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GARY R. YATES, CLERK

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
CEDAR CREEK CROSSING, UNIT II

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CEDAR CREEK CROSSING, UNIT II is made this 20th day of July, 1992, by Regency Development Co., Inc., a Georgia corporation (hereinafter referred to as "Declarant");

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property located in Gwinnett County, Georgia, and more particularly described as All that tract or parcel of land lying and being in Land Lot 91 of the 6th District of Gwinnett County, Georgia, being known as Unit II of the Cedar Creek Crossing Subdivision according to a plat of survey by Precision Planning, Inc., dated 6/9/92 and recorded in Plat Book 56, Page 197, Gwinnett County records dated 7/31/92. Declarant desires to subject the property to the provisions of this Declaration, to construct on the Property a residential community and to provide a flexible and reasonable method for the administration and maintenance of the Property; and

WHEREAS, Declarant desires to provide for architectural, landscaping and maintenance controls to maintain the value, aesthetic appearance and architectural harmony of the Property during and after development; and

WHEREAS, Declarant has deemed it desirable to create an agency to which should be delegated and assigned the powers of maintaining and administering portions of the Property and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter create:

NOW, THEREFORE, Declarant hereby declares that the Property described above shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property, and which shall be binding on all parties having any right, title or interest in the Property or any portion thereof, and their respective heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Definitions: When used in this Declaration, unless the context shall prohibit or otherwise require, the following words shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(a) "Builder" shall mean any Person engaged principally in the business of constructing for sale to homeowners single family residential dwellings to whom the Declarant sells or has sold one or more Lots for the purpose of constructing thereon a single family residential dwelling.

(b) "Declarant" shall mean and refer to Regency Development Co., Inc., a Georgia business corporation.

(c) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Cedar Creek Crossing, and all amendments thereof filed for record in the records of the Clerk of the Superior Court of Gwinnett County.

(d) "Lot" or "Lots" shall mean and refer to those certain subdivided lots, as shown on the Plat, and shall mean and include any additional lots created or relocated on any amendment to or revision of the Plat.

(e) "Mortgage" shall mean and refer to a security deed, deed of trust, mortgage, installment land sales contract or other similar security instrument granting, creating or conveying a lien upon, a security interest in or a security title to a Lot.

(f) "Mortgagee" shall mean and refer to the holder of a Mortgage.

(g) "Owner" shall mean and refer to the record owner, whether one or more Persons, including Declarant, of fee simple title to any Lot, excluding, however, those persons having such an interest under a Mortgagee.

(h) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

(i) "Plat" shall mean and refer to that certain Final Plat for Cedar Creek Crossing, Unit II prepared by Precision Planning, Inc. dated June 9, 1992, and recorded in Plat Book 56, Page 197, in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia, as the same may be revised

from time to time.

(j) "Structure" shall mean and refer to:

(1) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop, cage, hutch or doghouse, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, satellite dish, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(2) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(3) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (2) of this section applies to such change.

(k) "Subdivision" shall mean and refer to Cedar Creek Crossing Subdivision.

## ARTICLE II

### DEVELOPMENT

Development of Property: Except as otherwise set forth all Lots within the Subdivision shall be and are hereby restricted exclusively to single-family residential use and shall be subject to the standards and restrictions set forth. Declarant shall have the right, but not the obligation, for so long as Declarant owns any Lot primarily for the purpose of sale, to make improvements and changes to all Lots owned by Declarant, including without limitation,

(1) changes in the location of the boundaries of any Lots owned by Declarant, and

(2) installation and maintenance of any water, sewer and other utility systems and facilities.

## ARTICLE III

### ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

Purpose: In order to preserve the natural setting and beauty of the Subdivision, to establish and preserve a harmonious and aesthetically pleasing design for the Subdivision and to protect and promote the value of the Property, the Lots and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article III. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article III.

#### Architectural Approval:

(a) To preserve the architectural and aesthetic appearance of the Subdivision, no Structure shall be commenced, constructed, placed, moved onto or maintained by any Owner, other than Declarant or an affiliate of Declarant, on any Lot, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining or any exterior surface), unless and until two (2) copies of the plans and specification and related data showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to and approved in writing by Regency Development Co., Inc. as to the compliance of such plans and specifications.

(b) In the event Regency Development Co., Inc. fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved, provided the proposed improvements are generally in harmony with the scheme of the subdivision as set forth in this Declaration. Upon approval of plans and specifications, no further approval under this Article shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by Regency Development Co., Inc. upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

Approval of Builders: Any builder or landscaper, prior to performing any work on any Lot in the Subdivision, must first be approved by the Declarant as to financial stability, building or landscaping experience and ability to build or landscape Structures or grounds of the class and type of those which are to be built in the Subdivision. Such approval may be granted or withheld in the sole uncontrolled discretion of the Declarant. No person shall be approved as a builder or landscaper unless such Person obtains his income primarily from construction or landscaping of the type which builder or landscaper is to perform upon the Lot. No Owner will be permitted to act as his own builder or contractor except where such Owner obtains his income primarily from the construction of the type of Structure to be constructed on the Lot and otherwise meets the qualifications for approval by the Declarant as hereinabove set forth.

