

DECLARATION OF COVENANTS AND RESTRICTIONS

CYPRESS PARK

TRACT NO. 5685, ORANGE COUNTY, CALIFORNIA

THIS DECLARATION, made this 11 day of February, 1965, by MOON HOMES, INC., a California corporation, (hereinafter referred to as "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property (commonly known as CYPRESS PARK) described in Article II of this Declaration, and desires to create thereon a residential community with permanent parks, playgrounds, open spaces and other common facilities for the benefit of the community, all of which, together with the real property upon which the same is or will be located, will hereinafter be referred to as the "Common Properties", and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Properties, and to this end desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, under a general plan or scheme as hereinafter set forth, each and all of which is and are for the benefit of said property and each present and future owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the Common Properties and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused CYPRESS HOME OWNERS ASSOCIATION to be incorporated under the laws of the State of California, as a nonprofit corporation, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject the covenants, restrictions, easements, charges and liens (sometimes hereinafter referred to as "Covenants and Restrictions") hereinafter set forth, all of which shall run with the land, and shall apply to and be binding upon all parties having or acquiring any right, title or interest in the said property or any part thereof; and are imposed upon said land and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

ARTICLE I

DEFINITIONS

Section 1. The following words, when used in this Declaration or any supplemental declaration (unless the context shall prohibit), shall have the following meanings:

- (a) "Association" shall mean and refer to the CYPRESS HOME OWNERS ASSOCIATION;
- (b) "The Properties" shall mean and refer to all such Existing Properties (as hereinafter defined in Article II) and additions thereto as are subject to this Declaration or any supplemental declaration under the provisions of Article II hereof;
- (c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision map of The Properties and intended to be devoted to the common use and enjoyment of the Owners of The Properties, including any areas in The Properties not shown on such map as a dedicated street or numbered Lot;
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of the Common Properties as heretofore defined;
- (e) "Dwelling Unit" shall mean and refer to any portion of a building located on a Lot designed and intended for use and occupancy as a residence by a single family;
- (f) "FHA" shall mean the FEDERAL HOUSING ADMINISTRATION;
- (g) "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties, but notwithstanding any applicable theory of the Mortgage, shall not mean or refer to the Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure;
- (h) "Mortgage" shall mean the conveyance of any Lot or other portion of The Properties to secure the performance of an obligation, which conveyance shall be void upon the due performance of said obligation;
- (i) "Mortgagee" shall mean a person or entity to whom a Mortgage is made;
- (j) "Mortgagor" shall mean a person or entity who mortgages his or its property to another, i.e., the maker of a Mortgage; and
- (k) Wherever the word "Deed of Trust" is used herein, it shall mean and be synonymous with the word "Mortgage", and the same may be used interchangeably with the same meaning; and likewise the word "Trustor" shall be synonymous with the word "Mortgagor", and the word "Beneficiary" shall be synonymous with the word

“Mortgagee”.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Cypress, California, commonly known as CYPRESS PARK, and consists of the following portions of Tract No. 5685, Orange County, California:

- (a) Lots 1 through 69, inclusive, (hereinafter referred to collectively as “The Lots”), which are and shall be devoted to residential use; and [*Section Amended*]
- (b) Lots A, B, C, D, E and F, inclusive, are and will be hereinafter referred to as the “Common Properties” and are and shall be devoted to the uses of the Association as more particularly set forth elsewhere herein.

