

Prepared by and returned to:

Becker & Poliakoff, P.A.  
Yeline Goin, Esquire  
4001 Tamiami Trail North, Suite 410  
Naples, FL 34103

**NOTICE OF PRESERVATION OF COVENANTS AND RESTRICTIONS UNDER  
MARKETABLE RECORD TITLE ACT**

Pursuant to Chapter 712, Florida Statutes, the undersigned Homeowners' Association files this Notice and in support thereof states:

1. The name of the entity filing this Notice is **Grasmere Association, Inc.** (the "Association"), a Florida corporation, not for profit, whose mailing address is **98 Wyndemere Way, Naples, Florida 34105**. The Articles of Incorporation were originally filed in the office of the Secretary of State on the 17<sup>th</sup> day of October 1988. The Association has been organized for the purpose of operating and administering the community known as **Grasmere**, pursuant to the Declaration of Covenants, Restrictions and Easements which were filed of record on October 24, 1988, at O.R. Book 1389, Page 1447 *et seq.*, of the Public Records of Collier County, Florida, and which have been amended from time to time.

2. The Association has sent a Statement of Marketable Title Action in the form set forth in Section 712.06(1)(b), Florida Statutes, to all members of the Association and attaches hereto an Affidavit executed by a member of the Board of Directors of the Association affirming that the Board of Directors caused the Statement of Marketable Title Action to be mailed to all members of the Association and further attaches the Statement of Marketable Title Action which was mailed to all members of the Association as **composite Exhibit A**.

3. The lands affected by this Notice are depicted and legally described as follows:

- **Grasmere at Wyndemere, Phase I, as described in Plat Book 15, Page 22 *et seq.*, of the Public Records of Collier County, Florida, attached hereto as Exhibit B-1.**

Page 1 of 3

- Grasmere at Wyndemere, Phase II, as described in Plat Book 16, Page 20 *et seq.*, of the Public Records of Collier County, Florida, attached hereto as **Exhibit B-2**.

4. The real property interest claimed under this Notice is the right to preserve for thirty (30) years from the date of this filing those certain covenants, restrictions and agreements described below:

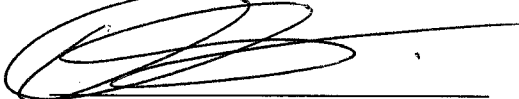
(a) Declaration of Covenants, Restrictions and Easements recorded on October 24, 1988, at O.R. Book 1389, Page 1447 *et seq.*, of the Public Records of Collier County, Florida, attached as **Exhibit C**, as amended and supplemented from time to time in accordance with the terms, provisions and conditions thereof, including but not limited to:

- Supplemental Declaration Submitting Grasmere at Wyndemere at Wyndemere, Phase II to the Declaration of Covenants, Restrictions and Easements recorded at O.R. Book 1474, Page 1172 *et seq.*, of the Public Records of Collier County, Florida;

- Amended and Restated Declaration of Covenants, Restrictions and Easements, Amended and Restated Articles of Incorporation and Amended and Restated Bylaws recorded at O.R. Book 2264, Page 583 *et seq.*, of the Public Records of Collier County, Florida;

5. The preservation of the Declaration of Covenants, Restrictions and Easements, described above, was approved by at least two-thirds of the members of the Board of Directors of the Association, for which a notice of the meeting, stating the time and place and containing the Statement of Marketable Title Action described in the Statute, was mailed or hand delivered to members of the Association not less than 7 days prior to the meetings.

WITNESSES (TWO)



Witness Signature

  
Printed Name

Grasmere Association, Inc.

BY:

  
Print Name: Richard McKay

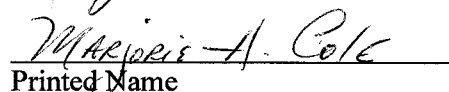
Title: President

Date:

3/9/18



Witness Signature

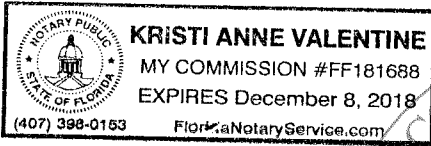
  
Printed Name

(CORPORATE SEAL)

STATE OF FLORIDA :

COUNTY OF COLLIER :

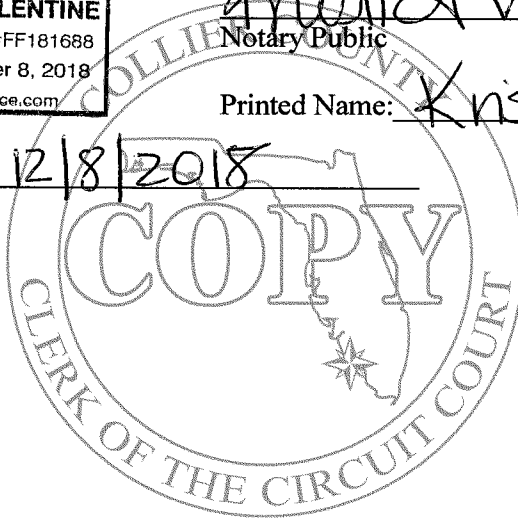
Sworn to (or affirmed) and subscribed before me this 9th day of March 2018, by Richard McKay, as President of **Grasmere Association, Inc.**, a Florida Corporation. He/She is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.



Kristi A. Valentine  
Notary Public

Printed Name: Kristi A. Valentine

My commission expires: 12/8/2018



**AFFIDAVIT OF MAILING OF NOTICE TO ASSOCIATION MEMBERS  
AND MAILING OF STATEMENT OF MARKETABLE TITLE ACTION  
TO ASSOCIATION MEMBERS**

I, the undersigned, Richard McKay for Grasmere Association, Inc. ("Association") whose name appears at the bottom of this affidavit do hereby swear and affirm that the Notice of Special Meeting of Board of Directors for Preservation of Covenants and Restrictions Under Marketable Record Title Act held March 9, 2018, at 2:00 P.M., at Wyndemere Homeowners Association, 98 Wyndemere Way, Naples, Florida 34105, a copy of which is attached hereto, was mailed (or hand-delivered) to each Association Member on February 27, 2018 at the address last furnished to the Association, as such address appears on the books of the Association. The Statement of Marketable Title Action, which was considered and approved at the Special Meeting of the Board of Directors, was included in the above-referenced Notice.

Sworn to this 27 day of February 2018.

Grasmere Association, Inc.