Landscaping Approval: All front yards to be sodded. To preserve the aesthetic appearance of the Subdivision, no landscaping, fencing, grading, excavation or filling of any nature whatsoever shall be implemented and installed by any Owner, other than Declarant or affiliate of Declarant, unless and until the plans therefore have been submitted to and approved in writing by Regency Development Co., Inc. All Builders must spend a minimum of \$1500.00 on the landscaping of each Lot in the Subdivision. The provisions hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation or filling.

Approval Not a Guarantee: No approval of plans and specifications and no publication of standards shall be construed as representing or implying that such plans, specifications or Standards will, if followed, result in properly designed improvements. Such approvals and Standards shall in no event be construed as representing or guaranteeing that any residence or other improvement built in accordance therewith will be built in a good and workmanlike manner. Declarant shall not be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. By submission of such plans and specifications to Regency Development Co., Inc., every Owner of any Lot releases and agrees to hold harmless and to defend Declarant, from any such alleged liability, claim and/or damage.

Building Restrictions: All Structures and other improvements shall be constructed in compliance with any and all

applicable state, county and municipal zoning and building restrictions. In addition, the Declarant is authorized to promulgate from time to time as part of the Standards described in previous paragraph of Architectural Standards and Restrictions hereof additional restrictions applicable to the Subdivision. No exterior portion of any building structure or other improvement (excepting sidewalks and driveways) located on or with respect to any Lot shall be located other than as permitted by the applicable set-back line restrictions as set forth in the Standards; provided that Regency Development Co., Inc. shall be empowered to grant variances with respect to such set-back line restrictions in its sole and absolute discretion.

Use of Lots and Dwellings: Each lot shall be used for single-family residential purposes only and no trade or business of any kind may be carried on therein. The use of a portion of a residence 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, client or employee traffic or otherwise create a nuisance. The use of a residence or a portion thereof for business meetings, entertainment or the enjoyment or business of the Owner's employees, trustees, agents, clients or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic or otherwise create a nuisance.

Antennae: No television antenna, radio receiver, satellite dish or other similar device shall be attached to or installed on any portion of the Property, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Subdivision; provided, however, that Declarant shall not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio or other similar systems within the Subdivision, and should cable television services be unavailable and adequate television reception not be otherwise available, then an Owner may make written application for permission to install a television antenna. In no event shall free-standing transmission or receiving towers be permitted.

Water Supply: No individual water supply system shall be permitted on any Lot without the prior written approval of the Declarant. If such approval is given, such system must be located, constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

Pets: No animals, livestock, reptiles, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that generally recognized house pets may be kept in residences, subject to rules and regulations adopted by the Declarant and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. Pets shall be under leash or voice control at all times when walked or exercised outside of all fenced areas on a Lot.

Nuisances: No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot and each Owner, his or her family, tenants, guests, invitees, servants and agents shall refrain from any act or use of a Lot which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Subdivision or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provision, no exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Subdivision.

Motor Vehicles, Trailers, Boats, Etc.: All automobiles owned or used by Owners or other than temporary guests and visitors shall be parked in garages to the extent that the garage space is available, and garages shall not be used for storage or otherwise so that they become unavailable for parking cars therein. Declarant shall have the authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart or any other related forms of transportation devices. Furthermore, although not expressly prohibited hereby, Declarant may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts or other similar vehicles, or any of them, from being kept, placed, stored, maintained or operated upon any portion of the Property if in the opinion of Declarant such prohibition shall be in the best interests of the Subdivision. No Owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot except

(i) within enclosed garages or workshops or

(ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

Sales and Construction Activities: Notwithstanding any provisions or restriction contained in this Declaration to the contrary it shall be expressly permissible for Declarant, any Builder and their respective agents, employees, successors and assigns to maintain and carry on within the Property such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots or the developing of Lots, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model residences. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences as model residences, and to use any residences as an office for the sale of Lots and for related activities.

Fences: No fence or wall of any kind shall be constructed, created, maintained or altered on any Lot by any anyone without the prior written approval of Declarant. Declarant will not approve any fence or wall that at the very minimum does not satisfy the following requirements:

(i) corner lots (those lots as shown on the plat that have two 35 foot building lines); no fence or wall shall be located closer to the streets than both the 35 foot building lines.

(ii) lots other than corner lots: no fence or wall shall ever be located closer to the streets than a line extending in both directions to the property lines, parallel to the rear wall of the house.

Signs: No signs whatsoever (including but not limited to commercial and similar signs shall, without Declarant's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign.

