of this Amended and Restated Declaration that plated property within **ACHASTA** shall, until such time as the construction of improvements are completed thereon, be considered as a Lot; but once improvements are constructed thereon, and a certificate of occupancy therefore has been issued, if applicable, it shall lose its character as a Lot and become a Dwelling Unit.
- 1.22. **"Mobile Home"** shall mean any movable or portable dwelling constructed to be towed on its own chassis or floor system in one or more sections designed for delivery on trailers or its own chassis and to be joined at the site into one integral unit. For the purpose of this paragraph, a Mobile Home does not lose its character as such simply by providing a foundation, underpinning, siding, roofing and/or other additions. A Mobile Home, under this Amended and Restated Declaration, shall include modular homes or any and all other types of similar types of units by whatever names the same shall be known. For purposes of this Amended and Restated Declaration, whether or not a structure is to be considered a Mobile Home, shall be completely within the discretion of the ARB, and such decision by the ARB shall be binding and determinative of the character of any such structure.
- 1.23. **"Owner"** shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot or Dwelling Unit including Company but excluding those Persons having such interest merely as security for the performance of an obligation.
- 1.24. **"Persons"** shall mean and refer to any individual, corporation, partnership, association, trust or any other legal entity.

- 1.25. **"Program Builder"** shall mean a builder who has applied to and has been and approved by the Company to build spec homes in **ACHASTA**.
- 1.26. **"Property" (or "Properties")** shall mean the property described herein on Exhibit "A" or such other property as by deed amendment or supplement hereto or otherwise shall become subject to this Amended and Restated Declaration.
- 1.27. **"Property Owner"** shall mean any person or entity owning property in **ACHASTA**.
- 1.28. **"River"** shall mean the Chestatee River.
- 1.29. **"Sewer Charge"** shall mean any fee or charge established by the Association or the City and paid to the City to connect a Dwelling Unit to the City Sewer System, and thereafter any charge to any Owner required to maintain, repair or replace the Private Sewer located upon a Unit.
- 1.30. **"Developer"** is the "Company," the Birch River Chestatee Company, LLC.

**ARTICLE TWO
ARCHITECTURAL REVIEW, RESTRICTIONS ON
USE AND DEVELOPMENT**

Section 1. Architectural Review Board (ARB)

- 2.1.1. The ARB, as a committee appointed by the Board of Directors of the Association or by the Company, shall have responsibility for approval of the matters described in this Article.
- 2.1.2. As to any portion of the Property or any Lot contained therein, no house, garage, carport, playhouse, fence, wall, swimming pool, or other structure, improvement or dwelling, whether or not such structure, improvement or dwelling is intended for occupancy, landscaping or decoration, or any other improvement, without limitation, shall be commenced, erected or maintained thereon, nor shall any exterior addition to any existing structure or maintenance to or change or alteration therein be commenced, nor shall any landscaping or site work be performed until complete final plans, drawings and specifications therefore showing the nature, kind, shape, height, materials, basic exterior finishes and colors, locations and floor plans, the identity of prime contractor, set back and side yard lines and location of trees to be moved which are 6" in diameter and larger except trees within the house site therefore have been submitted to and approved by the ARB, its agents, successors or assigns, as to harmony of exterior design, general quality of materials, and as to location in relation to surrounding structures and topography. The ARB may, in its sole discretion, waive this requirement. The ARB shall be entitled to retain possession of such plans, drawings and specifications if it so chooses.
- 2.1.3. If the ARB fails to suggest modifications or alterations, orally or in writing, approve or disapprove such plans, drawings and specifications within thirty-five (35) days after receipt of written notice that such plan, drawings and specifications have been submitted to it and approval requested, the ARB shall be deemed to have approved said plans, drawings and specifications.
- 2.1.4. Refusal or approval of plans, drawings, specifications, material or location may be based upon any grounds including purely aesthetic considerations, which, in the sole and uncontrolled discretion of the ARB or its agent, shall be deemed sufficient. All ARB decisions shall be final and binding unless appealed as herein provided:

- 2.1.4.1. Appeals from ARB -- An Owner aggrieved by a ruling of the ARB may appeal such decision to the Chief Operating Officer of the Company or its designee. The appeal will be in writing stating in clear terms the issue, the ruling of the ARB, and why the Owner is dissatisfied with the ruling. The Chief Operating Officer or its designee may affirm the ARB or modify the ruling. All Appeals must be entered within fifteen (15) days of the final ruling of the ARB, and the Chief Operating Officer or its designee shall rule on the appeal within fifteen (15) days of its receipt. Oral arguments on appeal are discretionary with the Chief Operating Officer or its designee.
- 2.1.4.2. This provision shall be in effect as long as Company is a member of the Association. When Company is no longer a member of the Association, the Association shall appoint an appeal board to consist of three (3) Owners whose terms shall be for three (3) years each and who cannot succeed themselves.
- 2.1.5. Notwithstanding anything contained herein to the contrary, no action of the ARB is intended to be, nor shall any action be construed to be, approval by the ARB of the adequacy, reasonableness, safety or fitness for intended use of the submitted plans, products or construction or satisfaction of zoning or any other regulatory requirements. Neither Company nor any member of the ARB shall be liable in damages or in any other respect to anyone submitting plans and specifications for approval under the Article, or to any Owner, or any other person with an interest in the Lot or Dwelling Unit at issue or any other Lot or Dwelling Unit, by reason of mistake in judgment, negligence, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications.
- 2.1.6. The ARB may at any time, and from time to time, delegate or assign in whole or in part, the rights and authorities granted in this Section.

Section 2. Enforcement Rights and Remedies

- 2.2.1. Any construction or planning made or performed on the Lot or Property without application having first been made and approval obtained or that is inconsistent with any approved landscaping layout, plans, drawings or specifications, may be required to be restored to its former condition by and at the expense of the Owner of the Property on which such construction or planting was made or performed. Upon the failure or refusal of such Owner to perform the required restoration, the ARB or its authorized agents or employees may, after fourteen (14) days' notice to said Owner, enter upon the property (Lot or Dwelling Unit) and perform such restoration as the ARB, in the exercise of its sole discretion, may deem necessary or advisable. Such Owner shall be personally liable to the Association for all direct and indirect costs (including court costs and attorney's fees) as may be reasonably incurred by the ARB in the performance of such restoration; and the liability for such costs shall be enforceable by the Association on behalf of the ARB by appropriate proceedings in law or in equity. The Owner's liability for such costs shall also be a permanent charge and lien upon the Lot or Dwelling Unit of such Owner, enforceable by the Association on behalf of the ARB by any appropriate proceeding in law or in equity.

Section 3. Restrictions on Use

- 2.3.1. Any Lot or Dwelling Unit shall be used only for residential purposes except as permitted herein. At no time shall any Lot be used for or converted to any business, commercial or other non-residential use whatsoever. However, the renting of a unit by an Owner for residential type uses shall not be

deemed a commercial purpose provided, however, that such right as contained herein shall subject the occupants to the terms and conditions of these Amended and Restated Declarations and shall not relieve the Owner from his obligations hereunder.