BY: [Signature]  
Print Name: RICHARD MCKAY  
Title: PRES GRASMERE

STATE OF FLORIDA :

COUNTY OF COLLIER :

Sworn to (or affirmed) and subscribed before me this 27 day of February 2018, by Richard McKay, as President of Grasmere Association, Inc., a Florida Corporation. He/She is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.



Kristi A. Valentine  
Notary Public

Printed Name: Kristi A. Valentine

My commission expires: 12/8/2018

**NOTICE OF SPECIAL MEETING OF BOARD OF DIRECTORS  
FOR PRESERVATION OF COVENANTS AND RESTRICTIONS UNDER  
MARKETABLE RECORD TITLE ACT**

TO ALL ASSOCIATION MEMBERS:

The Board of Directors of **Grasmere Association, Inc.** will hold a special meeting on March 9, 2018, at 2:00 P.M., at **Wyndemere Homeowners Association, 98 Wyndemere Way, Naples, Florida 34105**. The sole agenda item at the Special Meeting of the Board of Directors will be a vote on preservation of recorded covenants and restrictions in accordance with the Marketable Record Title Act. The following is the Statement of Marketable Title Action that will be considered and adopted by the Board.

**STATEMENT OF  
MARKETABLE TITLE ACTION**

**Grasmere Association, Inc.** (the "Association") has taken action and will be taking further action to ensure that the Declaration of Covenants, Restrictions and Easements for **Grasmere** recorded on October 24, 1988, at O.R. Book 1389, Page 1447 *et seq.*, of the Public Records of Collier County, Florida, as amended and supplemented from time to time, currently burdening the property of each and every member of the Association, retains its status as the source of marketable title with regard to the transfer of a member's residence. To this end, the Association shall cause the notice required by Chapter 712, Florida Statutes, to be recorded in the Public Records of Collier County, Florida. Copies of this notice are available through the Association pursuant to the Association's governing documents regarding official records of the Association and the applicable Statute.

**Grasmere Association, Inc.**

By:   
Richard McKay, President

COUNTY APPROVALS

PLANNING AND ZONING DEPARTMENT  
APPROVED: [Signature]  
DATE: [Date]

SURVEYOR'S CERTIFICATE

I, [Surveyor Name], being duly sworn, depose and say that the foregoing is a true and correct copy of the original plat as shown to me by [Name], who claims to be the owner of the land described in the plat, and that the same is a true and correct copy of the original plat as shown to me by [Name], who claims to be the owner of the land described in the plat.

FILING RECORD

FILED IN [Book Number] PAGE [Page Number]

TITLE CERTIFICATION

SEARCHED [ ] INDEXED [ ] SERIALIZED [ ] FILED [ ]

GENERAL NOTES

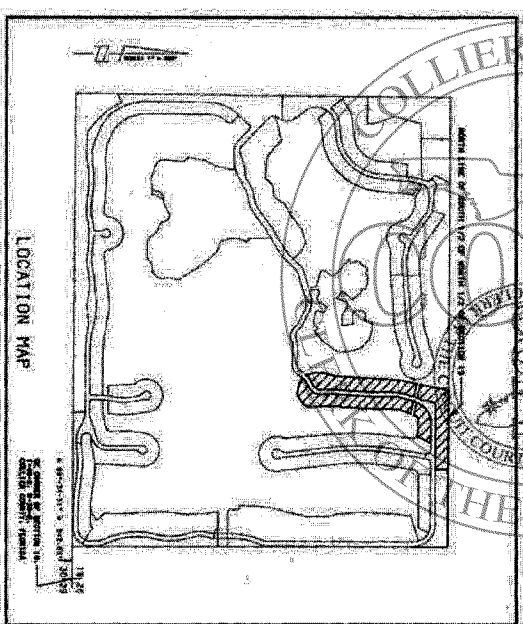
1. THIS PLAT IS SUBJECT TO THE EASEMENTS AND RIGHTS OF WAY SHOWN ON THE PLAT.

# GRASMERE at WYNDEMERE, PHASE I

A SUBDIVISION OF ALL OF TRACTS 2 & 3 AND PART OF TRACT 6 OF "REPLAT OF PART OF WYNDEMERE TRACT MAP" PLAN BOOK 14, PAGES 107-112, COLLIER COUNTY, FLORIDA

DESCRIPTION OF LAND PLATTED

THE LAND HEREIN DESCRIBED IS THAT PART OF TRACTS 2 & 3 AND PART OF TRACT 6 OF "REPLAT OF PART OF WYNDEMERE TRACT MAP" PLAN BOOK 14, PAGES 107-112, COLLIER COUNTY, FLORIDA, AS SHOWN ON THE PLAT HEREOF.



DEDICATION

THE LAND HEREIN DESCRIBED IS HEREBY DEDICATED TO THE PUBLIC USE AS A PARK AND RECREATION AREA.