The Common Properties to be conveyed to the Association shall be free of any Mortgage or monetary encumbrance given to secure a debt, prior to the recordation of any conveyance of a Lot to an Owner and prior to the insurance by FHA of any promissory note of any such Owner.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

- (a) Upon approval of a majority of the Board of Directors of the Association, the Owner of any property who is desirous of adding it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions which shall extend the scheme of the Covenants and Restrictions of this Declaration to such property, upon the following conditions only:
 - (i) The authority of the Board of Directors of the Association so to act shall expire three (3) years from the date of the recording hereof;
 - (ii) Such property to be added must be eligible for loans to be insured by the Federal Housing Administration or guaranteed by the Veterans Administration;
 - (iii) The only property which can be annexed by the action of the Board of Directors must be a part of the real property described in Exhibit “A” attached hereto, and by this reference made a part hereof;
 - (iv) The total number of residential Lots to be contained in all of the lands subject to the scheme of this Declaration under this subparagraph (a) shall not exceed two hundred and fifty (250) in number; and

(v) The improvements on the Common Properties in such annexed lands shall be completed, free of lien, prior to the conveyance thereof to the Association;

(b) Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the Owner of any property who is desirous of adding it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Supplementary Declaration of Covenants and Restrictions which shall extend the scheme of the Covenants and Restrictions of this Declaration to such property; and

(c) Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Existing Property, together with the covenants and restrictions established upon any other properties, as one scheme.

Such Supplementary Declarations contemplated above may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different charter, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall any such Supplementary Declarations, merger or consolidation, revoke, modify or add to the covenants established by this Declaration within the Existing Property, except as hereinafter otherwise provided.

Section 3. Easements.

(a) The Common Properties shall be owned by the Association in fee simple, for the use, enjoyment and convenience of the Owners, and shall contain the parking areas, walkways, recreational areas, storage and trash areas, and all other areas not a part of the Lots. Each Lot within The Properties is hereby declared to have an easement over all of the Common Properties, for the benefit of the Lots, the Owners of the Lots, and each of them, and for their respective families, guests and invitees, for all of the purposes and uses hereinabove set forth, and without limiting the generality of the foregoing, for recreational and parking purposes and use and for ingress and egress over and through the Common Properties. In furtherance of the establishment of this easement, the individual grant deeds to the Lots may, but shall not be required to, set forth the foregoing easements;

(b) Each Lot within The Properties is hereby declared to have an easement over all adjoining parcels for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building,

or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist;

(c) There is hereby reserved to Declarant and the Association such easements as are necessary to perform the duties and obligations of the Association as are hereinafter set forth in Article IV hereof; and

(d) Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and the Common Properties, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of The Properties or any portion thereof.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of any Lot which is part of The Properties and which is subject by covenants of record to assessment by the Association shall be a member of the Association; provided that any such person or entity who holds any interest in a Lot merely as a security for the performance of an obligation shall not be a member.

The membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Lot and then only to the purchaser or Mortgagee of such Lot, the membership being appurtenant to such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of such Lot, the Association shall have the right to record the transfer upon the books of the Association and issue a new certificate to the purchaser, and thereupon the old certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered; provided, however, that notwithstanding anything to the contrary hereinabove set forth, the Owner shall be permitted to pledge his membership certificate to the holder of a first Mortgage or first Deed of Trust (meaning any Mortgage or Deed of Trust with first priority over other Mortgages or Deeds of Trust) made in good faith and for value. Said pledges shall be bound by the provisions of this Declaration and by the Articles of Incorporation and By-Laws of the Association and amendments thereto.

Section 2. Voting Rights. The Association shall have only one class of voting membership. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1 of this Article. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

In the event that a Notice of Default is recorded by the Association, as hereinafter provided, or by the holder of any first Mortgage or Deed of Trust against the Owner of any Lot, then and in such event, and until the default is cured, the right of the Owner of such Lot to vote as a member of the Association shall be suspended.

ARTICLE IV

DUTIES OF ASSOCIATION AND ASSESSMENT

SECTION 1. Duties of Association. In addition to the powers delegated to it by its Articles of Incorporation, and without limiting the generality thereof, the Association shall:

- (a) Own, maintain and otherwise manage all of the Common Properties and all facilities, improvements and landscaping thereon, and all property acquired by the Association;
- (b) Maintain in good repair the exteriors, including roofs, of all buildings situated within all of The Properties, including the Common Properties;
- (c) Maintain all landscaping and walkways on the Lots, except in the private patios, enclosed by walls or fences of four (4) feet or higher, thereon, as well as on the Common Properties;
- (c) Provide for removal of rubbish from all of The Properties;
- (e) Maintain the interior and exterior of all garage or carport structures;
- (f) Pay any real and personal property taxes and other charges assessed against the Common Properties;
- (g) Have the authority to obtain, for the benefit of all of the Lots and Common Properties, all water, gas, electric powers, gardening service and refuse collection;
- (h) [unreadable] the Common Properties and the Lots;
- (i) Maintain a policy or policies of liability insurance, insuring the Association and its agents, guests and invitees and the Owners of the Lots against liability to the public or to said Owners, their guests and invitees incident to the ownership or use of the Common Properties, in an amount not less than One Hundred Thousand

(\$100,000.00) Dollars for any one person injured, Three Hundred Thousand (\$300,000.00) Dollars for any one accident, and One Hundred Thousand (\$100,000.00) Dollars for property damage. Said limits shall be reviewed at intervals of not less than three (3) years and adjusted if necessary to provide such coverage and protection as the Association may deem prudent;

(j) Maintain a policy or policies of fire and such other casualty insurance as the Association may deem necessary upon all of the improvements upon the Common Properties, in such amounts and with such companies as the Association may determine, which policies shall, among other things, provide for a Loss Payable Endorsement to the Association, as well as such other loss payees as the FHA and any Mortgage shall require. Upon the occurrence of any casualty loss resulting in damage to any of said improvements, the Association shall, using such proceeds as are available to it from such insurance policies, immediately cause said improvements to be rebuilt so as to restore them as nearly as possible to their original condition.

(k) Maintain Workman's Compensation insurance to the extent necessary to comply with any applicable law;

(l.) Maintain its funds in a trust account and render an annual accounting, prepared and certified to by an independent certified public accountant, to its members;

(m.) Be required to establish and maintain an Initial Working Capital and Contingencies fund, by the following method: The Association shall make a monthly assessment, in addition to the regular monthly assessment for estimated maintenance costs, not to exceed the sum of Ten (10%) per cent of the actual monthly maintenance costs as determined by the Association. Such percentage amount in excess of the actual maintenance costs shall be allocated to this Fund, and said Fund shall be used by the Association as the Directors shall deem fit to carry out the objects and purposes of the Association;

(n.) Establish and publish such general Rules and Regulations as the Association may deem reasonable in connection with the use, occupancy and maintenance of all of The Properties, which Rules and Regulations may be altered and amended from time to time as the Association may see fit. A copy of such Rules and Regulations shall be:

(i) Maintained in the office of the Association and be available for inspection at all reasonable times;

(ii) Posted in a conspicuous place on the Common Properties; and

(iii) Given to each Owner within a reasonable time after the Association has notice of his occupancy of the dwelling unit upon any of the Lots.

The Rules and Regulations shall be binding upon each and every Owner upon the happening of any one of the foregoing.

No changes or amendments in said Rules and Regulations shall be effective until forty-eight (48) hours after the distribution and posting of such changes or amendments in the manner above provided for the distribution of the original Rules and Regulations;

- (o) Assign to each Lot, as appurtenant thereto, the right to use two (2) designated parking spaces contained within the Common Properties, which parking spaces shall be used, solely for the parking of vehicles, by the Owner of the Lot to which they are appurtenant, and by no other person without the express permission of said Owner. The Association, however, reserves the right to re-assign and re-allocate said parking spaces in such manner and at such time as it may deem reasonably necessary for the benefit of all of the Owners of all of the Lots;
- (p) In its discretion, employ any agent or agents, and enter into any contracts for the purpose of performing any and [Unreadable]
- (q) Its agents shall have the rights of ingress and egress in and to all the Lots for the above purposes; and
- (r) Enter into such agreements with such management agents and companies as may be necessary to carry out any of the purposes and duties herein described.