- 2.3.2. Before any house or other structure may be occupied as a residence, it must be completed and finished on the exterior; all of the yard must have suitable ground cover, and the driveways must have all weather service, i.e. colored concrete or asphalt. All driveways must have a culvert traversing the road right-of-way, where necessary, as determined by the ARB; and Owners shall repair and regress any damage done to the road right-of-way in the construction of the culvert, driveway or accessing any utilities. Provided, however, that in no event shall the construction of any residence from ground breaking to completion of the exterior extend beyond twelve (12) months from the date construction is begun.
- 2.3.3. Containers for garbage or other refuse shall be inside, underground or in sanitary screened enclosures, shall be maintained in a sanitary condition and shall not be visible from any street, adjacent lot, Limited Common Property or Golf Course.
- 2.3.4. Outside Clotheslines are expressly prohibited.
- 2.3.5. No house trailer or mobile home, modular home or any similar structure shall be permitted on any Lot or Dwelling Unit at any time except that a bona fide contractor actively engaged in the construction of a Dwelling Unit on a Lot shall be entitled to have a "construction storage trailer" for the purpose of storing tools and materials only. This right shall continue only during the active construction period of the residence on the Lot.
- 2.3.6. No attic, shack, garage, outbuilding or other appurtenant structure shall be used for residential purposes.
- 2.3.7. The pursuit of hobbies or other activities, including specifically without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any portion of any Lot or Dwelling Unit.
- 2.3.8. No lumber, brick, stone, cinder block, concrete or any other building material, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Common Area, Limited Common Area or adjacent Lot or Lot or Dwelling Unit for longer than the length of the time reasonably necessary for the construction in which the same is to be used.
- 2.3.9. No exposed above-ground tanks will be permitted for the storage of fuel, water or any other substance.
- 2.3.10. No animals, livestock or poultry of any kind shall be raised, bred or kept on the property subject to this Amended and Restated Declaration, except that dogs, cats or other household pets may be kept by their respective Owner thereof, provided they are not kept in excessive numbers and do not endanger the health or, in the sole discretion of the Association, disturb the Owner of any other Lot or Dwelling Unit. Any and all accommodations for dogs, cats or household pets shall be subject to approval by the ARB and shall be designed in such manner as to be subject sanitary and not in violation of these Amended and Restated Declarations. Any pet roaming off any Owner's Lot not on a leash and under control of an Owner or the Owner's guest is per se deemed a nuisance. All animals

roaming off any Owner's Lot must be on a leash and under the control of an Owner or that Owner's guest at all times.

- 2.3.11. Noxious or offensive activities shall not be carried on upon any Lot or Dwelling Unit.
- 2.3.12. No business or commercial activity of any nature shall be operated or maintained from any Lot, Dwelling Unit or other structure or upon the property subject hereto, provided, however, that it is expressly permissible for Company to maintain upon any portion of such properties such facilities as Company in its sole opinion, shall deem required, convenient or incidental to the construction and improvement of **ACHASTA** and the Club, Lots and Dwelling Units, including but not limited to storage areas, construction yards, signs, model residences, construction offices, club facilities, sales offices and business offices. Provided further that Home Occupations as defined herein shall be permissible.
- 2.3.13. Lots and Dwelling Units shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling Unit as an office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create regular customer or client traffic or excessive employee traffic. Lease or rental of a Dwelling Unit for residential purposes shall also not be considered to be a violation of this covenant so long as the lease (i) is for not less than the entire Lot or Dwelling Unit and all the improvements thereon, (ii) is not for a period of less than four (4) months, (iii) complies with all governmental laws, rules, ordinances and regulations; and (iv) is otherwise in compliance with the Rules and Regulations as may be promulgated and published from time to time by the Association. No more than one (1) lease for a Dwelling Unit may commence in any one calendar year. All leases shall be in writing, and, prior to the commencement of any such lease, the Owner shall provide the Association and the managing agent of the Association, if any, with copies of such lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the Rules and Regulations adopted hereunder. Nothing herein shall prohibit the Company or the Club from maintaining a Villa Rental Program in conjunction with its sales and marketing program.
- 2.3.14. Residents and occupants shall refrain from any act or use of the Property which could reasonably cause embarrassment, discomfort or annoyance to the Owners and residents of any other property made subject to this Amended and Restated Declaration, including but not limited to, in the sole discretion of the Association, the following activities to wit:
 - 2.3.14.1. Yard Sales and Auctions of any sort;
 - 2.3.14.2. Use of golf carts, go carts, ATVs, mopeds and other similar vehicles are prohibited on road and road rights-of-way, the golf course and other Common Property with the following exceptions:
 - 2.3.14.2.1. Motorcycles/mopeds with quiet mufflers and that are street legal;
 - 2.3.14.2.2. Construction and or golf course maintenance equipment as long as the equipment is properly identified with the appropriate slow-moving emblems, driven in a safe and orderly fashion and are driven the shortest possible distance on the private streets;

2.3.14.2.3. Golf cart type vehicles (golf carts) which comply with the following shall be authorized for use on the roads:

2.3.14.2.3.1. Any golf cart Owner, prior to use of said vehicle on the roads within **ACHASTA**, must have on file with **ACHASTA** an executed Golf Cart Type Vehicle Operator's Agreement.

2.3.14.2.3.2. All golf carts shall display an **ACHASTA**-issued number on the windshield.

2.3.14.2.3.3. All golf carts shall be equipped with head lights, brake lights, and rear-view mirror.

2.3.14.2.3.4. Golf carts shall observe all public traffic laws (e.g. stopping at stop signs, yielding to pedestrians, posted speed limits, etc.).

2.3.14.2.3.5. Golf carts shall not be operated in a manner that may endanger passengers, other members of the community, or property (e.g. no driving on landscaping, bumping into curbs, etc.).

2.3.14.2.3.6. The number of passengers and load capacity shall not exceed the manufacturer's stated limit. Passengers must be seated in manufacturer's designated seating areas at all times.

2.3.14.2.3.7. Golf carts are restricted to streets on **ACHASTA** property. Personal golf carts are strictly prohibited on the golf course. Only **ACHASTA** Golf Club carts and Turf Care vehicles are permitted on the golf course and golf course cart paths.

2.3.14.2.3.8. Golf carts can only be parked on hard surfaces and must not block any entrances or exits to buildings, stairways, ramps, etc. or otherwise designated parking areas.

2.3.14.2.3.9. Operators are encouraged to pull over to the road side right-of-way in order to allow cars, trucks, etc. to pass.

2.3.14.2.3.10. No person under the age of fourteen (14) shall operate a golf cart-type vehicle.

2.3.15. No "For Sale" signs or "For Rent" signs nor any other sign shall be allowed on any Lot or Dwelling Unit, whether positioned inside or outside such Lot or Dwelling Unit or along any right-of-way of any roadway; other signs of all nature and kind are prohibited unless a certificate of approval is received from the ARB. The ARB may exclude any sign which, in its discretion, is not in the best interest of **ACHASTA**.

2.3.16. Mailboxes shall be of such design and location as approved by the ARB. Name logos may be approved to be located on mailboxes by the ARB. Newspaper holders or boxes affixed to mailboxes or mailbox posts are strictly prohibited.

- 2.3.17. All utilities shall be underground.
- 2.3.18. No camping, hunting, discharge of firearms or other dangerous activity shall be allowed.
- 2.3.19. All boats and similar watercraft (Jet Skis) and trailers of any type shall be stored in approved enclosures or structures compatible with the overall site plan and not stored on the Lot so as to be visible from any property line.
- 2.3.20. Owners shall take all precautions to control and avoid fires.
- 2.3.21. Satellite dishes, antennas and other such devices which are located outside and/or affixed to the exterior of the Dwelling Unit or located on the Lot outside of the Dwelling Unit are strictly prohibited, except as may be allowed by applicable law and as approved by the ARB.
- 2.3.22. All Lot Owners shall for residential purposes use the central water system within the development.
- 2.3.23. Removal of the trees with the diameters of 6" breast high or greater shall be prohibited except with express approval of the ARB.
- 2.3.24. No mobile homes, used houses, concrete block houses or similar type structure shall be allowed. All houses shall be underpinned, and all underpinning shall be approved by the ARB. Exposed concrete block for underpinning shall not be allowed.
- 2.3.25. All structures shall comply with setback restrictions determined by the ARB.
- 2.3.26. No trucks, vehicles or other conveyances shall be permitted on paved roads within **ACHASTA** with a gross weight in excess of 60,000 lbs. without permission of Company.
- 2.3.27. Disposal of trash, debris, stumps, trees, etc. shall be the responsibility of the Lot Owner. No dumping shall be allowed in **ACHASTA** unless in designated areas with written permission of Company. Unauthorized dumping shall subject the Owner to levy of assessment by the Association of an amount necessary to clean up the area. Owner is responsible for actions of Contractors or Sub-Contractors dumping under this paragraph.
- 2.3.28. Contiguous Lots:
- 2.3.28.1. Two or more Lots or one Dwelling Unit and one or more Lots, titled in the same Owner, which lie adjacent to one another and which borders adjoin along more than Fifty (50%) of the common border of each Lot or Dwelling Unit may be combined to form a "Contiguous Lot."
- 2.3.28.2. Any property Owner may create a Contiguous Lot by notifying the Association, in writing, of the intent to create such a Contiguous Lot from any two or more conforming Lots or Lot and Dwelling Unit. Any properties so designated shall become a Contiguous Lot as of January 1 of the year first following such notice.
- 2.3.28.3. Any property Owner may separate any Lot(s) or Dwelling Unit and Lot(s) into their originally designated Lot(s) or Dwelling Unit and Lot(s) by notifying the Association, in writing, of the intent to separate such Lot(s). Lot(s) or Lot(s) and Dwelling Units replatted by an Owner or the Company shall not be eligible for separation. Any properties

so designated shall become separated as of January 1 of the year first following such notice.