CORPORATE ACKNOWLEDGEMENTS

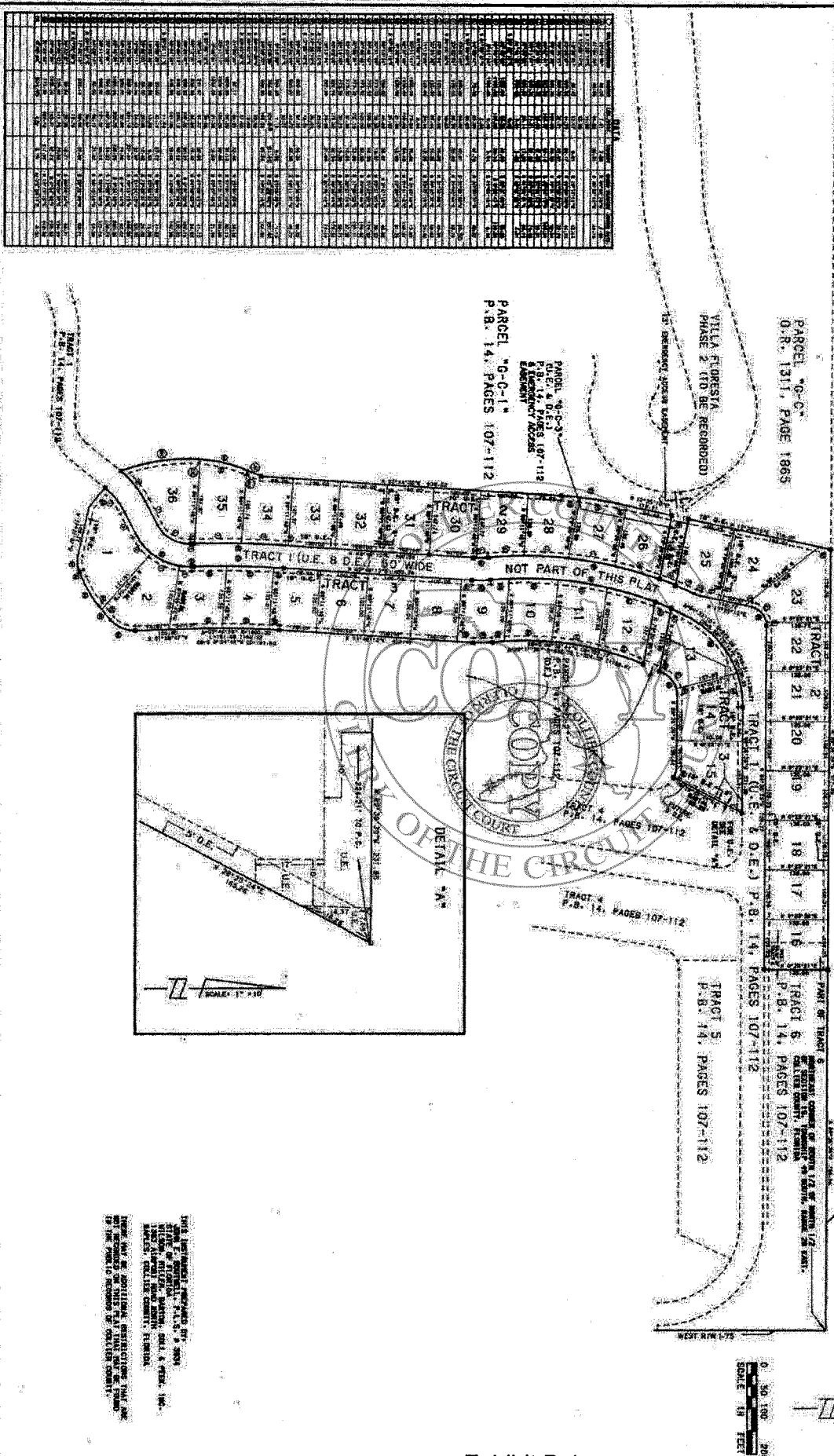
I, [Name], being duly sworn, depose and say that I am the duly authorized officer of the corporation named above and that the foregoing is a true and correct copy of the original plat as shown to me by [Name], who claims to be the owner of the land described in the plat.

MORTGAGEE'S CONSENT

I, [Name], being duly sworn, depose and say that I am the duly authorized officer of the mortgagee named above and that the foregoing is a true and correct copy of the original plat as shown to me by [Name], who claims to be the owner of the land described in the plat.

# "GRASMERE at WYNDEMERE, PHASE I"

A SUBDIVISION OF ALL OF TRACTS 2 & 3 AND PART OF TRACT 6 OF "REPLAT OF PART OF WYNDEMERE TRACT MAP" PLAT BOOK 14, PAGES 107-112, COLLIER COUNTY, FLORIDA



TRACT	PARCEL	AREA	REMARKS					
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					TRACT 6	1	...	...
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PLAT BOOK 14 PAGE 23  
SHEET 2 OF 2

COUNTY APPROVALS

PLAT BOOK 16 OF PAGE 20 SHEET 1 OF 2

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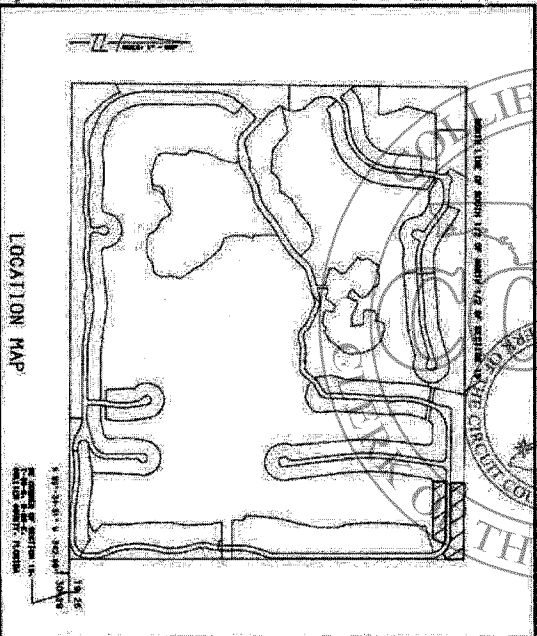
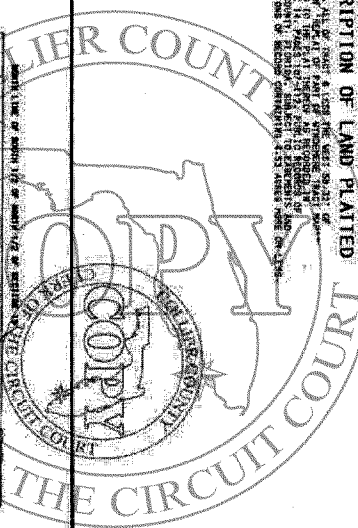
PLAT BOOK 16 OF PAGE 20 SHEET 1 OF 2

PLAT BOOK 16 OF PAGE 20 SHEET 1 OF 2

GRASMERE at WYNDEMERE PHASE II

A SUBDIVISION OF ALL OF TRACT 5 AND PART OF TRACT 6 OF REPEAT OF REPEAT OF PART OF WYNDEMERE TRACT MAP PLAT BOOK 14, PAGES 107-112, COLLIER COUNTY, FLORIDA

DESCRIPTION OF LAND PLATTED



NOTICE: THESE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

THIS INSTRUMENT WAS PREPARED BY WILLIAM H. MILLER, A PROFESSIONAL REGISTERED ENGINEER AND LAND SURVEYOR, 1383 AIRPORT ROAD NORTH, MAPLES, COLLIER COUNTY, FLORIDA.

GENERAL NOTES

GENERAL NOTES regarding the plat and survey details.

TITLE CERTIFICATION

TITLE CERTIFICATION text regarding title search and recording.

FILING RECORD

FILING RECORD text regarding recording details.

DEDICATION

DEDICATION text regarding the dedication of the land.

ACKNOWLEDGEMENT AS TO MORTGAGEE

ACKNOWLEDGEMENT AS TO MORTGAGEE text.

CORPORATE ACKNOWLEDGEMENT

CORPORATE ACKNOWLEDGEMENT text.

