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GWINNETT COUNTY, GA.
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TOM LAWLER, CLERK

RETURN TO: R.A. HUDSPETH, 1770 Indian Trail Road, Suite 280, Norcross, Georgia 30093 (770) 925-1400

DECLARATION
OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS
OF PROSPECT MILL SUBDIVISION

THIS DECLARATION is made on the date hereinafter set forth by PROSPECT ROAD PARTNERS, LLC and BURNHAM BUILDERS, L.P., hereinafter referred to collectively as "Declarant".

WITNESSETH:

WHEREAS, Declarant is or will be the Owner of certain real property in Land Lot 104 of the 7th District, County of Gwinnett, State of Georgia ("Land"), which is more particularly described on Exhibit "A" annexed hereto and incorporated herein by reference.

All Lots in this Planned Unit Development ("PUD") are subject to the Covenants. Additional land may be added to this Declaration in accordance with Article VII, Section 4.

NOW THEREFORE, Declarant hereby declares that the Land shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the Land and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each holder thereof.

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ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Prospect Mill Homeowners Association, Inc., its successors and assigns.

Section 2. "Board of Directors" shall mean and refer to the Association's board of directors as provided for in the Association's Articles of Incorporation and By-Laws as set out per Exhibit "B" annexed hereto and incorporated herein by reference.

Section 3. "Common Area" shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

None.

There are no present plans to have a Common Area for this PUD.

The Declarant hereby certifies that, if there is a Common Area, it has been conveyed to the Association free and clear of all encumbrances.

Absolute liability is not imposed on Members for damage to the Common Area, if any, or Lots, including improvements, in the PUD; instead, Members are only responsible for their own negligence and the negligence of their minor children, employees, and agents as provided by Georgia State Law.

In the event a Common Area is later added to the PUD, the Common Area shall not be subject to assessments. The expenses for maintenance and any improvement of the Common Area, including taxes, shall be paid by the Association. The designated Common Area is not dedicated for the use by the general public but is dedicated to the common use and enjoyment of the Members of the Association.

Section 4. "Declarant" shall mean and refer to Prospect Road Partners, LLC and Burnham Builders, L.P., their successors or assigns.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property with the exception of the Common Area, if any, and delineated public streets.

Section 6. "Member" shall mean and refer to those persons entitled to membership as provided in this Declaration.

Section 7. "Other Builder" shall mean and refer to any individual or entity which acquires one or more undeveloped Lots from the Declarant for the purpose of development.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any improved Lot on which there exists a completed home which is or has ever been occupied as a residence, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and excluding those Lots owned by the Declarant and Other Builders.

Section 9. "Property" or "Land" shall mean and refer to that certain real property herein described, and such additional property thereto as may hereafter be brought within the jurisdiction of the Association in accordance with Article VII, Section 4.

Section 10. "Subdivision" shall mean and refer to all or any portion of the Land which has been recorded as such per plat in the office of the Superior Court of Gwinnett County, Georgia.

ARTICLE II

PROPERTY RIGHTS

Section 1. Member Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreation facility, if any, situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use the recreational facilities by a Member for any period during which any assessment against a member's Lot remains unpaid;

(c) the right of the Association to suspend the right to the use the facilities by a Member for a period not to exceed 60 days, following the "cure" of an infraction for any infraction of the Association's disseminated rules and regulations;

(d) conditioned on a written instrument signed by 2/3rds of each class of Members agreeing to such action and the purposes and conditions thereof and subject to existing easements, the right of the Association to (i) dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility; or (ii) mortgage or convey all or any part of the Common Area.

Section 2. Reservation of easement to the Association. The Association, its agents or assigns shall have and is hereby granted an easement as necessary or incidental for ingress and egress over thru and across any Lot or Common Area to (i) maintain, repair, remove, or replace the Subdivision "Amenities", hereinafter described, or Subdivision detention pond(s); or (ii) to cure a violation of this Declaration by removal of the item(s) causing the violation (e.g. sign, vehicle, or other matter whatsoever) which constitutes the violation or to otherwise cure the violation by performing such maintenance or other corrective action necessary to cure the violation.