- 2.3.28.4. There shall be no penalty for separating such Contiguous Lots into the original component Lot(s) or Dwelling Unit and Lot(s).

Section 4. Building Square Footage Requirements

- 2.4.1. The following minimum square footage shall control with regard to residences constructed within **ACHASTA**. The calculation of minimum square footage shall not include open decks and basements, nor shall it include full or partial basements (including walk-out basements).

2.4.1.1. Single-story homes:

- 2.4.1.1.1. 1,500 square foot minimum under roof;
2.4.1.1.2. 1,500 square foot minimum of heated and cooled space as defined herein.

2.4.1.2. Multi-story homes:

- 2.4.1.2.1. 2,400 square foot minimum under roof;
2.4.1.2.2. 1,200 square foot minimum on the first floor, heated and cooled as defined above;
2.4.1.2.3. 600 square foot minimum in the upper level, heated and cooled as defined above.

Section 5. Special Restrictions Affecting Golf Fairway Residential Areas

- 2.5.1. "Golf Fairway Residential Areas" are defined as all those residential Lots of land or blocks of land intended for subdivision located adjacent to the golf course located in **ACHASTA**.
- 2.5.2. That portion of any Golf Fairway Residential Lot or block within thirty (30) feet of the Lot or block line bordering the golf course shall be in general conformity with the overall landscaping pattern for the golf course fairway area established by the golf course architect. All individual Lot or brick landscaping plans must be approved by the Company or ARB before the implementation.
- 2.5.3. There is reserved to the Company and the Association a "Golf Course Maintenance Easement Area" on each Lot adjacent to any golf course located in **ACHASTA**. This reserved easement shall permit the Club, Company or the Association, at its election, to go onto any Course Maintenance Easement Area. Such maintenance and landscaping may include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer, and mowing the Easement Area. This Golf Course Maintenance Easement Area shall be limited to the portion of such Lots within thirty (30) feet of the Lot line(s) bordering the golf course, or such lesser area as may be shown as a "Golf Course Maintenance Easement Area" on the recorded plat of such Lot; provided, however, that the above-described maintenance and landscaping right shall apply to the entire Lot until there has been filed with the Company or ARB a landscaping plan for such Lot by the Owner thereof, or alternatively, a residence constructed on the Lot.
- 2.5.4. The Company and the Association reserve an easement to permit and authorize registered golf course players and their caddies to enter upon a Lot to recover a ball or play a ball subject to the official rules of the course, without such entering and playing being deemed a trespass. The Company and the

Association reserve the right to place "out of bounds" markers on the Lot at the expense of the Company.

- 2.5.5. Owners of Golf Fairway Lots shall be obligated to refrain from any actions which would detract from the playing qualities of the golf course or the development of an attractive overall landscaping plan for the entire golf course area. Such prohibited actions shall include, but are not limited to, such activities as burning trash on a Lot when the smoke would cross on to the fairway, loud noises, functions, the maintenance of unfenced dogs or other pets on the Lot under conditions interfering with play due to their loud barking, running on the fairways, picking up balls or other like interference with play.
- 2.5.6. Notwithstanding the provisions of Section 2.5.3 of this Section 5, the Company hereby reserves the right to allow an Owner to construct a dwelling over a portion of the Golf Course Maintenance Easement Area in those cases where it, in its sole discretion, determines that such construction will not materially lessen the beauty or playing qualities of the adjacent golf course.

Section 6. View

- 2.6.1. View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across the Common Areas, Limited Common Areas, the River, any open space areas, any Private Amenity or any public facilities from Units will be preserved without impairment.

ARTICLE THREE ASSOCIATION MEMBERSHIP AND VOTING

Section 1. Membership

- 3.1.1. Company and every Owner of a Lot or Dwelling Unit shall be a member of the Association, provided that there shall be no more than one member for any Lot or Dwelling Unit, said membership to be as determined by a vote of the Owners of any jointly owned Lot or Dwelling Unit. Membership shall be automatic and shall be appurtenant to and may not be separated from Ownership of any Lot or Dwelling Unit.

Section 2. Voting

- 3.2.1. Each member shall have one vote. If the member owns Contiguous Lots as defined and described herein, then the member shall be entitled to one (1) vote for each full assessment paid, (e.g. two Contiguous Lots assessed one and one half assessments, shall be entitled to one vote; three Contiguous Lots assessed two full assessments shall be entitled to two votes). The Company shall have the same number of votes as are cumulatively held by all members plus one, provided that Company membership shall terminate on the first to occur of either (1) The Company's voluntary termination of Company's membership, or (2) when the Company no longer owns any property primarily for sale within **ACHASTA** as the same may exist from time to time.

Section 3. Bylaws and Articles

- 3.3.1. All matters concerning meetings of the members of the Association shall be as specified in the Articles or Bylaws of the Association, as amended from time to time, and by law.

Section 4. Suspension of Voting Rights

- 3.4.1. The voting rights of any member who is delinquent in the payment of any charge, fee, or assessment hereunder shall be and remain suspended during the time that such delinquency exists.

**ARTICLE FOUR
MAINTENANCE ASSESSMENTS FOR COMMON PROPERTY**

Section 1. Creation of Lien

- 4.1.1. Each Owner by acceptance of a deed conveying Ownership of a Lot or Dwelling Unit is deemed to be subject to the Covenants and agrees to abide by the terms and requirements of this Amended and Restated Declaration and assumes the obligation to pay to the Association annual, initial, individual, and special assessments as provided for herein. Such annual, initial, individual and special assessments together with interest thereon and costs of collection therefor as hereinafter provided shall be a charge and continuing lien on the Lot or Dwelling Unit against which each assessment is made and shall also be the personal obligation of the person who is the Owner of such real property at the time when the assessment first becomes due and payable. If required to employ an attorney to collect any assessment, the Association shall be entitled to recover all costs of collection including court costs and reasonable attorney's fees.

Section 2. Purpose of Assessments

- 4.2.1. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners and residents in **ACHASTA** and, in particular, for the acquisition, improvement, repair, replacement, maintenance, use and operation of the Common Property, including roadways and utilities, and to pay for the services which the Association is authorized to provide, including, but not limited to, the payment of taxes and insurance, construction of repairs, replacement and additions to Common Property including roadways and utilities, payment of the cost of labor, employees, agents, accountants, attorneys, equipment, material, management and supervision necessary to carry out its authorized function and for the repayment of loans to any bank or the Company utilized for the above described purposes. Expenses shall be known and designated as "Common Expenses" and "Limited Common Expenses" which said Limited Common Expenses shall be attributable to those matters directed exclusively to the maintenance and operation of the Limited Common Areas.

Section 3. Initial Assessment

- 4.3.1. The Board of Directors of the Association shall fix for any calendar year, in addition to any and all other assessments authorized in this Declarations, for each Lot or Dwelling Unit conveyed from its current Owner to an unrelated third party, an Initial Assessment in an amount determined annually by the Board of Directors. The Initial Assessment shall be paid at the time of closing by the transferee of any such Lot or Dwelling Unit.