MORTGAGEE'S CONSENT

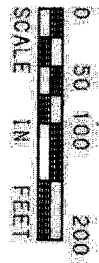
MORTGAGEE'S CONSENT text.



# "GRASMERE at WYNDEMERE, PHASE II"

A SUBDIVISION OF TRACT 5 AND PART OF TRACT 6 OF "REPLAT OF WYNDEMERE TRACT MAP" PLAT BOOK 14, PAGES 107-112, COLLIER COUNTY, FLORIDA

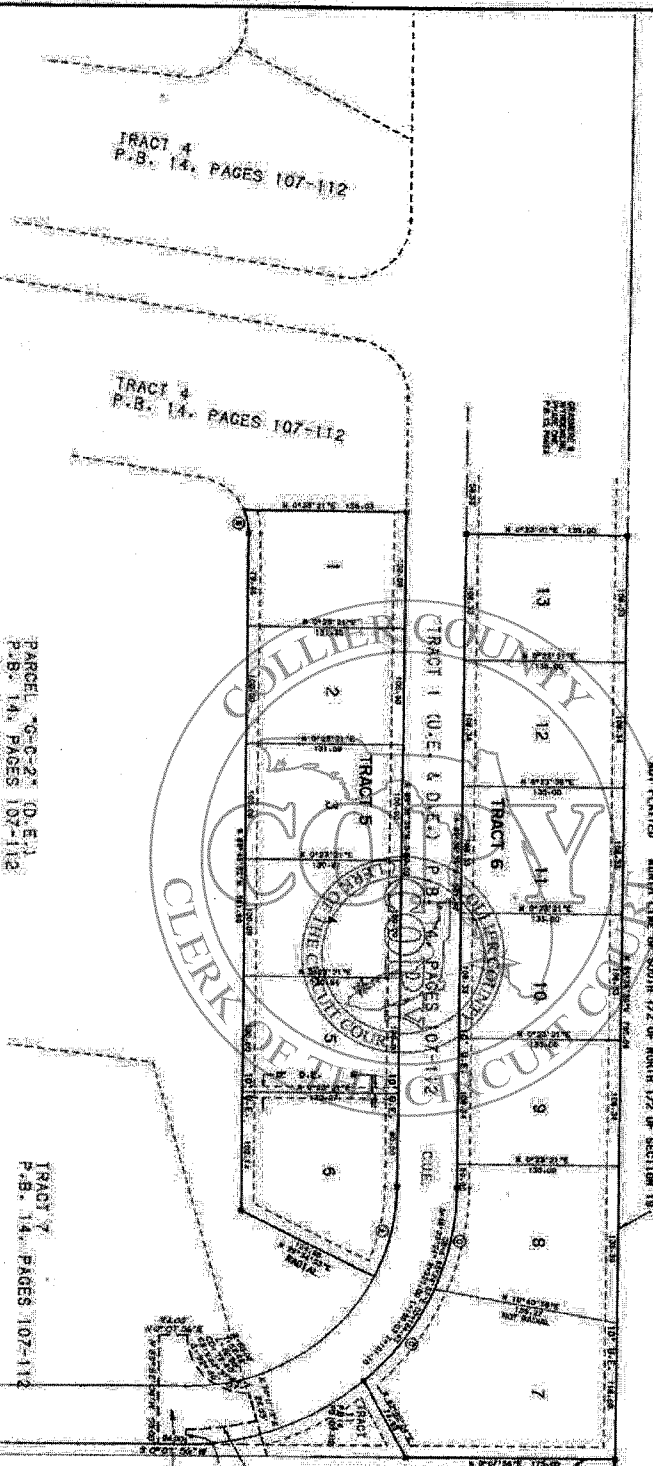
PLAT BOOK 14 PAGE 21  
SHEET 2 OF 2



NOT PLATTED NORTH LINE OF SOUTH 1/2 OF NORTH 1/2 OF SECTION 16

THESE INSTRUMENTS HAVE BEEN FILED FOR RECORD IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AND HAVE BEEN ASSIGNED TO THE PUBLIC RECORDS BY THE CLERK OF SAID COUNTY.

PROBATIONARY ASSURANCE MAY BE WITHDRAWN AT ANY TIME BY THE CLERK OF COLLIER COUNTY, FLORIDA.



**DATA**

NO.	DESCRIPTION	AMOUNT	DATE	REMARKS
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DECLARATION OF COVENANTS, RESTRICTIONS

AND EASEMENTS

FOR

GRASMERE

REC. 105.01  
PRM 13.50  
DOC \_\_\_\_\_  
INT \_\_\_\_\_  
IND \_\_\_\_\_

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR GRASMERE ("Grasmere Declaration"), is made this 18 day of OCT, 1988, by WYNDEMERE FARMS DEVELOPMENT INC., A Florida Corporation, hereinafter referred to as "Developer," and joined in by WYNDEMERE HOMEOWNERS ASSOCIATION, INC., A Florida Corporation Not For Profit.

WHEREAS, Developer is the owner of the real property more particularly described on Exhibit A, attached hereto and made a part hereof (hereinafter referred to as the "Land"); and

WHEREAS, Developer intends to develop or has developed or has caused to be developed on portions of said Land a planned single family residential community known as "GRASMERE" all in accordance with applicable zoning ordinances; and

WHEREAS, Developer desires to provide for preservation of the values and amenities of the Land and to subject the Land to the land use covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities established as aforesaid to create a corporation known as THE GRASMERE ASSOCIATION, INC., to which there has been and will be delegated and assigned certain powers and duties of ownership, operation, administration, maintenance and repair of the Land, the enforcement of the covenants, restrictions, easements, reservations, regulations, burdens and liens contained herein and the collection and disbursement of the assessments and charges as hereinafter more particularly set forth; and

WHEREAS, the Land is subject to that certain "Master Declaration" (as hereinafter defined); and

WHEREAS, the Master Association has been established pursuant to the Master Declaration to enforce the provisions thereof; and

WHEREAS, the Master Association desires to join in and consent to this Grasmere Declaration to acknowledge its consent and joinder in the same;

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, Developer hereby declares that the Land shall be owned, held, used, transferred, sold, conveyed, devised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words and phrases when used in this Grasmere Declaration shall have the following meanings:

1.1 ARC means the Architectural Review Committee as defined the Article VIII of the Master Declaration.

MALONEY & CRANE, CHARTERED

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PAGE

1.2 **ARTICLES** means the Articles of Incorporation of the Grasmere Association, Inc.