Section 3. Delegation of Use. Declarant, any Owner or Other Builder may delegate, in accordance with this Declaration, his right of enjoyment to the Common Area and facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. The Declarant, every Owner and every Other Builder shall be Members of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 2. The Association shall have two classes of voting Membership:

Class A. Class A Members shall be all Owners and Other Builders, and Class A Members shall be entitled to one vote for each Lot owned. When more than one person and/or entity holds an interest in any Lot all such persons and/or other entity shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant or assigns and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (a) when 75% of the lots are deeded to homeowners,
- or
- (b) August 30, 2002 (the reasonable estimated time to market 75% of the Lots).

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments or Charges. Each "Owner" (but not the "Declarant" or "Other Builders") by acceptance of a deed for any Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association:

- (a) annual assessments or charges;
- (b) special assessments for capital improvements, or other purposes; or

(c) other assessments or charges as may be established as hereinafter provided.

The assessments or charges, whether they be annual, special, fines or other, together with interest, costs and reasonable attorney's fees (collectively the "Sum"), shall be a charge on the Lot(s) and shall be a continuing lien thereon. The Sum, shall also be the personal obligation of the Owner of such Lot(s) at the time when assessed or incurred. The personal obligation for the Sum shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied and provided for herein shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Members and their tenants and, in particular, for the servicing, improvement and maintenance of the following:

(a) the amenities of the Subdivision, even though such amenities may be located, partially or entirely, on a contiguous public right of way, Lot or Common Area, when such improvements are or were made by the Declarant or the Association, to enhance the look, desirability, uniformity or pleasantness of the Subdivision (such improvements are collectively herein referred to as the "Amenities"). The Amenities include, without limitation: (i) the entrance area statement (e.g. signs, monuments, walls, landscaping or landscape islands, berms, slopes, fences, lighting, irrigation, drainage or other improvements whatsoever) and (ii) the inclosure improvements of the perimeter of the Property (e.g. fencing, walls, hedges, landscaping, close or other improvements whatsoever) ;

(b) the Common Area, if any, and such improvements or facilities related thereto;

(c) the detention ponds and such improvements or facilities related thereto which are shown on the Subdivision Plat or revision thereof or are subsequently added by the Declarant or Association; and

(d) in the event the Subdivision sidewalks are not maintained or replaced by the controlling municipal or county authority, then, in that event, for the maintenance or replacement thereof.

Section 3. Maximum Annual Assessment. Until January 1, 2001, the annual assessment shall be \$120.00 dollars per Lot payable in advance. Each year thereafter the annual assessment may be increased:

- (a) without a vote by the Members by not more than 10% above the assessment for the previous year; or
- (b) with an affirmative 2/3rd majority vote, held in accordance with the by-laws, of each class of Members entitled to vote.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum permitted above.

Section 3.5. Capital Contributions. Upon the sale of a Lot upon which there is a home that can be resided in, there shall be collected from the Purchaser at the closing of said purchase, and paid to the Association, a one time up-front capital contribution of \$ 120.00 and if not so collected, shall be a lien upon the Lot until paid.

Section 4. Special Assessments for Capital Improvements or Other Purposes. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Land, including fixtures and personal property related thereto or for the other benefit of the Association provided that any such special assessment shall be authorized with an affirmative 2/3rd majority vote, held in accordance with the by-laws, of each class of Members entitled to vote. If the special assessment is approved, the Board of Directors shall determine the date when payment thereof shall be due.