Section 4. Annual Assessments

- 4.4.1. The Board of Directors of the Association shall fix for any calendar year the Annual Assessment for each Lot or Dwelling Unit at an amount it deems appropriate to fund the budget for the Association.

- 4.4.2. It is specifically understood that Owners not a part of a Limited Common Area or not entitled to use of a Limited Common Property shall not be assessed any funds used to maintain the Limited Common Property, or any part thereof, or improvements thereon. The Limited Common Property Owners shall be assessed an additional annual assessment for the maintenance of the Limited Common Property Area and improvements thereon provided that any such annual assessments for Limited Common Expenses shall be determined separately for each Limited Common Area. Any assessment fixed by the Board of Directors of the Association for such Limited Common Property shall become effective as of the date specified by the Board unless rejected by a vote of the majority of those persons entitled to use the Limited Common Property so assessed. At all times, any year's Annual Assessment for any Limited Common Property shall be such amount as is necessary to defray expenses, pay any debt incurred, as the same becomes due, and maintain adequate reserves required to maintain any Limited Common Property according to the minimum standards set out by the Company, the Association or the ARB.

Section 5. Special Assessments

- 4.5.1. The Association may levy special assessments, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, utility installation, unexpected maintenance or repair and replacement of Common Property and capital improvements thereon, if any, provided that any such assessment shall not be rejected by a vote of the majority of the votes cast at a duly called meeting of the Association. Such special assessments, in any one year, may not exceed a sum equal to the amount of the maximum annual assessment for two years except for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.
- 4.5.2. The Association may levy special assessments for the purpose of paying the expenses attributable to the Limited Common Property, or any portion of it (the "Limited Common Expenses"), which shall be allocated to and borne proportionately only by the Owners of those Lots entitled to use of the Limited Common Property so repaired or improved, provided that any such special assessments for Limited Common Expenses shall be determined separately for each Limited Common Property and when fixed by the Board of Directors of the Association shall become effective as of the date specified by the Board unless rejected by a vote of the majority of those persons entitled to use the Limited Common Property so assessed at a duly called meeting of the Limited Common Area. At all times, any Special Assessment for any Limited Common Property shall be such amount as is necessary to defray expenses required to maintain any Limited Common Property according to the minimum standards set out by the Company, the Association or the ARB.

Section 6. Additional Special Assessments and Individual Assessments

- 4.6.1. *Additional Special Assessments.* In addition to and notwithstanding the provisions of Article Four, Section 5, regarding Special Assessments, the Board of Directors of the Association may levy additional Special Assessments upon any Lot or Dwelling Unit within the **ACHASTA** properties for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction (including for the repair, resurfacing, etc. of any private street or roadway within the **ACHASTA** properties), unexpected maintenance or repair and replacement of Common Property and capital improvements thereon, including utilities, if any.
- 4.6.2. *Individual Assessments.* In addition to and notwithstanding the provisions of Article Four, Sections 5 and 6, regarding Special Assessments and Additional Special Assessments, the Board of Directors of the Association may levy individual assessments upon any Lot or Dwelling Unit within the

ACHASTA properties for the purpose of defraying, in whole or in part, the cost of enforcement by the Association of any action taken or rule promulgated by the Association or any covenant herein.

Section 7. Individual Assessments

- 4.7.1. In addition to and notwithstanding the provisions of Article IV, Sections 5 and 6, regarding Special Assessments and Additional Special Assessments, the Board of Directors of the Association may levy Individual Assessments upon any Lot or Dwelling Unit within the **ACHASTA** properties for the purpose of defraying, in whole or in part, the cost of enforcement by the Association of any action taken or rule promulgated by the Association or any covenant herein.

Section 8. Due Date of Annual Assessments

- 4.8.1. The Annual Assessments shall be fixed on a calendar year basis, provided, however, that liability for payment of the Initial Annual Assessment shall accrue on the initial purchase of any Lot by an Owner and shall be prorated on a daily basis according to the number of days remaining in the year (365 days) of purchase. Thereafter, payment of subsequent Annual Assessments shall be due on the first day of each calendar year or on such other dates as from time to time may be established by the Association. The Association may provide for monthly, quarterly or semi-annual payment due dates for the Annual Assessment in lieu of an annual payment date, provided the Owners are given thirty (30) days prior notice of any change. Payment of the assessment shall be delinquent thirty (30) days after any due date or billing date. The due date of any Special Assessment shall be fixed in the resolution authorizing such assessment.

Section 9. Uniform Rate of Assessment and Share of Common Expense

- 4.9.1. The amount of any annual or special assessment and share of Common Expenses shall be the same for all Owners and all Owners entitled to the use of the Limited Common Property. The Association shall maintain separate accounting for "Common Expenses" which benefit all Lot Owners and expenses attributable to the Limited Common Property which benefit those Lots entitled to use the Limited Common Property.
- 4.9.2. Any Contiguous Lot shall be assessed for Annual and Special Assessments as follows:
- 4.9.2.1. The first Lot or Dwelling Unit shall be assessed at the full assessment amount.
All other Lots shall each be assessed at one-half (1/2) of the assessment amount.
- 4.9.2.2. In the event a Lot is approved by the Association to be subdivided, and the subdivided parts of said Lot are added to the adjacent and Contiguous Lots or Dwelling Units, then each resulting Lot or Dwelling Unit shall be re-platted and each shall pay one and one half (1 ½) of the assessment amount.
- 4.9.2.3. In the event a Lot or Dwelling Unit which is part of an Limited Common Area is combined with a Lot or Dwelling Unit which is not part of an Limited Common Area, or vice versa, there shall be no discount as described herein for the Limited Common Property Assessment and the Owner shall pay the full Limited Common Property Assessment. In the event a Dwelling Unit and one or more Lots or two or more Lots within a Limited Common Area are combined, then the first Lot or the Dwelling Unit shall be assessed at the full Limited Common Property assessment amount. All other Lots shall each be assessed at one half (1/2) of the Limited Common Property Assessment amount.

Section 10. Duties of the Board of Directors

4.10.1. The Board of Directors of the Association ("Board") shall have such powers and duties as are prescribed in the Association's Articles and Bylaws, as amended from time to time, and by law, which shall include the following duties: to borrow such monies on behalf of the Association as are required to enable it to perform the duties and functions authorized herein; to fix the amount and due date of all special, annual or other periodically payable assessments; to provide for interest to accrue on all unpaid assessments after the due date thereof at the rate of ten (10) percent per annum or at such other rate as the Board deems appropriate; to provide for the charging of a late fee and the payment of costs of collection, including reasonable attorney's fees incident to the collection of delinquent assessments and the enforcement and foreclosure of the Association's assessment lien and charge as provided for herein; to cause written notice of every assessment to be sent to the Owner subject to such assessment at least thirty (30) days prior to the due date thereof; upon demand at any time to cause to any person legitimately interested, a statement in writing signed by the President, the Treasurer, or other appropriate officer of the Association setting forth the amount of any unpaid assessments with respect to any Lot or Dwelling Unit subject to assessment by the Association or stating that all assessments with respect to the Lot or Dwelling Unit which is subject to the statement have been paid, as the case may be.

Section 11. Subordination of Charges and Liens to Security Deeds

4.11.1. The lien and permanent charge of any assessment (together with any interest accruing thereon, late charges and costs of collection) pertaining to any Lot or Dwelling Unit is and shall be subordinate to the lien of any first priority security deed to a bona fide institutional lender placed on such Lot or Dwelling Unit by the Owner if, but only if, all such assessments having a due date on or prior to the date such security deed is filed for record have been paid. Such subordination shall not relieve the Owner of the encumbered property of his personal obligation to pay all assessments coming due at a time when he is Owner, shall not relieve such property from the lien and permanent charge provided herein, and no sale or transfer of such property to the security deed guarantee or to any other person pursuant to foreclosure, or pursuant to any other proceeding in lieu of foreclosure, or pursuant to a sale under power, shall relieve any Owner of any personal obligation, or relieve the Lot or Dwelling Unit or the then and subsequent Owners from liability for any assessment coming due after such sale or transfer. Notwithstanding the foregoing, the Association may at any time, either before or after any security deeds are placed on such property, waive, relinquish or quit claim in whole or in part the right of the Association to collect the assessments with respect to such property coming due during the period while such property is or may be held by a security deed grantee pursuant to such sale or transfer.