1.3 **ASSOCIATION** means the Grasmere Association, Inc., a Florida Corporation Not For Profit, which is hereby designated as a "Section Association" as such term is defined in the Master Declaration.

1.4 **ASSOCIATION EXPENSES** means the expenses for which the Owners are or may be liable to the Association in accordance with the method of allocation thereof described in Article V hereof and includes the following:

1.4.1 **Common Area Expenses** which means and includes expenses incurred or to be incurred by the Association with regard to ownership, operation, administration, maintenance and repair of the Common Areas or any part thereof, and all costs for insurance and administrative expenses of the Association.

1.4.2 **Grasmere Lot Expenses** which means and includes those expenses incurred or to be incurred by the Association with regard to the operation, administration, maintenance and repair of the lots upon which a single family residence is located. This expense will include ordinary lawn maintenance, but may also include shrubbery maintenance, etc., at the discretion of the Board of Directors of the Association.

1.5 **BOARD** means the architectural review board for Grasmere established in accordance with Paragraph 2.2 of this Grasmere Declaration.

1.6 **BOARD OF DIRECTORS** means the Board of Directors of the Association.

1.7 **BYLAWS** means the Bylaws of the Association.

1.8 **COMMON AREAS** means the portions of the land not included within the Lots nor dedicated to a party other than the Association. For maintenance purposes, Common Areas also means land not included within the lots, if the Association has maintenance responsibilities pursuant to agreements entered into by the Association.

1.9 **COUNTY** means Collier County, Florida.

1.10 **DEVELOPER** means Wyndemere Farms Development, Inc., A Florida Corporation, owner of the land, their successors and assigns; provided, however, that an Owner shall not, solely by the purchase of a Grasmere lot, be deemed a successor or assign of Developer or of the rights of the Developer under this Declaration unless such Owner is specifically so designated as a successor or assignee of such rights in the respective instrument of conveyance or any other instrument executed by the Developer.

1.11 **DOCUMENTS** means in the aggregate this Declaration and any and all Supplemental Declarations, the Articles, the Bylaws, the Master Declaration and all supplements thereto, the Articles of Incorporation and Bylaws of the Master Association, and the Rules and Regulations of the Association and the Master Association and all of the instruments and documents referred to or incorporated therein or attached thereto as the same may be amended from time to time.

1.12 **GRASMERE** means the residential community planned as a stage in the development of Wyndemere, which is to be developed upon the Land and all improvements now or hereafter located thereon and includes the Land and all improvements on any Land submitted to the provisions of this Declaration, and any lands added hereafter pursuant to the right to add additional lands.

1.13 **GRASMERE DECLARATION** means this instrument and any amendments, supplements or modifications hereto.

1.14 **INSTITUTIONAL MORTGAGEE** means any lending institution or real estate investment trust having a first mortgage lien upon a Lot and includes any

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PAGE

insurance company doing business in Florida and approved by the Commissioner of Insurance of the State of Florida; a Federal or State Savings and Loan Association, Building and Loan Association or bank doing business in the State of Florida and approved by the office of the Comptroller, Division of Banking of the State of Florida; a mortgage banking company licensed in the State of Florida; and "Secondary Mortgage Market Institution" which includes the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; and any mortgagee which has loaned money to Developer secured by a mortgage encumbering any portion of the Land.

1.15 **LAND** means the land more particularly described on Exhibit A, which is committed by this Grasmere Declaration to the provisions hereof and any additional real estate which may hereafter be declared to be subject to this Declaration.

1.16 **LOT** means a lot as set out in the Plat of Grasmere as recorded in Plat Book 15, pages 22 and 23, Public Records of Collier County, Florida, and the lots set out in the Plat of any other property made subject to these Covenants.

1.17 **MASTER ASSOCIATION** means Wyndemere Homeowners Association, Inc.

1.18 **MASTER DECLARATION** means the Declaration of Covenants, Conditions and Restrictions of Wyndemere recorded at Official Records Book 916, page 1080, et. seq. of the Public Records of the County and any amendments, supplements and modifications thereto.

1.19 **OWNER** means the owner or owners of the fee title to a Lot located within the property identified as the Land.

1.20 **SINGLE FAMILY OCCUPANCY**. Single Family Occupancy shall mean and refer to occupancy by a family unit consisting of not more than five adults members.

1.21 **SUPPLEMENTAL DECLARATION** means a Supplemental Declaration of Covenants, Conditions, and Restrictions recorded amongst the Public Records of Collier County by Developer submitting all or a portion of additional land to the terms and provisions of this Declaration.

1.22 **WYNDEMERE** means a multi-staged, residential golf course community planned and being developed upon the real property described in the Master Declaration. Such real property includes various geographical areas constituting stages in the development of Wyndemere.

ARTICLE II  
COVENANTS AND RESTRICTIONS; CONVEYANCE  
TO ASSOCIATION OF COMMON AREAS

Developer does hereby declare that the Land shall be used, transferred, devised, sold, conveyed and occupied subject to and in accordance with the following:

2.1 **LAND USE COVENANTS**

2.1.1 **Land.** The Land shall be for residential use only. No commercial or business occupations may occur on the Land except for the construction, development, sale and rental of the Land and residential improvements thereon by Developer, subdevelopers and builders.

2.1.2 **Common Areas.** The portions of the Land not included within the Lots nor dedicated to a party other than the Association shall be used and conveyed solely in accordance with this Declaration.

2.1.3 **Land Use.** The Common Areas shall be grassed or planted and kept grassed or planted as green open space, or planted with such

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PAGE

other form of ground cover or landscaping as developer or the Board considers consistent with the plan for development and for the beautification of Grassmere.

- 2.1.4 Private Use. The Common Areas hereinafter described are not for the use and enjoyment of the public, but are expressly reserved for the private use and enjoyment of Developer, the Association, Owners and their lessees and their family members, guests and invitees in accordance with this Grassmere Declaration.