Section 2. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot owned by it within The Properties hereby covenants, and each purchaser of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Monthly assessments or charges; (2) Such special assessments as may be permitted hereunder, such assessments to be fixed, established and collected from time to time as hereinafter provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in accordance with the provisions of Section 9 hereinafter. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in CYPRESS PARK and, in particular, for the improvement and maintenance of properties, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Properties and of the dwelling units situated upon The Properties, including, but not limited to, the duties of the Association set forth above.

Section 4. Basis and Amount of Monthly Assessments.

- (a) Each of the Lots shall be subject to an assessment in an amount equal to each such Lot's pro-rata share of the actual cost to the Association in its fulfillment of its obligations hereunder. Said pro-rata share shall be that portion of the whole of said

cost each Lot bears to the aggregate number of Lots now or which hereafter may be included in The Properties;

(b) The monthly assessment on each Lot in the Existing Property shall commence on the first day of the month following the month during which an FHA, VA, City or County final compliance inspection has been made and reported approved. Without exception, each Lot owned by the Developer will be subject to assessment to the same extent and in the same manner as any other Lot sold to and owned by an individual owner-member of the Association;

(c) The monthly assessment on each Lot in any properties annexed pursuant to Section 2(a) of Article II hereof shall commence when the Declarant shall offer any Lot therein for sale. Each Lot Owner thereof shall pay its pro-rata share of the aggregate of all assessments as described in sub paragraph (a) above; [*Section Amended*]

(d) Until Seventy-Five (75%) per cent of the Lots in the Existing Properties have been sold and conveyed as evidenced by the recordation of appropriate deeds to the Lots from Declarant to purchasers thereof, the monthly assessment for each Lot is \$23.05, which assessment shall be paid by each Lot Owner monthly until a new assessment is made, and thereafter; [*Section Amended*]

(i) Within thirty (30) days prior to the beginning of the calendar year following the sale of said Seventy-Five (75%) per cent of the Lots, and of each calendar year thereafter, the Association shall estimate the total annual charges to be assessed against each Owner of a Lot; provided, however, that such assessment may not exceed One Hundred and Fifty (150%) per cent of the assessment for the fiscal period immediately preceding without the vote of the members as set forth in Section 6 and 7 hereof. Each Owner shall thereafter pay such assessment charges in twelve (12) equal monthly installments to the Association, on the day of the month determined by the Association, but in no event later than ten (10) days after the Association shall present its invoice therefor; and the Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid; [*Section Amended*]

(ii) In the event the Association shall determine that its budget for any current month is, or will become inadequate to meet all expenses hereunder for any reason, including non-payment of any Owner's assessment on a current basis, it shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noted as to the reason therefor, and levy a special assessment against the Owners of each of the Lots in the manner above specified, for the amount required to meet all such expenses on a current basis, which special assessment shall be paid within thirty (30) days from notice thereof; and [*Section Amended*]

- (iii) The Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual monthly assessment at any time, at a lesser amount. [*Section Amended*]

Section 5. Special Assessment for Capital Improvements. In addition to the monthly and special assessments authorized by Sections 1 and 4 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of a majority of the votes entitled to be cast in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all members at least thirty (30) days in advance, and shall set forth the purpose of the meeting.

Section 6. Change in Amount of Monthly Assessments. Subject to the limitations of Section 4 hereof, and for the period therein specified, the Association may change the amount of the assessments fixed by Section 4 hereof prospectively for any such period; provided that any such change shall have the assent of a majority of the votes entitled to be cast, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided further that the limitations of Section 4 hereof shall not apply to any change in the amount of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 7. Quorum for Any Action Authorized Under Sections 5 and 6. The quorum required for any action authorized by Sections 5 and 6 hereof shall be as follows:

At any such special meeting called, as provided in Sections 5 and 6 hereof, the presence at the meeting of members or of proxies, entitled to cast a majority all of the votes shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, another meeting may be called, subject to the notice requirements set forth in Sections 5 and 6, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided that, no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Duties of the Board of Directors. The Board of Directors of the Association, on behalf of the Association in accordance with the foregoing, shall, in addition to its duties set forth in the Articles of Incorporation and By-Laws of the Association:

- (a) Fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period;
- (b) At that time, prepare a roster of The Properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to

inspection by any Owner;

(c) Provide that written notice of the assessment shall thereupon be sent out to every Owner subject thereto:

(d) Have all the powers necessary to enforce all of the provisions of this Declaration whether for the benefit of any Owner, or Owners, or the Association; and

(e) Have the authority to delegate any of such powers to such persons or entities as the directors shall determine.