Section 12. Remedies of Association Upon Failure to Pay Assessments

4.12.1. If any assessments are not paid within thirty (30) days from the date due, the Association may bring an action at law against the delinquent Owner personally for payment of the assessment, interest and charges due hereunder, or in the alternative, may file a lien and thereafter file an action to foreclose the lien of the Association against the Lot or Dwelling Unit of such Owner in the same manner in which actions are commenced for the collection and foreclosure of mechanics and materialmen's liens against the Owners of property as permitted by the laws of the State of Georgia.

Section 13. Exempt Property

- 4.13.1. Until conveyed to an Owner other than Company, or Preferred Builder under contract with Company, or while held by Company pursuant to a re-conveyance to the Company from a third person, each Lot or Dwelling Unit shall be exempt from the assessments, charges and liens created herein while owned by Company or by such Preferred Builder. All Common Property, including any Lot or Dwelling Unit which may be designated for use as such by Company, all roads, acreage tracts, commercial tracts or tracts used for infrastructure or common services, shall be exempt from the assessments, charges and liens created herein.
- 4.13.2. No fees or assessments shall be due and owing from the Club to the Association for the use of the Common Areas by the members or guests of the Club.

Section 14. Loans by Company to the Association

- 4.14.1. In the event the Company shall make a loan to the Association, and the Company subsequently sells or otherwise relinquishes its interests in **ACHASTA** to any third party non-related entity, then the Company shall forgive any then outstanding obligations to said Association at the time of closing.

**ARTICLE FIVE
RESERVATIONS AND CREATION OF EASEMENTS**

In addition to the easements created or reserved by Company elsewhere in this Amended and Restated Declaration, the following easements shall and do exist:

Section 1. Access

- 5.1.1. Company reserves for itself, the Club, its agents and invitees and for the Association an easement for access, ingress and egress to and from and over any of the property subject to these Covenants as shown on any recorded plats of survey of **ACHASTA** to install, service, replace, maintain, repair and improve any Common Property or easements provided for herein or as shown on or established by such plats of survey. Mutual reciprocal easements for access are hereby reserved for the benefit of each Lot or Dwelling Unit across any other Lot or Dwelling Unit as may be necessary for the control, maintenance and repair of any utility, water, sanitary sewer or storm water lines, structures of facilities affecting or crossing any such Lot or Dwelling Unit.

Section 2. Utilities and Drainage

- 5.2.1. Company reserves for itself, the Association, Lumpkin County, the City of Dahlonega, or such other political subdivision as may have jurisdiction thereof and for such utility companies as may from time to time serve **ACHASTA** and the property covered by this Amended and Restated Declaration, the right, title and privilege of a general easement which shall be perpetual, alienable and assignable, to go in and on the property with men and equipment to construct, place, install, maintain and operate in, upon, across and through said premises in a proper and workmanlike manner, electric, water, gas, telephone, sanitary, storm sewer drainage systems, surface water drainage systems, and other conveniences and utilities (such systems hereinafter referred to collectively as utility systems), including trenching and installation of such conductors, wires, cables, conduits, transformers, concrete pads, pipes, sewers, water mains, drainage areas, other equipment, apparatus, appliances, and structures necessary or convenient therefore, and including the right to cut any trees, bushes, shrubs, or other vegetation, make any gradings of the soil, or take any other action reasonable and necessary to provide economical and safe utility installation and to maintain reasonable standards of

health safety and appearance. The easement herein reserved shall include the right to enter upon the premises with men and equipment for the purpose of installing, inspecting, maintaining, repairing and replacing the various utility systems, and the right at all times to remove and keep clear any obstructions that may, in any way, adversely affect the proper maintenance and operation of the various utility systems. The easement hereby reserved shall also include the right to construct drain ways for surface water whenever such action may appear to the Company to be necessary. These reservations shall not be considered an obligation of the Company to provide or maintain any such utilities or service. The exercise of this easement for the construction and installation of any given utility shall not bar the exercise of this easement for the construction and installation of other utilities.

Section 3. Common Property

5.3.1. Each Owner shall have a non-exclusive right and easement for the use, benefit and enjoyment of Common Property which easement shall be appurtenant to the Ownership of a Lot or Dwelling Unit. The rights and easements created hereby are subject to the following:

5.3.1.1. The right of the Association as provided in its Articles and Bylaws to suspend the easement rights of any Owner for any period during which assessments remain unpaid;

5.3.1.2. The right of the Association or Company to dedicate or transfer all or any part of the Common Property to any public agency, municipality, political subdivision, authority, or utility.

5.3.1.3. The right of the Association to publish and enact reasonable rules and regulations governing or limiting the use or access of certain members to those portions of property designated as Limited Common Property;

5.3.1.4. The right of the Association, as provided in its Articles and Bylaws, to publish and enact reasonable rules and regulations governing or limiting the use of the Common Property;

5.3.1.5. The right of the Declarant or the Association to redraw, revise, relocate, trade or sell any part of the Common Property without permission from or compensation to the Association or Property Owners.

5.3.1.6. The right of the Company and Club to conduct activities within the Common Property, such as tournaments, charitable events, and promotional events and to restrict Owners from using the Common Property during such activities, provided the activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Owners use and enjoyment of the Common Property.

Section 4. Limited Common Property

5.4.1. Each such Lot Owner defined herein as users of the Limited Common Property shall have mutual reciprocal easements for the use of the same.

5.4.2. The rights and easements to the Limited Common Property are created subject to the following:

5.4.2.1. The right of the Association, as provided in its Articles and Bylaws to suspend the easement rights of any Owner entitled to the use of the Limited Common Property for any period during which any assessment remains unpaid;

- 5.4.2.2. The right of the Association or Company to dedicate or transfer all or any part of the Limited Common Property to any public agency, municipality, political subdivision, authority, or utility
- 5.4.2.3. The right of the Association as provided in its Articles and Bylaws to publish and enact reasonable rules governing and restricting the use of the Limited Common Property;
- 5.4.2.4. The right of the Declarant or the Association to redraw, revise, relocate, trade or sell any part of the Limited Common Property without permission from or compensation to the Association or Property Owners;
- 5.4.2.5. The right of the Company and Club to conduct activities within the Limited Common Property, such as tournaments, charitable events, and promotional events and to restrict Owners from using the Limited Common Property during such activities, provided the activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Owners use and enjoyment of the Limited Common Property.

Section 5. Roads

- 5.5.1. Company reserves for itself, the Club, its agents and invitees and for its mortgagees and for its mortgagees' successors and assigns, a non-exclusive, freely alienable perpetual easement for ingress, egress and regress over and across all roads within **ACHASTA** for the purpose of access to public roads, lands within **ACHASTA** or other lands of the Company.

Section 6. Easements

- 5.6.1. Company reserves for itself and the Association or its assigns, a ten-foot perpetual general access and utility drainage easement parallel and contiguous to all property lines.

Section 7. Utility Easements Along and Within Road Rights-of-Way

- 5.7.1. Company reserves for itself, its assigns, and any and all utility companies, including but not limited to electric, water, gas, cable television, telephone, or other appropriate and approved utilities, a perpetual easement along, over and through any and all roadways, streets or cul-de-sacs for the purpose of installing, operating and maintaining any and all such utilities. This easement granted shall be in clarification and as a supplement to the general utility easements granted in Article V, Section 2 hereof.