## 2.2 RESTRICTIONS ON OCCUPANCY AND USE OF THE LAND

In consideration of the benefits hereinafter contained and the payment of the Association Expenses referred to herein, Developer does hereby declare and the Land, including but not limited to the Lots and residential improvements, shall at all times be used, constructed, occupied and held subject to the following:

- 2.2.1 Plans and Specifications and Architectural Review Board. For the purpose of insuring the development of Grassmere as an area of high standards, an architectural review board ("Board") shall be established as follows:

- A) The Board. Initially, the Board shall consist of at least three (3) persons designated by Developer, and Developer shall also retain the power to replace such designees. The members of the Board may be, but need not be, members of the ARC. At such time as Developer no longer owns any property within Wyndemere, or when Developer voluntarily so elects, Developer shall assign to the Association Developer's rights, powers, duties and obligations as to the Board, whereupon the Board of Directors of the Association shall appoint the members of the Board. In the event of the death or resignation of any member of the Board, the Developer or its assignee shall have the full authority to designate a successor. Neither the members of the Board nor its designated representative shall be entitled to any compensation for any services pursuant to this Declaration.
- B) Board Action. A majority of the Board may designate a member of the Board to act for it. Approval or disapproval by a majority of the members of the Board (or by the member designated by the majority of the members) shall constitute the official approval or disapproval of the Board. Any approval or disapproval of the Board shall be subject to review by the ARC ("Appeal"). An Appeal may be made by either the Owner who submitted the initial request for approval to the Board, the Developer or the Association. The request for an Appeal shall be submitted in writing to the ARC within ten (10) days after issuance by the Board of its decision; provided, however, such time period may be extended in the sole discretion of the ARC. Unless extended as herein provided, any decision of the Board shall be final ten (10) days after issuance. Where a decision of the Board is Appealed, the decision of the ARC shall be the final decision on the matter. Any written request for Appeal shall be accompanied by copies of all material submitted to the Board and by the written determination of the Board in reference to the matter. A request for Appeal shall also state the basis on which the person submitting the request for Appeal believes the decision of the Board should be changed.
- C) Requirement of Board Approval. No improvement or structure of any kind, including, without limitation, any building, wall, fence, swimming pool, tennis court, or screened

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PAGE

enclosure, shall be erected, placed or maintained and no addition, alteration, modification or change to any such improvement or structure shall be made without the prior written approval of the Board.

- D) **Method of Obtaining Board Approval.** In order to obtain the approval of the Board, a complete set of plans and specifications for proposed construction and any and all other reasonably requested information and materials related thereto ("Plans") shall be submitted to the Board for its review. The Plans shall include, as appropriate, the proposed location, grade, elevations, shape, dimensions, exterior color plans, landscaping plans, approximate costs, and nature, type and color of materials to be used. The Board may also require the submission of additional information and materials as may be reasonably necessary for the Board to evaluate the proposed construction or alteration. The Board shall evaluate all Plans utilizing standards of the highest level as to the aesthetic quality of materials and workmanship to be used and as to suitability and harmony of location, structure and external design in relation to surrounding topography and structures. Any modification, alteration, or replacement of improvements shall be subject to the provisions hereof if such Lot is within the Land.
- E) **Approval or Disapproval by the Board.** Based upon uniform standards established by the Board, the Board shall have the right to refuse to approve any Plans which, in its sole discretion, do not meet the standards established by the Board or the standards set forth in this Declaration. Any and all approvals or disapprovals of the Board shall be in writing and shall be sent to the respective Owner and the ARC. In the event the Board fails to approve or to disapprove in writing any proposed Plans within thirty (30) days after their submission to the Board, then said Plans shall be deemed to have been approved by the Board and the appropriate written approval delivered forthwith; provided, however, any Owner intending to rely upon the Board's failure to act shall submit notice of such intention in writing to the ARC together with a copy of all materials submitted to the Board in connection with the Owner's application for approval ("Notice"). If, within thirty (30) days of submission of the notice and the Plans to the ARC the ARC issues a written disapproval or if an Owner fails to provide the ARC with Notice, the Plans shall be deemed disapproved notwithstanding anything herein to the contrary.
- F) **Indemnification.** Each and every member of the Board, specifically including but not limited to Developer's designated members, shall be indemnified by the Association and the non-developer Owners against all costs, expenses and liabilities, including counsel fees at all trial and appellate levels, reasonably incurred by or imposed upon him or her in connection with any proceeding, litigation or settlement in which he or she becomes involved by reason of being or having been a member of the Board. The foregoing provisions for indemnification shall apply whether or not he or she is a member of the Board at the time such expenses are incurred. Notwithstanding the above, in instances where a member of the Board admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties, the indemnification provisions of this Declaration shall not apply; otherwise the foregoing rights to indemnification shall be in addition to and not exclusive of



001389  
OR BOOK001452  
PAGE

any and all rights of indemnification to which a member of the Board may be entitled whether by statute or common law.

- G) **Enforcement.** There is specifically reserved unto the Board the right of entry and inspection upon any Lot or other portion of the Land for the purpose of determination by the board whether there exists any construction of any improvement which violates the terms of any approval by the Board, the ARC, or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance make reference. The Board is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party in such litigation shall be entitled to recover all court costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold harmless the Board from all costs, expenses and liabilities, including attorney's fees incurred by virtue of any member of the Board's service as a member of the Board. The Board shall also have the right to go upon any Lot to remove any unapproved improvement or condition, provided such can be done without breaching the peace.
- H) **Development Standards.** The Board shall publish and modify from time to time, design and development standards ("Standards") for Grasmere, including but not limited to standards for the following: i) Architectural design of improvements; ii) fences, walls and similar structures; iii) exterior building materials and colors; iv) exterior landscaping; v) exterior appurtenances relating to utility installation; vi) signs and graphics, mailboxes and exterior lighting; vii) building setbacks, pools and pool decks, side yards and related height bulk and design criteria viii) pedestrian and bicycle ways, sidewalks and pathways; and ix) all buildings, landscaping and improvements on land owned or controlled by the Association. The Standards shall be reasonable and in conformance with the plan of development of Grasmere and Wyndemere. A copy of any Standards promulgated and any modification or amendment thereof shall be available at the Board's office.
- I) **Scope of Review.** The Board shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of the aesthetic consideration and overall benefit or detriment which would result to the immediate vicinity and to Wyndemere and the Land as a whole. The Board shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval of any plans or design be deemed approval of, any design or plan from the standpoint of structural safety or conformance with building or other codes.
- J) **Variance from Standards.** The Board may authorize, subject to the approval of the ARC, in a reasonable manner so as not to destroy the general scheme or plans of the development of Grasmere and of Wyndemere, variances from compliance with the Standards, as the same may be modified or amended by the Board from time to time, when circumstances such as topography, natural obstructions, hardship, aesthetics or

001389  
OR BOOK001453  
PAGE

environmental considerations may require. If any such variances are granted by the Board and approved by the ARC, no violation of the restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provision of this Declaration for any purpose except as to that particular property and particular provision hereof or standards promulgated hereby which are covered by the variance. Such variance shall be evidenced in writing and executed by a member of the Board and the members of the ARC.