Section 9. Effect of Non-Payment of Assessment: the Personal Obligation of the Owner; the Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 4 hereof), then such assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien and the same is thereby created prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which by law would be superior thereto, and (2) the lien or charge of any first Deed of Trust made in good faith and for value; with power of sale on each Lot within the Lots to secure payment of the amount of any assessment, whether regular or special, assessed to said Owner or Owners thereof hereunder.

Said lien shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period, and it shall not pass to his successors in title unless expressly assumed by them.

If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the then legal rate, and the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee to be fixed by the court, together with the costs of action; provided that no action shall be brought to foreclose such lien or proceed under the power of sale less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, postage prepaid, to the Owner of said Lot and a copy thereof is recorded by the Association in the office of the County Recorder of Orange County, California; said notice of claim must recite a good and sufficient legal description of any such Lot, the record owner or reputed owner thereof, the amount claimed (which may at Association's option include interest on the unpaid assessment at the legal rate from the date due plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien) and the name and address of the claimant. Each such Owner, on behalf of himself, his heirs, executors, administrators, and each and every assignee of said Owner, hereby covenants and agrees to pay said assessment, interest thereon, and costs, and to vest in the Association or its assigns, the right and power to bring all actions against such Owner for the collection of such charges. Such lien and the rights to foreclosure and sale shall be in addition to and not in

substitution for all other rights and remedies, which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Any such sale is to be constructed in accordance with the provisions of Sections 2924, 2924b, and 2924c of the Civil Code of the State of California, applicable to the exercise of powers of sale in Mortgage and Deeds of Trust, or in any other manner permitted by law.

In any such foreclosure or sale, the Owner of any of the Lots shall be required to pay to the Association a reasonable rental for the occupancy of the Lot during such period of default, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association, through its duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same; however, in any event, a suit to recover a money judgment for unpaid assessments shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

In the event any lien imposed under the provisions of this Section is destroyed by reason of the foreclosure, trustee's sale, sheriff's sale, or otherwise, of any Mortgage or Deed of Trust on this Lot subject to such lien, there shall be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments accruing and arising after the date of any such sale, whether regular or special, which lien shall have the same effect and be enforced in the same manner as so provided herein. Each Owner of a Lot does hereby waive to the extent of the claims of the Association or its assigns for said assessment or lien, as hereinabove provided, the benefit of any homestead or exemption law or laws of the State of California in effect at the time said assessment is due or lien imposed. No amendment to this Section shall affect the rights of the holder of any such Mortgage or Deed of Trust recorded prior to the recordation of such amendment who does not join in the execution and recordation thereof.

Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice.

Upon request of any Owner, the Association will furnish at a reasonable fee, not to exceed Fifteen (\$15.00) Dollars, for the benefit of any prospective purchaser or present or prospective encumbrances of such Lot, a statement showing all amounts then due which are secured by such lien.

Section 10. Subordination of Assessment Liens. If any Lot subject to a monetary lien created by this Declaration shall be subject to the lien of a First Mortgage or Deed of Trust, (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of the Mortgage or Deed of Trust; and (2) the foreclosure of the lien of the Mortgage or Deed of Trust or the acceptance of a Deed in lieu of the foreclosure by the Mortgage shall not operate to affect or impair the lien hereof except that the lien hereof for said charges as shall have accrued up to the foreclosure or the acceptance of the Deed in lieu of foreclosure shall be subordinate to the lien of the Mortgage or Deed of Trust, with the

foreclosure-purchaser or Deed-in-Lieu-Grantee taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure or Deed given in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or Deed given in lieu of foreclosure.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and lien created herein: (a) all properties subject to any assessment or other interest dedicated and accepted by the local public authority and devoted to public use; and (b) all Common Properties as defined in Article I, Section 1, hereof.