Section 5. Notice and Quorum for Any Action. Sufficient notice of any meeting called for the purpose of taking any action authorized by this Declaration is sufficient by posting a sign at the entry to the Subdivision at least 72 hours prior to the meeting denoting the time, date and place of the meeting,

and, if applicable, the fact that a special assessment will be considered at such meeting. At any meeting, the presence of Members or of their proxies entitled to cast 40% of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, a "subsequent" meeting may be called subject to the same notice requirement, and the required quorum shall then be one half of the required quorum at the preceding meeting. No "subsequent" meeting shall be held more than 60 days after the first set meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Owners and may be collected on a yearly or other basis as determined by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be calculated as to all Lots to which it applies on the day of the conveyance of the Lot to an Owner. The annual assessments shall run for a calendar year from January 1 to and including December 31. The first annual assessment shall be a prorated on the current assessment amount through December 31st of the year of purchase and shall be collected from the Owner at the closing. That Owner shall not be effected by any change in the annual assessment until January 1st of the year following the Owner's purchase, but shall be subject to special assessments as provided in Section 4. The Board of Directors shall fix the amount of the annual assessment and notice thereof shall be provided to every Owner by mail or posting, generally fifteen (15) days or more before it is due. Assessments for the year 1999 and 2000 shall be paid in advance at closing. The due dates of annual assessments for the year 2001 and thereafter shall be January 15th of each year unless changed by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or file and foreclose it as a lien on the Lot, or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of a Lot.

Section 9. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve a Lot from liability for any assessments thereafter becoming due or from the lien thereof. Mortgagees are not required to collect assessments. Failure to pay assessments does not constitute a default under an insured mortgage.

Section 10. Exempt Property. Any portion of the Land dedicated to and accepted by a local public authority or owned by a charitable or nonprofit organization exempt from taxes of the State of Georgia shall be exempt from the assessments created herein, except no Lot devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Requirement for Plan Approval. Except for the Declarant, no improvement or structure, including, without limitation, any building, fence, wall or home, shall be commenced, erected or maintained upon any part of the Property, nor shall any exterior addition, change or alteration thereto be made until the written plans and specifications showing the nature, kind, shape, height, materials, and

location of such ("Plans") have been submitted via certified mail, return receipt requested to the Board of Directors or to the Architectural Control Committee, if any, appointed by the Board of Directors, whose composition shall include at least one member of the Board of Directors and, such Plans are approved in writing as to harmony of external and internal design and location in relation to surrounding structures and topography. Approval of the Plans shall be in writing and within ninety (90) days of their receipt. In the event the Plans have not been disapproved but no written approval is forthcoming within ninety (90) days after the Plans are received, then the Plans shall be deemed approved, provided, however, that other Sections of this Article and of this Declaration shall continue to be enforceable in actions at law or in equity, including injunction and Temporary Restraining Order, by the Board of Directors, Architectural Control Committee, Declarant, Other Builders or Owners unless a waiver of said requirement was expressly granted in writing by the Board of Directors or the Architectural Control Committee. All dwelling units must be a minimum of 1,400 square feet heated.

Section 2. Exterior Rules. The following, and such additional architectural landscaping or maintenance rules as the Board of Directors or the Architectural Control Committee shall adopt shall be enforceable in law or equity by the Board of Directors, the Architectural Control Committee, Declarant, Other Builders and/or Owners:

(a) No vehicles of any description shall be parked on the streets of the Subdivision for more than six hours in any twenty-four (24) hour period, excepting Declarant and Other Builders and its tradespeople's vehicles utilized in connection with the sale and construction of residences therein.

(b) No satellite dish antennas, radio transmission or reception devices, nor television antennas of any sort shall be erected on the roof or in the yard of any residence except that digital satellite dishes or direct broadcast satellite dishes of 18" or less in diameter shall be permitted.

(c) All blinds, shutters, and/or window treatments visible from the street shall be of white or alabaster color.

(d) No basketball goals shall be erected so as to be visible from the street.

(e) No clothesline, nor any clothes drying device, shall be erected so as to be visible from the street or any other residence.