**2.2.2 Other Provisions As To Use Of The Land.** The following occupancy and use restrictions shall apply to each Owner and its lessees and their family members, guests and invitees:

- A) **Residential Use.** The Lots and all Lots enlarged, reduced or recreated by the shifting or relocation of property lines are restricted to residential use with each individual unit to be restricted to residence by a single family, their household, servants and guests. A construction shed or trailer may, at the sole discretion of Developer, be placed on a Lot and remain there temporarily during the course of active construction of a residential improvement. No other temporary buildings, including, but not limited to tents, trailers, tanks and shacks, may be placed on a Lot without the written consent of the Association.
- B) **No Trade, Business, Profession, Etc.** No trade, business, profession, or any other type of commercial activity shall be carried on upon the Land. Notwithstanding the foregoing, Developer shall have the right to carry on construction activity and to transact on the Land any business necessary to consummate the sale, lease or encumbrance of Lots and residential improvements in Grassere or other developments within Wyndemere, including but not limited to the right to maintain models and sales offices and have signs and employees in the offices. Developer may, from time to time, assign this commercial usage right (including the right to carry on construction activity) to such other persons or entities as Developer may choose while at the same time retaining such right for itself. The prohibition against commercial activity shall not prohibit the creation, within Wyndemere, and at the sole discretion of the Developer or of the Master Association, of a storage facility for "Prohibited Vehicles" (as hereinafter defined). Notwithstanding anything to the contrary hereof contained, the provisions of this Paragraph may not be amended without Developer's prior written consent for so long as Developer owns at least one (1) Lot within Wyndemere.
- C) **Nuisance.** No Owner shall cause or permit to come from his residence any unreasonable noises or obnoxious odors or commit or permit to be carried on in his residence or elsewhere on the Land any nuisance or any immoral or illegal activities. No owner shall maintain a dog or cat on his lot unless such pet is maintained inside the Owner's residence, or when outside, on a leash.
- D) **Litter and Garbage Collection.** No Owner shall sweep or throw from his residence any dirt or other materials or litter in any way on to the Land. No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any part of the Land except in closed containers, dumpsters or other sanitary



001389

OR BOOK

001454

PAGE

garbage collection facilities, for pick-up in accordance with any rules and regulations promulgated by the Association.

- E) **Removal of Sod and Shrubbery; Alteration of Drainage, etc.** Except for Developer's acts and activities in the development of Grasmere and Wyndemere, no sod, topsoil, muck, trees or shrubbery shall be removed from the Land and no change in the condition of the soil or the level of any Land shall be made which results in any permanent change in the flow or drainage of surface water of or within Grasmere or which detrimentally affects adjoining Lots or other portions of Wyndemere, nor shall any tree or shrub, the trunk of which exceeds two inches (2") in diameter be cut down, destroyed or removed from a Lot without the prior express consent of the Association. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot unless approved by the Association. No weeds, underbrush or other unalightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and each Owner shall maintain his Lot in accordance with a landscaping plan as approved by the Association.
- F) **Signs.** No sign of any kind shall be displayed to the public view or any view on any of the Lots or residences within Grasmere, however the Association shall have the right to permit "For Sale" signs and to regulate the size and type of such "For Sale" signs, if it chooses to do so. Notwithstanding anything herein to the contrary, however, this provision shall not be a restriction upon Developer or builders creating signs during the initial construction and sale period.
- G) **Dikes, Dams or Canal Walls.** No dikes, dams or canal walls shall be erected or constructed except pursuant to a plan approved by the Association and appropriate governmental officials.
- H) **Docks, Boathouses, Waterfront Construction, and Shore Contours.** No docks, bulkheads, moorings, pilings, boathouses, or boat shelters of any kind or any construction shall be erected on or over waterways of and within Grasmere without the consent of the Association. The area, if any, between the rear lot line of the Lot and the water edge of any lake or other body of water within the Land shall be landscaped and/or sodded and maintained by the owner of said Lot as if said area were a portion of the Lot owned by said Owner. No person or persons whomsoever shall be permitted upon that portion of the Land lying between the rear lot line and the Lot and the water's edge of any lake or other water body within the Land, except:
- i) The Owner from time to time of said adjacent Lot, his family, guests and invitees, or
  - ii) An employee or contractor of the Association for the sole and exclusive purpose of performing maintenance upon and within said lake or other water body.
- I) **Boats.** No boats shall be used upon any portion of the Land which is designed for water retention. The administration, management, operation and maintenance of the water retention areas and drainage system shall be the responsibility of Wyndemere Country Club, Inc. (The Club).

001389  
OR BOOK001455  
PAGE

- J) **Water Supply.** No individual water supply system for drinking purposes or household use shall be permitted on any Lot. This provision, however, shall not preclude the installation of any water supply system for irrigation or sprinkler purposes; provided, however, that such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Association and the applicable governmental authorities. Where a water supply system for irrigation or sprinkler purpose is installed by the Master Association, the Association, or Developer, and the use of such system will serve a conservation function, then Developer, the Association or the Master Association, as the case may be, may require that an Owner use such water and such a requirement may be promulgated by the Association as part of the Standards.
- K) **Sewage Disposal.** No individual sewage disposal system shall be permitted on any Lot.
- L) **Sidewalks.** Each Owner shall be responsible for keeping the sidewalk and bike paths abutting his Lot, if any, free from any obstruction and clutter including, but not limited to, bicycles, grass clippings and garbage.
- M) **Lighting.** No lighting shall be permitted which alters the residential character of Wyndemere; provided, however, nothing herein contained shall be deemed to prohibit the maintenance upon the roadways within Wyndemere of lighting as installed by the Master Association, the Developer or the Association for the purposes of lighting the roadways, sidewalks and pathways in Wyndemere and Grasmere. No lighting of outdoor activity areas upon a Lot shall be permitted unless approved by the Association.
- N) **Vehicular Parking.**
- i) Except as provided in the next sub-paragraph hereof, no person, firm or corporation shall park or cause to be parked on the Land, including but not limited to their Lot or in the streets, alleys or parkways abutting their Lot, any recreational vehicle, house trailer, boat, boat trailer or truck (including either tractor or trailer or both) which truck has a carrying capacity of over 3/4 ton ("prohibited vehicles"), for a period exceeding four hours.
  - ii) Any recreational vehicle, boat, boat trailer, panel truck, pick-up truck which has a carrying capacity not over 3/4 ton shall be permitted but shall be kept in a closed garage or screened from view from all other portions of Wyndemere by a fence or landscaping approved by the Association. Trucks having a carrying capacity of over 3/4 ton may be kept in a closed garage.
  - iii) No maintenance or repair shall be done upon or to any vehicle (including, but not limited to, four wheel passenger automobiles) except within a closed garage and totally isolated from public view.
  - iv) Nothing herein shall prohibit the establishment by Developer (or, after the Conveyance Date, by the Association or the Master Association) of an area within Wyndemere designated and available for the storage of prohibited vehicles if the establishment of such storage facility is otherwise permitted by applicable government regulation and approved by the Association and the ARC.