ARTICLE V

PARTY WALLS

The rights and duties of the Owners of Lots with respect to party walls shall be governed by the following:

Section 1. General Rules of Law to Apply. Each wall which is constructed as a part of the original construction on The Properties and any part of which is placed on the dividing line between separate Lots of the various tracts in said Properties shall constitute a party wall, and with respect to such wall, each of the adjoining Owners shall assume the burdens, and be subject to an assessment for that portion of a party wall on his land, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

Section 2. Sharing of Repair and Maintenance. In the event any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the adjoining Owner.

Section 3. Destruction by Fire or Other Casualty. In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.

Section 4. Other Changes. In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his residence in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

Section 5. Dispute. In the event of a dispute between Owners with respect to the

repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute and make a Special Assessment against any or all of the Owners involved, which shall constitute an assessment within the meaning of Article IV hereof.

ARTICLE VI

UTILITIES

The rights and duties of the Owners of Lots within The Properties with respect to sanitary sewer and water, electricity, gas and telephone, shall be governed by the following:

- (a) Wherever sanitary sewer house connections and/or water house connections or electricity, gas or telephone lines are installed within The Properties, which connections or any portion hereof lie in or upon Lots owned by others than the Owner of a Lot served by said connections, the Owners of any Lot served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon Lots or to have the utility companies enter upon the Lots within The Properties in or upon which said connections, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below;
- (b) Wherever sanitary sewer house connections and/or water house connections or electricity, gas, or telephone lines are installed within The Properties, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Lot; and
- (c) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute and make a Special Assessment against any or all of the Owners involved, which shall constitute an assessment within the meaning of Article IV hereof.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

No exterior additions or alterations to any building situated upon The Properties nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to

harmony of external design and location in relation to surrounding structures and topography by an architectural committee appointed by Declarant, which shall remain in office until five (5) years from the date of the recordation of this Declaration, at which time the committee shall be composed of the Board of Directors of the Association or by three (3) or more representatives appointed by the Board. In the event said committee, or its designated representatives, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Neither the members of such committee nor its designated representatives shall be entitled to compensation for services performed pursuant to this Article.

ARTICLE VIII

MISCELLANEOUS COVENANTS

In addition to all other covenants contained herein, the use of The Properties and each Lot therein is subject to the following:

Section 1.

(a) None of the Lots shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any such Lot other than a row or town house used as a single-family dwelling, and no such building shall exceed the height above ground level specified in the original plans and specifications (on file with the FHA or VA, as the case may be) for the improvements to be erected on each Lot; and

(b) No Owner shall park his automobile or vehicle or permit any guest to park his automobile in any space but the spaces assigned to the Owners or those spaces set aside by the Association for guest parking.

Section 2. No part of The Properties shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, civic, manufacturing, mercantile, storing, vending or other such non-residential purposes.

Section 3. No sign or billboard of any kind shall be displayed to the public view on any portion of The Properties or any Lot, except one sign for each building site, or not more than eighteen (18) inches by twenty-four (24) inches, advertising the property for sale or rent, or except signs used by Declarant, its successors or assigns, to advertise the property during the construction and sales period.

Section 4. No noxious or offensive activity shall be carried on upon any Lot or any part of The Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 5. No structure of a temporary character, trailer, basement, tent, shack, garage,

barn, or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently. No trailer, camper, boat or similar equipment shall be permitted to remain upon any property within The Properties, unless placed or maintained within an enclosed garage or carport.

Section 6. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on the Lot provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept on The Properties which result in an annoyance or are obnoxious to residents in the vicinity, and in any event, any Lot Owner shall be absolutely liable to each and all remaining Owners, their families, guests and invitees, and to the Association, for any and all damage to person or property caused by any pets brought upon or kept upon the Lots or the Common Properties by any Lot Owner or by members of his family, guests or invitees.