Section 8. Golf Course Maintenance and Access Easement

- 5.8.1. The Company reserves for itself, for its lenders and for any player upon the **ACHASTA** Golf Course, an easement for access, ingress and egress to, from and over any and all Lots and Dwelling Units adjacent to or abutting said Golf Course (Golf Course Maintenance and Access Easement), for the purpose of playing and maintaining the same as a portion of the **ACHASTA** Golf Course.
- 5.8.2. The Company reserves for itself, for its lenders and for any player upon the **ACHASTA** Golf Course, an easement for access, ingress and egress to, from and over any and all Common Properties and

Limited Common Properties, adjacent to or abutting said Golf Course, for the purpose of accessing and playing the **ACHASTA** Golf Course.

Section 9. Access Limitations

5.9.1. No property subject to this Amended and Restated Declaration shall be accessed in any way from any property either subject to this Declaration or not, except by such access or right-of-way or other easement as is granted by the Company hereunder. No property subject to this Amended and Restated Declaration shall be burdened with any right of access, right-of-way or other easement benefiting real property not subject to this Declaration, except by such access, right-of-way or other easements granted by Declarant hereunder.

Section 10. Special Events

5.10.1. Easement for Special Events. Declarant hereby reserves for itself, its successors, assigns and designees a perpetual, non-exclusive easement over the Common Properties and Limited Common Properties, for the purpose of conducting educational, cultural, entertainment, or sporting events, and other activities of general community interest, at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

**ARTICLE SIX
WATER AND SEWER**

Section 1. Water and Sewer

6.1.1. All Lots and Dwelling Units shall use the Dahlonega City Water and Sewer System within **ACHASTA** for residential uses.

ARTICLE SEVEN

CLUB MEMBERSHIP AND OTHER CLUB MATTERS

Section 1. Mandatory Social Membership

7.1.1. Every Owner, other than the Declarant or a Builder that is participating in the Declarant's Preferred Builder Program, who acquires title to a Unit on or after July 1, 2007 shall acquire and maintain in good standing a "Social Membership" in the Club for each Unit owned as long as they own a Unit. There shall be only one (1) Social Membership per Unit. If a Unit is owned by more than one (1) person, all co-Owners shall be subject to the usage requirements established by the Club in the Club's sole discretion from time to time. On or before the closing of the purchase of a Unit, each Owner shall be required to acquire the Social Membership, pay the membership deposit charged by the Club for such membership, activate the membership and start paying dues. An Owner shall be required to fill out a Membership Agreement and will be subject to the Membership Plan and Rules and Regulations of the Club, as amended from time to time (collectively, the "Club Membership Documents"). The Social Membership shall entitle the Owner and his or her family and guests to

Social Member privileges at the Club in accordance with the Club Membership Documents. The Social Membership is non-transferable except as provided in the Club Membership Documents. If the Owner does not obtain a Social Membership at or prior to closing, and maintain a Social Membership in good standing as long as the Owner owns their Unit, the Club may assess a non-refundable reinstatement fee (the "reinstatement fee") against the Unit, in an amount determined by the Club from time to time, as provided in the Club Membership Documents. The Club may also assess a reinstatement fee against a Unit owned by an Owner who acquired title to their Unit prior to July 1, 2007 if the Owner does not acquire a Social Membership during the Initial Offering Period (as defined in the Club Membership Documents) and maintain a Social Membership in good standing for each Unit owned as long as the Owner owns such Unit.

Section 2. Mandatory Social Club Membership Dues and Fees

7.2.1. Pursuant to an Owner's Social Club Membership, the Club shall be entitled to charge and collect from such Owners a membership deposit to acquire the membership, periodic membership dues, a reinstatement fee if applicable, and other fees and charges in accordance with the terms of the Social Club Membership Documents (collectively, the "Social Club Membership Dues and Fees"). The Social Club Membership Dues and Fees shall be payable by each Owner to the Club without set off, diminution or abatement for any reason. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to have notice of liability for these Club Membership Dues and Fees and to covenant and agree to pay these assessments. All such Social Club Membership Dues and Fees or other charges, together with interest not to exceed the maximum rate allowable by law, late charges, costs, and reasonable attorneys fees shall be the personal obligation of the Person who was the Owner of such Unit at the time the Social Club Membership Dues and Fees or other charges arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any Social Club Membership Dues and Fees and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provide in its Mortgage shall be liable for unpaid Social Club Membership Dues and Fees or other charges which accrued prior to such acquisition of title. No Owner may exempt himself from liability for Social Club Membership Dues and Fees by nonuse of the Club, abandonment of his Unit, or any other means. The obligation to pay Social Club Membership Dues and Fees is a separate and independent covenant on the part of each Owner.

Section 3. Amount of Social Club Membership Dues and Fees

7.3.1. The Social Club Membership Dues and Fees shall be payable at such times and in such amounts as shall be determined by the Club from time to time.

Section 4. Lien for Assessments

7.4.1. The Club shall have a lien against each Lot or Dwelling Unit to secure payment of delinquent Social Club Membership Dues and Fees as well as interest at a rate to be set by the Club (subject to the maximum interest rate limitations of Georgia law), costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, (ii) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, and (iii) the lien(s) of the Association pursuant to Article 4 of this Declaration, regardless of the date of recording of such lien(s). The Club's lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure as permitted under Georgia law.

- 7.4.2. The sale or transfer of any Unit shall not affect the Association's assessment lien nor relieve such Unit from the lien for any subsequent Association's assessments. A bona fide first priority Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the bona fide first priority Mortgage shall not be personally liable for Social Club Membership Dues and Fees due prior to such acquisition of title.

Section 5. Golf Course

- 7.5.1. Each Owner hereby assumes such risks of owning property adjacent to a golf course and forever waives and relinquishes, and agrees not to institute any action or suit at law or in equity nor to institute or prosecute, any claim, demand or compensation against the Declarant, or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of the Club or their successors, successors-in-title, or assigns; any Builder or contractor (in their capacities as such); any officer, director, member, manager, or partner of any of the foregoing, or any officer, director, member or manager or any partner of the foregoing for or no account of any damages, loss, or injury either to person or property, or both, resulting directly or indirectly from the design, construction, operation, maintenance and/or use of the golf course. Each Owner hereby agrees to take any necessary steps to maintain adequate hazard and other insurance policies to protect such Owner and such Owner's family, guests, invitees, agents and employees against all such risks associated with the golf course.

ARTICLE EIGHT AMENDMENTS TO DECLARATION

Section 1. General

- 8.1.1. This Amended and Restated Declaration can be amended at any time provided that a majority of the votes cast at a duly called meeting of the Association vote in favor of the proposed amendment. If any proposed amendment to this Amended and Restated Declaration is approved by the members as set forth above, the President or Secretary of the Association shall execute an amendment of this Amended and Restated Declaration which shall set forth the amendment, the effective date of the amendment, which in no event shall be less than thirty (30) days after the date of recording of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, total number of votes of members of the Association, the total number of votes required to constitute a quorum of the meeting of the Association, the number of votes required to adopt an amendment, the total number of votes cast against the amendment. The amendment shall be recorded in the official real estate records of Lumpkin County, Georgia.
- 8.1.2. The Company may unilaterally amend this Amended and Restated Declaration without notice to or the consent or approval of the Association, or other Owners, so long as such Company amendment does not materially increase the assessment liability of the Owners provided for in this Amended and Restated Declaration. Any such Company amendment shall be applicable to any and all Owners whether purchasing prior to such amendment or subsequent thereof.

**ARTICLE NINE
GENERAL PROVISIONS**

Section 1. Duration

9.1.1. The Covenants and Restrictions of this Amended and Restated Declaration shall run with and bind the property described herein and shall be and remain in effect, and shall inure to the benefit of and be enforceable by Company, the Association or the Owner of any Lot or Dwelling Unit subjected to this Amended and Restated Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns for a period of twenty (20) years after the date this Amended and Restated Declaration is recorded. After this twenty (20) year period, this Amended and Restated Declaration may be extended automatically for successive periods of ten (10) years each unless prior to the expiration of any ten (10) year period thereafter, a written agreement is recorded in the real estate records of Lumpkin County, Georgia, by the terms of which this Declaration is changed, modified or extinguished in whole or in part as may be described in such agreement, which agreement shall be executed by the Association after approval of such action by a majority of the votes cast at a duly called meeting of the Association.