(f) All resident owned vehicles shall be parked in the garages or driveways of their respective residences for periods of time exceeding six hours. Inoperable vehicles or vehicles under repair shall be parked in the garage at all times during such period of repair or inoperativeness.

(g) No dilapidated or unsightly vehicles or machinery shall be parked or stored in such a manner as to be visible from the street or any other residence. The Board of Directors or the Architectural Control Committee shall be the arbiter as to whether a vehicle or machinery is dilapidated or unsightly.

(h) No motor homes, campers, trailers, boats, motorcycles, or commercial vehicles shall be parked or stored in such a manner as to be visible from the street or any other residence.

(i) Paragraph (f) above notwithstanding, no vehicles, equipment, or materials shall be stored on any lot (except Declarant's or Other Builder's equipment and materials), whether covered or not, at a location which is visible from the street or any other residence.

(j) On any Lot, Common Area or the right of way which was dedicated per the Plat or by deed as incidental or necessary to the subdivision of the Land, no sign for any purpose whatsoever shall be erected or displayed such as on or within a vehicle, residence or other device, except a double-faced 3 square foot per side sign no more than 36 inches tall advertising a residence for sale. Declarant's or Other Builders' signs are also excepted from the foregoing restriction.

(k) No fences shall be erected in the front lawns of any Lots.

(l) ALL FENCES MUST BE APPROVED BY THE BOARD OF DIRECTORS OR THE ARCHITECTURAL CONTROL COMMITTEE. Restrictions shall include, but shall not be limited to, the following: i) all fences must be erected in the rear yards of Lots and no fence shall be closer to the street

than that of the rear corners of the residences, ii) a shadowbox fence no more than six feet in height shall be allowed to be erected within five (5) feet of the patio and/or deck adjacent to the rear of the residence and/or from the rear corners of the residence to the sidelines for privacy purposes and/or along the perimeter of retention ponds that are located on any Lot, and iii) fences erected in all other areas of the rear yard including side and rear property lines shall be picket fence and shall be either stained, painted the color of the trim of the residence or white, and shall not exceed four feet in height. Once a fence is approved by the Board of Directors or the Architectural Control Committee, the installation of the fence shall be of a pleasing appearance. If any fence is erected on any Lot which has not been approved by the Board of Directors or the Architectural Control Committee, and it continues to exist after fifteen days written notice to the Owner or Other Builder of its non-compliance, then the Board of Directors or the Architectural Control Committee, their agents or assigns, are hereby granted an easement for the purpose of ingress, egress and removal of such fence. Such Owner or Other Builder shall indemnify and hold harmless the Association from all costs or damages whatsoever incurred, suffered or occasioned in undertaking to enforce compliance with this Declaration and such costs shall constitute a charge on the Lot(s) and a continuing lien thereon until paid in full.

(m) Each Owner and Other Builder shall maintain his Lot and the improvements thereon in a neat, clean, and eye-pleasing condition which shall include the maintenance of the front lawn of his Lot. The Board of Directors or the Architectural Control Committee shall be the arbiter as to whether said maintenance is clean and eye pleasing. If, fifteen days after having served notice to any Owner or Other Builder of any deficiencies in this regard, any deficiency still exists, the Board of Directors or the Architectural Control Committee may correct said deficiency at its option. Such Owner or Other Builder shall then be liable for any costs and charges incurred as a result of such correction, and should such Owner or Other Builder then not make remuneration within such terms as are then set, the costs and charges will be the basis of a lien against such Owner's or Other Builder's Lot.

Section 3. Detention Pond Maintenance. Any and all detention ponds as shown per plat shall be maintained by the Association. The Association shall have an easement for ingress and egress on any Lot affected by a detention pond or any part thereof is found to the extent reasonably necessary to accomplish this purpose, as well as the right to remove or cause to be removed obstructions to said purpose and the right to require the cooperation of others, who have an interest therein, to not hinder those actions reasonably necessary to effect such purpose.