Accessory Structures: A detached accessory structure may be placed on a Lot to be used for a playhouse, a swimming pool, tennis court, a tool shed, a mailbox, a dog house or a garage; a garage may also be an attached accessory structure. Such accessory structures shall not exceed twenty (20) feet in height



and shall conform in exterior design and quality to the residence on the same Lot. With the exception of a garage that is attached to a residence and the mailbox, an accessory structure placed on a Lot shall be located only behind the residence as such residence fronts on the street abutting such Lot. Such accessory structures shall also be located within such side and rear setback lines as may be required hereby or by applicable zoning law. Regency Development Co., Inc. shall have the right to approve or disapprove the plans and specifications for any accessory structure to be erected on any Lot, and construction of an accessory structure may not be commenced until final plans and specifications shall have been approved by Regency Development Co., Inc. in accordance with the provisions of these covenants. Any accessory structure shall be constructed concurrently with or subsequent to the construction of the residence on the Lot. The mailbox for each Lot shall be the mailbox design and type approved by Regency Development Co., Inc.

Improvement of Lots and Option to Repurchase: The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of all residences shall contain not less than 1800 square feet. No residence shall be constructed exceeding three and one-half stories in height on any Lot.

Option to Repurchase:

(a) Seller shall have the right and irrevocable option (the "Option") to repurchase any lot from Purchaser if, as to such lot, Purchaser (i) fails to complete the foundation of the single-family residence within one hundred twenty (120) days from the date of closing, or (ii) fails to obtain a certificate of occupancy for the single-family residence within three hundred sixty five (365) days from date of closing. The purchase price for such lot shall be the purchase price paid for the lot by Purchaser to Seller.

(b) The option may be exercised by Seller giving Purchaser written notice of such exercise at Purchaser's address as shown on the signature page hereof. The option may be exercised at any time within sixty (60) days after the expiration and applicable time period, then the option shall terminate and be of no further force and effect. The closing of the repurchase of such lot shall take place within sixty (60) days after Seller gives Purchaser written notice of exercise of the option. The purchase price shall be paid by Seller in cash or by certified check. For purposes of this paragraph, notice shall be deemed given on the day such notice is delivered to Purchaser, if hand delivered, or if mailed, three days after such notice is deposited with the United States Postal service, with adequate postage prepaid, addressed to the Purchaser at Purchaser's

address shown on the signature page hereof.

(c) Purchaser agrees to reconvey the subject lot to Seller by General Warranty Deed in form and substance satisfactory to Seller, subject only to the permitted exceptions. Purchaser and Seller agree to execute such documents as may be necessary to consummate the repurchase of the lot by Purchaser.

Trees and Shrubs: No tree measuring nine (9) inches or more in diameter at a point four (4) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of Regency Development Co., Inc. unless located within ten (10) feet of the approved site for a residence or within the right-of-way of driveways or walkways. Excepted herefrom shall be damaged or dead trees and trees which must be removed due to an emergency.

Zoning and Private Restrictions: None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any covenants, restrictions and easements created or imposed by this Declaration, the more restrictive provision shall govern and control.

#### ENFORCEMENT

Enforcement: Each owner and Builder shall comply strictly with the By-laws and published rules and regulations of Regency Development Co., Inc. adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by Declarant, or in a proper case, by an aggrieved Owner. Should Declarant or Regency Development Co., Inc. employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages and that Declarant, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or as to a

violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, however long continued.

Self-Help: In addition to any other remedies provided for herein, the Declarant or its duly authorized agent shall have the power to enter upon a Lot to abate, or remove, using such force as may be reasonably necessary, any erection, thing or condition, or take any other curative action as to any thing or condition, which violates this Declaration, the rules and regulations or the use restrictions. Unless an emergency situation exists, Regency Development Co., Inc. shall give the violating Owner ten (10) days written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Rights of Third Parties: This Declaration shall be recorded for the benefit of Declarant, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

No Trespass; Whenever Declarant and their respective successors, assigns, agent or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the Property, the entering thereon and the taking of such action shall not be deemed to a trespass.

Notices: Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to Regency Development Co., Inc., or if no address has been so designated, at the addresses of such Owners' respective Lots. Notices sent by United States Mail shall be deemed effective on the third day after mailing. Notices delivered in person shall be effective on the date of delivery. All notices to Declarant shall be delivered or sent in care of Declarant at the following address: P. O. Box 1405, Tucker, Georgia 30085 or to such other address as

Declarant may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant at the above address or to such other address as Declarant may from time to time notify. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to Regency Development Co., Inc.

No Liability: Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

Declarant, (Regency Development Co., Inc.) reserves the right to appoint and create an Architectural Control Committee to assume the above responsibilities.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration under seal, as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

Marcy R. Evans  
Unofficial Witness

Ruth Ann Forder  
Notary Public  
Ruth Ann Forder

DECLARANT;

Regency Development Co., Inc.  
a Georgia Corporation

By: James P. Mack, Sr.  
as President

Notary Public, Gwinnett County, Georgia  
My Commission Expires Feb. 3, 1993

(CORPORATE SEAL)