Section 2. Notices

9.2.1. Any notice required to be sent to any Owner pursuant to any provision of this Amended and Restated Declaration may be served by depositing such notice in the mail, postpaid, regular mail, addressed to the Owner for whom it is intended at his last known place of residence, or to such other address or e-mail address as may be furnished to the Association (it being specifically required of the Owner to keep the Association informed of such current address or e-mail address); and such service shall be deemed sufficient. The date of such service shall be the date of mailing or e-mailing.

Section 3. Notices of Sale of Property

9.3.1. Each Owner when such Owner sells a Lot or Dwelling Unit within **ACHASTA** shall promptly notify the Association of the name and address of the new Owner of such Lot or Dwelling Unit. Compliance with this provision shall relieve such selling Owner of personal liability for Association assessments. Failure to comply with this provision shall constitute an admission by such selling Owner that such selling Owner shall continue to be personally responsible for such property Owner assessments and a declaration and admission by such Owner that such Owner consents to and shall remain subject to the jurisdiction of the Superior or Magistrate Court of the county in which such Lot or dwelling is located for purpose of suit to enforce collection of any and all such assessments. Notwithstanding anything in the forgoing paragraph to the contrary, any obligation incurred pursuant to Section 4.1.1 hereinabove, prior to sale, shall continue to be the personal obligation of the Seller until paid.

Section 4. Use of River

9.4.1. Neither the Association, the Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of use of the River for any purpose by Owners, their invitees, licensees, and tenants. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the River shall do so only as permitted under applicable governmental laws, ordinances, rules and regulations. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of the River, any pond, or streams within the Properties. Each Person

assumes all risks of personal injury, and loss or damage to property, including Dwelling Units, resulting from or associated with authorized or unauthorized use of the River, any pond, or streams within the Property. Company shall have the right to promulgate and enforce rules regarding the use of the River and shall be entitled to enforce same pursuant to lien rights granted herein.

Section 5. Security

- 9.5.1. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures, including any mechanism or system for limiting access to any portion of the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss, damage of injury or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants, agents and invitees of its Lot or Dwelling Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots, Dwelling Units and the contents of Dwelling Units, resulting from acts of third parties.

Section 6. Insurance

- 9.6.1. Each Owner shall be required to obtain and maintain adequate insurance of his or her Lot and/or Dwelling Unit. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Lot or Dwelling Unit as applicable, remove the debris, and to re-sod and landscape the land comprising the Lot and/or Dwelling Unit. Upon the request of the Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his lot and/or Dwelling Unit which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of the Association, the Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.
- 9.6.2. Requirement to Reconstruct or Demolish. In the event that any Lot or Dwelling Unit is destroyed by fire, storm or other casualty, the Owner of such Lot or Dwelling Unit shall do one of the following: the Owner shall commence reconstruction and/or repair of the Dwelling Unit (“Required Repair”), or the Owner shall tear the Dwelling Unit down, remove all the debris, and re-sod and landscape the property comprising the Dwelling Unit as required by the ARB (“Required Demolition”) to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the casualty, and such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner in compliance with ARB standards. If an Owner elects to perform the Required Demolition, the Required Demolition must be commenced within thirty (30) days of the casualty and completed within sixty (60) days from the date of the casualty or such longer period of time established by the ARB in its sole and absolute discretion subject to extension if required by law. Then, upon completion of the Required Demolition, such Owner shall be required to commence construction of a new Dwelling Unit upon the Lot in accordance with plans and specifications approved by the ARB. Such construction must commence not later than nine (9) months from the date of the casualty and be completed in a continuous, diligent, and timely manner in compliance with ARB standards. In the event that the Owner elects to

perform the Required Demolition and same is not commenced within thirty (30) days of the casualty, the Association shall have the right to perform such Required Demolition, the expense of which shall be charged to such Owner as an Individual Assessment. In the event that, following the Required Demolition, commencement of construction of a new Unit upon the Lot does not commence within nine (9) months from the date of the casualty, the Association shall have the right to levy a fine against such Owner, which shall be assessed as an Individual Assessment. The Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of the Association, the Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, the Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Dwelling Unit within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

- 9.6.3. Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the ARB standards and any other rules and regulations established by the Association with respect to any casualty that affects all or a portion of the Community.

Section 7. Wildlife

- 9.7.1. Presence of Wildlife. Each Owner and occupant, and each tenant, guest and invitee of any Owner or occupant acknowledges that the Properties are located adjacent to the River and in the vicinity of other natural areas. Such areas may contain wildlife, including without limitation, bear, deer, foxes, opossums and snakes. Neither the Association, the Board, the original Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and occupant of a Unit and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the original Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

Section 8. Use of Common Area and Limited Common Area Indemnity

- 9.8.1. Without limiting any other provision herein, each person within any portion of the Common Areas and Limited Common Areas accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Common Areas and Limited Common Areas, including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within any portion of the Common Areas and Limited Common Areas and (e) design of any portion of the Common Areas and Limited Common Areas. Each such person also expressly indemnifies and agrees to hold harmless Declarant, the Association, Club Owner, Club Manager, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas and

Limited Common Areas, including for attorney's fees, paraprofessional fees and costs at trial and upon appeal. Without limiting the foregoing, all persons using the Common Areas and Limited Common Areas, including without limitation, any pool or area adjacent to the River, do so at their own risk.

- 9.8.2. Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless Declarant, the Association, Club Owner and Club Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas and Limited Common Areas, including, without limitation, use of the River and other water bodies within the Property by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Declarant, the Association, or of any of the Indemnified Parties. Should any Owner bring suit against Declarant, the Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees at trial and upon appeal.

Section 9. Streams

- 9.9.1. No streams which run across any Unit may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Association.

Section 10. Enforcement

- 9.10.1. Enforcement of this Amended and Restated Declaration shall be by any proceeding by law or in equity against any person violating or attempting to violate or circumvent any Covenant or Restriction, either to restrain or enjoin violations, damages, or by any appropriate proceeding at law or in equity against the land to enforce any lien created by this Amended and Restated Declaration, and failure by the Association or any Owner to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 11. Jurisdiction, Venue and Service of Process

- 9.11.1. All Owners in **ACHASTA** by virtue of such Ownership do hereby consent to personal jurisdiction and venue and agree to acknowledge service of process in all Courts of Lumpkin County, Georgia, for the purpose of the enforcement of this Amended and Restated Declaration and the provisions thereof including but not limited to injunctive relief and collection of assessments hereunder.

Section 12. Interpretation

- 9.12.1. In all cases, the Covenants and Restrictions set forth or provided for in this Amended and Restated Declaration shall be construed together and given that interpretation or construction which, in the opinion of Company or the Association, will best effect the general plan of development and maintenance for **ACHASTA**. The Covenants and Restriction shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

Section 13. Delegation and Assignability

9.13.1. Company shall at all times and from time to time have the right to delegate and assign to the Association any and all rights and functions herein reserved to the Company.

Section 14. Supplements to this Amended and Restated Declaration

9.14.1. Company reserves the right by the filing of an Amendment or Supplemental Declaration to impose or modify, add or withdraw, such Covenants and Restrictions as contained herein on properties conveyed hereby or on properties designated in such Amendment or Supplemental Declaration.

Section 15. Severability

9.15.1. Whenever possible, each provision of this Amended and Restated Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Amended and Restated Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provisions or application. And to this end, the provisions of this Amended and Restated Declaration are declared to be severable.

IN WITNESS WHEREOF, the Company has caused this Amended and Restated Declaration of Covenants, Easements and Restrictions for **ACHASTA** to be executed by its duly appointed officer.