Section 4. Lawn Maintenance. The Board of Directors or the Architectural Control Committee or their representatives, including, but not limited to a landscaping company or individual chosen by them, shall have the right to take actions necessary or convenient to accomplish the mowing of the front lawns of all Lots of Owners and Other Builders in the Subdivision which are not properly maintained by the Owner or the Builder of the Lot and to maintain the Entrance Areas of the Subdivision. This right shall include, without limitation, the right of ingress and egress on the Lot of the Owner or Other Builder to the extent reasonably necessary to accomplish this purpose, the right to remove or cause to be removed obstructions to said purpose and the right to require the cooperation of others, who have an interest therein, to not hinder those actions reasonably necessary to effect such purpose.

Section 5. Release. Each Owner, Member, and Other Builder, his descendants, ancestors, dependents, heirs, executors, and assigns, hereby fully releases, discharges, and holds harmless the Association and Declarant, their agents, officers, directors, stockholders, members, employees, representatives, successors, and assigns, from any and all rights, claims, actions, causes of action, damages, losses, or injuries of whatever form or kind, the Owner and Other Builder, his descendants, ancestors, dependents, heirs, executors, and assigns has or may hereafter have against the Association and Declarant, their agents, officers, directors, stockholders, members, employees, representatives, successors, and assigns arising from the right of the Association to correct any deficiency, remove any fence, maintain the detention ponds and facilities, or mow the front lawn of any Owner's and Other

Builder's Lot as set forth in this Article V. Each Owner and Other Builder, his descendants, ancestors, dependents, heirs, executors, and assigns hereby assumes full responsibility for any injuries, damages, losses or liability which he may hereafter incur from the above specified right of the Association.

The right of the Association to correct any deficiency, remove any fence or mow the front lawn of an Owner's and Other Builder's Lot shall in no way effect the responsibility of an Owner and Other Builder to maintain his front lawn and remainder of his Lot in accordance with the provisions of Article V, Section 2, Subsections (j), (k), and (m) and other provisions of this Declaration and related documents.

Section 6. Fines. In addition to any other rights of enforcement of the provisions of this Declaration including, but not limited to, the Architectural Control provisions of Article V, Section 1, the rules set forth and which are promulgated in accordance with Article V, Section 2, and the duty to cooperate in the mowing of front lawns in accordance with Article V, Section 2 and Section 3, the Board of Directors or the Architectural Control Committee shall have the right to assess fines for and violations of said provisions not to exceed \$25.00 per day per violation for each day, or part of a day the violation remains uncured. The Board of Directors or the Architectural Control Committee shall provide written notice to the violator, which notice shall specify the date of the beginning of the violation and the fact that the specified fine shall be assessed retroactive to the beginning of the violation until cured unless adequate explanation for the violation, in the sole discretion of the Board of Directors or the Architectural Control Committee, shall be given by the violator. In the event that a fine under this Section is imposed then it shall be immediately due and payable and shall constitute a lien on the property, which may be filed and foreclosed, and shall bear interest at 12 percent (12%) per annum until paid. The lien of the fine provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment fine. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the fine of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot Owner from liability

for any assessments thereafter becoming due or from the fine thereof. Mortgagees are not required to collect assessments or fines. Failure to pay assessments does not constitute a default under the insured mortgage.

ARTICLE VI

INSURANCE

Section 1. Casualty Insurance on Insurable Common Area. The Association shall keep all insurable improvements and fixtures of the Common Area, if any, insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for the property for which the insurance was carried by the Association are common expenses included in the annual assessments made by the Association.

Section 2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Reconstruction Assessment against all Lots to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other annual assessments made against such Lot.

Section 3. Annual Review of Policies. The Board of Directors shall review the Associations's insurance policies, if any, annually for adequacy of coverage as compared to the capital value of Amenities which may be damaged or destroyed.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Member, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, except as provided in this Declaration.