Section 7. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted upon the surface of any Lot or within five hundred (500) feet below the surface of The Properties. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 8. No fences, ornamental screens, awnings, screen doors, sunshades, walls or hedges shall be erected or permitted upon The Properties, except such as are installed in accordance with the initial construction of the buildings and improvements or as approved by the Architectural Committee. No building, including outbuildings, patios, fences and porches, shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the exact location of the structure or improvements have been approved in writing by the Architectural Committee as to quality of workmanship and materials, harmony of external design with existing structure or structures and as to location. The exterior color scheme of any building shall be subject to the prior approval of the Architectural Committee. The prohibitions set forth herein shall not apply to initial construction of the buildings and improvements by the Declarant.

Section 9. All rubbish, trash and garbage shall be regularly removed from The Properties and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage areas and machinery and equipment shall be prohibited upon any Lot, unless [*unreadable*] view of adjoining Lots and streets by a fence or appropriate screen approved by the Architectural Committee.

Section 10. Each Owner of a Lot shall pay any real and personal property taxes or charges assessed against his respective Lot, and the utility charges for said Lot, all costs of maintaining said Lot and building except for the exterior thereof.

Section 11. The respective Lots shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants of the Lot are provided customary hotel services, such as,

room service for food and beverage, mail service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the Owners of the respective Lots shall have the absolute right to lease same provided that said lease is made subject to the Covenants and Restrictions, conditions and limitations and uses contained in this Declaration, and further subject to the Articles of Incorporation and By-Laws of the Association.

Section 12. Each Owner of a Lot shall maintain the improvements thereon (except the exterior walls and roof thereof) so that the same shall at all time remain in the same condition as such improvements were in at the time that the Owner occupied the same, reasonable wear and tear excepted. In the event any Lot Owner fails to maintain said improvements in such a manner, the Association may maintain the same as hereinbefore provided.

Section 13. The Association shall:

(a) Make no rules and regulations which will prohibit the use of the recreational facilities in the Common Properties by any child of any Owner or who resides with any Owner on any Lot;

(b) Not permit any alcoholic beverages to be served or consumed in or about the Common Properties;

(c) Provide no dining facilities (other than those for light refreshments to be prepared by persons other than those in the employ or under the management of the Association; and

(d) Provide no dancing facilities.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Amendments. This Declaration of Covenants and Restrictions may be amended only by an affirmative vote of not less than Seventy-Five (75%) per cent of the Owners, and, further, this amendment provision shall not be amended to allow amendments by vote of less than Seventy-Five (75%) per cent of the Owners.

Section 2. Term. The Covenant and Restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the CYPRESS OWNERS ASSOCIATION, or the Owner and of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to change said Covenants and Restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change.

Section 3. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to recover damages and against the land to enforce any lien created by these Covenants; and failure by the CYPRESS HOME OWNERS 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, nor shall any violation of such Covenants or Restrictions impair or invalidate the lien of any first Mortgage or Deed of Trust.

Section 4. Severability. Invalidation of any one of these Covenants or Restrictions by judgment or court order shall be in no wise affect any other provisions which shall remain in full force and effect.

Section 5. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a row or town house residential community and for the maintenance of community recreational facilities and community areas. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

EXECUTED THE DAY AND YEAR first above indicated by:

MOON HOMES, INC.,
a California Corporation

EXHIBIT 'A'

LEGAL DESCRIPTION OF PROPERTIES TO BE ANNEXED BY DIRECTORS' ACTION:

Tract 3742 in the City of Cypress, County of Orange, State of California, as per map recorded in Book 147, Pages 48 to 50, inclusive of Miscellaneous Maps, in the Office of the County Recorder of said County.

EXCEPTING therefrom all of Tract 5685 as per map recorded in Book 208, Pages 23 to 24, inclusive of Miscellaneous Maps, in the Office of the County Recorder of said County.