EXHIBIT "A"
TO
AMENDED AND RESTATED
DECLARATION OF COVENANTS, EASEMENTS
AND RESTRICTIONS FOR

ACHASTA

NOTE: EXISTING WETLANDS AND STREAMS EXISTING OR SHOWN ON THE PLATS OF SURVEY OF THE FOLLOWING PROPERTIES ARE UNDER THE JURISDICTION OF THE ARMY CORPS OF ENGINEERS. THESE AREAS ARE NOT TO BE DISTURBED WITHOUT PROPER AUTHORIZATION FROM THE ARMY CORPS OF ENGINEERS.

LUMPKIN COUNTY, DAHLONEGA, GEORGIA

Parcel 1: All those certain tracts or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 143, 144 and 146, City of Dahlonega, and being Lots 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 121A, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141 and 142, **Unit I**, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, Unit I by Scott Van Webb Parker, Georgia RLS 2611, dated August 2, 1999 and recorded in Plat Cabinet 1, Slide 61, Pages 1-5, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Birch River Drive, Prospector Trail, Prospector Ridge, Stamp Mill Lane, Stamp Mill Drive and Stamp Mill Court.

Parcel 2: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lot 144, City of Dahlonega, and being Lots 201, 202, 203, 204, 205, 207, 208, 209, 210, 211 and 212, **Unit II**, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, Unit II by Christopher M. Shannon, Georgia RLS 2475, dated August 2, 1999 and recorded in Plat Cabinet 1, Slide 99, Pages 172-175, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Birch River Drive, Mountain Ridge Trace and Rocker Drive.

Parcel 3: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 127 and 144, City of Dahlonega, and being Lots 301, 302, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321 and 322, **Unit III**, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, Unit III by Scott Van Webb Parker, Georgia RLS 2611, dated August 2, 1999 and recorded in Plat Cabinet 1, Slide 108, Pages 155-157, Lumpkin County, Georgia records, together with Common Area 1, Common Area 2 and all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Birch River Drive, Sautee Court, Laurelwood Lane and Kasten Run.

Parcel 4: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lot 127, City of Dahlonega, and being Lots 401, 402, 403, 404, 405,

406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417 and Common Area "A," Unit IV, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, **Unit IV** by Scott Van Webb Parker, Georgia RLS 2611, dated July 6, 1999 and recorded in Plat Cabinet 1, Slide 114, Pages 66-68, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Birch River Drive, Lakotah Lane, and Seminole Sky.

Parcel 5: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lot 144, City of Dahlonega, and being Lots 501, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 518, 519, 520, 521, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532 and 533, **Unit V**, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, Unit V by John E. Didicher, Georgia RLS 1906, dated August 2, 1999 and recorded in Plat Cabinet 1, Slide 128, Pages 142-145, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Mountain Trace Drive, Mountain Trace Lane, Mountain Trace Pointe, Miners Run, Placer Drive and Miners Place.

Parcel 6: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 143 and 144, City of Dahlonega, and being Lots 601, 602, 603, 604 and Common Area located within traffic circle, Unit 6A, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, **Unit 6A** by Mark R. Banfield, Georgia RLS 2803, dated February 22, 2002 and recorded in Plat Cabinet 1, Slide 71, Pages 8-11, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Gold Rush Run.

Parcel 7: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 143 and 146, City of Dahlonega, and being Lots 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 723A, 723B, 724A, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744 and 745, Unit VII, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, **Unit VII** by Scott Van Webb Parker, Georgia RLS 2611, dated January 5, 2001 and recorded in Plat Cabinet 1, Slide 137, Pages 138-140, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Prospector Trail, High Trestle Court, Cane Mill Lane and Cavender Run.

Parcel 8: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lot 146, City of Dahlonega, and being Lots 801, 802, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818 and 819, **Unit 8A**, Birch River as shown on that that certain plat of survey, being a final plat of Birch River, Unit 8A by Mark R. Banfield, Georgia RLS 2803, dated October 9, 2006 and recorded in Plat Cabinet 1, Slide 138, Pages 142-146, Lumpkin County, Georgia records, together with all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Mineral Lane, Rock Hound Drive, I put all the south-of-the-river tracts together and less and excepted all developed lots, roads and common areas and Prospector Trail.

Parcel 9: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 1091, 1092, 1093, 1094 and 1095, City of Dahlonega, and being Lots 1001, 1002, 1003, 1005, 1006, 1007, 1008, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, Future Access Parcel lying between lots 1047 and 1048, Lots 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058 and 923, as shown on that that certain plat of survey of **ACHASTA UNIT 10** by Mark R. Banfield, Georgia RLS 2803, dated October 5, 2004, revised on May 4, 2005 and further revised on December 16, 2008, and recorded in Plat Cabinet 1, Slide 174, Pages 77-80 and Slide 175, Pages 81-82, Lumpkin County, Georgia records, together with all

streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Northridge Drive, Golden Bear Pass, Nugget Court, Bruin Court, Trappers Pass, Ainu Court and Cub Tract.

Parcel 10: All those certain lots or parcels of land lying and being in Lumpkin County (originally Hall) Georgia, 11th District, 1st Section, Land Lots 1041, 1042 and 1093, City of Dahlonega, and being Lots 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, and Common Area, as shown on that certain plat of survey of **ACHASTA UNIT 11** by Mark R. Banfield, Georgia RLS 2803, dated September 3, 2004, revised November 5, 2008, and recorded in Plat Cabinet 1, Slide 175, Pages 83-86, Lumpkin County, Georgia records, together with all future amenity areas and common properties, and all streets, roads, drives, access easements or other rights of way as shown on said plat, including, but not limited to, Northridge Drive, Kiliahote Pass and Talking Bear Court.

Parcel 11: All those certain lots or parcels of land lying and being in Land Lots 1091, 1092, 1094 and 1186, 12th District, 1st Section, Lumpkin County, City of Dahlonega, Georgia, within ACHASTA (F/K/A BIRCH RIVER), known as **BEAR PAW RIDGE (UNIT 9B)**, Lots 917, 918, 919, 920, 921, 922, 924, 925, 926, 927, 928, 929, 930, 931, and 932, containing 12.204 acres, more or less, having such shape, courses, metes and distances as will more fully appear by reference to that certain plat of survey of BEAR PAW RIDGE (UNIT 9B), ACHASTA, prepared by Jason T. Lourie, GA RLS No. 3029, dated December 23, and recorded in Plat Cabinet 1, Slide 173, Pages 52 through 54, in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, which said plat and the record thereof are hereby incorporated herein and made a part hereof by reference.

Parcel 12: All those certain lots or parcels of land lying and being in Land Lot 146, 11th District, 1st Section, Lumpkin County, City of Dahlonega, Georgia, within ACHASTA, known as SOUTH RIDGE (UNIT 8B), Lots 820, 821, 822, 823, 824, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, and 860, having such shape, courses, metes and distances as will more fully appear by reference to that certain plat of survey of **SOUTH RIDGE (UNIT 8B)**, of ACHASTA, prepared by Jason T. Lourie, GA RLS No. 3029, dated June 5, 2008, revised (1st revision), September 2, 2008, and further revised March 3, 2009, and recorded in Plat Cabinet 1, Slide 175, Pages 87-92, in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, which said plat and the record thereof are hereby incorporated herein and made a part hereof by reference.

Parcel 13: All those certain lots or parcels of land lying and being in Land Lots 1091, 1092, 1094 and 1186, 12th District, 1st Section, Lumpkin County, City of Dahlonega, Georgia, within ACHASTA, known as BEAR PAW RIDGE (UNIT 9A), Lots 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, and 965 having such shape, courses, metes and distances as will more fully appear by reference to that certain plat of survey of **BEAR PAW RIDGE (UNIT 9A)**, ACHASTA, prepared by Jason T. Lourie, GA RLS No. 3029, dated August 4, 2008 and recorded in Plat Cabinet 1, Slide 175, Pages 93-100, in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, which said plat and the record thereof are hereby incorporated herein and made a part hereof by reference

TOGETHER WITH any and all streets, roads, drives, access easements or other rights of way within **ACHASTA** or accessing the same from the public road known as Highway 60/19.