Section 2. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or any property shall be prohibited or held invalid, such prohibition or invalidity shall not effect any other provision or the application of any provision which can be given effect without the invalid revision or application, and to this end, the provisions of this Declaration are declared to be severable.

Section 3. Amendment. The easements, covenants, conditions, and restrictions of this Declaration shall run with and bind the Land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by an instrument signed by seventy-five percent (75%) of each Class of Members. This Declaration may be amended during the first twenty (20) year period and thereafter by an instrument signed by not less than seventy-five percent (75%) of the members of Class A and seventy-five percent (75%) of the members of Class B Memberships. Declarant may amend the easements, covenants, conditions and restrictions of this Declaration without the consent of the Members of Class A within two

(2) years of the date of this instrument provided that the Federal Housing Administration ("FHA") and the Veterans Administration ("VA") does not determine such amendment to be noncompliant with the requirements extant by FHA and VA for approving subdivisions for the issuance of FHA mortgage insurance or VA loan guarantees. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members. Additional land and Common Area may be annexed by the Declarant without the consent of the Members of Class A within two (2) years of the date of this instrument provided that the Federal Housing Administration ("FHA") and the Veterans Administration ("VA") determine that the annexation is in accord with the requirements extant by FHA and VA for approving subdivisions for the issuance of FHA mortgage insurance or VA loan guarantees.

Section 5. FHAVA Approval. So long as there is a Class B Membership, the following actions will require the prior approval of the FHA or the VA: Annexation of additional property, dedication of additional Common Area, and amendment of this Declaration of Easements, Covenants, Conditions and Restrictions. Additionally, should the FHA or VA require any amendment to this Declaration, the Articles of Incorporation or the Bylaws, prior to or after initial approval of same, the Declarant is authorized to make such amendment(s) conforming said document(s) to the requirements of the FHA or the VA without consent of the Members of the Association.

Section 6. Indemnity. The Association shall have the right to retain legal counsel and to indemnify, defend, and hold harmless its directors, officers, agents and employees for actions arising out of their acts on behalf of the Association, except for intentional torts committed by them, either before or after such acts are committed by them.

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Section 7. Attorney Fees. The prevailing party in any dispute under this Declaration or in the enforcement of the obligations and covenants hereunder shall be entitled to the award of reasonable attorney fees and litigation expenses in addition to other damages.

Section 8. Notices. It shall be the responsibility of each Member of the Association to notify the Secretary of the Association in writing of his name, current address, and telephone number for use in entering and maintaining his name in the membership rolls of the Association. The Association shall not be held responsible however for any unintentional failure to properly list the names, addresses, and telephone numbers of its Members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10th day of August, 1999.

Sworn to and subscribed before me this 10th day of August, 1999.

[Signature]
Witness

PROSPECT ROAD PARTNERS, LLC

By: [Signature]
C.L. FLAKE, JR., MANAGER

Notary Public
My Commission Expires: _____



Sworn to and subscribed before me this 10th day of August, 1999.

[Signature]
Witness

BURNHAM BUILDERS, L.P.

By: Peachstate Equity Holding Company, its
General Partner
By: [Signature]
R. K. GREENE, SECRETARY

Notary Public
My Commission Expires: _____

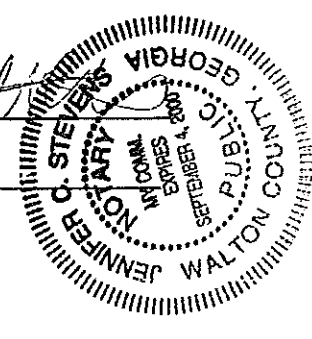


EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 104 of the 7th District, Gwinnett County, Georgia, being Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Block "A" and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 35, 36, 37, 38, 39, 40, 41, 42 and 43, Block "B" of Prospect Mill Subdivision as shown on plat of survey recorded at Plat Book 81, Page 254, Gwinnett County, Georgia Records, reference to said plat of survey and the record thereof being hereby made for a more complete legal description.