001389  
OR BOOK001456  
PAGE

- 2.3.5 **Radio Transmission Equipment.** No ham radios or radio transmission equipment shall be operated or permitted to be operated in the Land without the prior written consent of the Association.
- 2.3.6 **Antennae and Aerials.** Except as may be permitted by the Association or by Developer, no antennae or aerials shall be placed upon the Land.
- 2.3.7 **Casualty Destruction to Improvements.** In the event a Residential Improvement is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged improvement upon obtaining Association approval if required hereunder and shall diligently continue such rebuilding or repairing activities to completion or (upon a determination by the Owner thereof that the improvements will not be repaired or replaced) promptly clear damaged improvements and grass over and landscape the Lot in a sightly manner. Notwithstanding the foregoing, in the event the Owner rebuilds or repairs his damaged residence or improvements without substantial alteration from what was existing prior to the damage or destruction, then the Association's approval shall not be required.
- 2.3.8 **Increase in Insurance Rates.** No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of Grassmere.
- 2.3.9 **Owner Liability.** An Owner shall be liable for the expense of any maintenance, repair or replacement of any common property in Grassmere rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, invitees, agents or lessees, but only to the extent that such expense is not met by proceeds of insurance which may be carried by the Association or the Master Association.
- 2.3.10 **Rules and Regulations.** Each Owner shall be subject to such rules and regulations with respect to Grassmere as the Association determines from time to time to be in the best interest of Grassmere and the Owners, provided that no rules and regulations promulgated by the Association shall conflict with the provisions of the Master Declaration.
- 2.4 **NON-SEVERABLE INTERESTS OF OWNERS.** The ownership of a Lot, the residence constructed thereon, all easement rights appurtenant thereto as provided for in this Declaration or any Supplemental Section Declaration including, but not limited to, utility and governmental services easements for encroachments; membership in the Association; and all other appurtenances thereto under the Grassmere Documents (hereinafter collectively referred to as the "Interests"); shall not be severable, and an Owner shall not and may not sell, convey, demise, lease, assign, pledge or otherwise transfer or encumber any of his right, title or interest in and to his respective Interests or any of such Interests unless such sale, conveyance, demise, lease, assignment, pledge or other form of transfer or encumbrance includes all of his right, title and interest in and to the Interests including, but not limited to, the residence and the Lot upon which it is constructed.
- 2.5 **RIGHTS OF DEVELOPER.** Notwithstanding any provisions in this Grassmere Declaration as to use or otherwise to the contrary, Developer reserves the right to carry on construction, development and sales activities; place equipment, machinery, supplies and signs; construct and maintain models or other structures; and park vehicles of prospective or actual purchasers, lessees or employees and personnel of Developer on any part of the Land owned by Developer or the Association; and exercise the easement rights and all other rights granted Developer under the Documents.

001389  
OR BOOK

001457  
PAGE

**2.6 DISPUTES AS TO USE.** In the event there is any dispute as to whether the use of the Land or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything herein to the contrary, disputes as to the provisions of Paragraph 2.2.1 and 2.2.2 or disputes regarding the decisions of the Board shall be referred to the ARC, and a determination entered by the ARC with respect to such disputes shall be final and binding on all parties concerned therewith and any use by Developer of the Land or any part thereof determined by Developer, in its sole discretion, to be in accordance with Paragraph 2.5 above, regarding rights of Developer, shall be deemed a use of the Land which complies with this Declaration and such determination by Developer shall not be subject to any further determination or review to the contrary by the Board.

**2.7 CONVEYANCE TO ASSOCIATION.** Developer agrees that it shall convey to the Association fee simple title in and to the Common Areas, if any, together with the improvements located thereon upon the "Conveyance Date" which shall be on or before sixty (60) days after the earlier of the following ("Turnover Event"):

- i) The conveyance by Developer of a total of ninety-five percent (95%) of the Lots within Grassmere; or
- ii) Eight years from the date hereof; or
- iii) When Developer shall determine that the development of Grassmere has been completed; or
- iv) At such earlier time as Developer, in its sole discretion, may elect.

All such conveyances to the Association described herein shall be by Special Warranty Deed subject to (1) taxes for the year of conveyance and subsequent years; (2) such facts as an accurate survey would show; (3) the terms and provisions of the Grassmere Documents and the Master Declaration; (4) easements, restrictions, reservations, conditions and limitations of record; (5) applicable zoning ordinances and regulations.

**ARTICLE 191**

**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;  
BOARD OF DIRECTORS**

**3.1 MEMBERSHIP AND VOTING RIGHTS.** Membership in the Association shall be established and terminated as set forth in the Articles. Each Owner shall be entitled to the benefit of and is subject to, the provisions of the Grassmere Documents as same may be amended from time to time. The voting rights of the Members shall be as set forth in the Articles.

**3.2 BOARD OF DIRECTORS.** The Association shall be governed by the Board of Directors which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

**3.3 INITIATION OF LEGAL ACTION.** Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of the Owners of three-quarters (3/4) of all Lots within the Land (at a duly called meeting of the Association at which a quorum is present) prior to the payment of legal or other fees to persons or entities engaged by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- 3.3.1 The collection of assessments and "Maintenance Fees"; or

001389  
OR BOOK

001458  
PAGE

- 3.3.2 The collection of other charges which owners are obligated to pay pursuant to the Documents; or
- 3.3.3 The enforcement of the use and occupancy restrictions contained in the Documents; or
- 3.3.4 In an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Land or to Owner(s).

3.4 DEVELOPER APPROVALS. If Developer holds Lots within Grassmere for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by Developer:

- 3.4.1 Assessment of Developer as an Owner for capital improvement or for expense of indemnifying the Developer, a corporate officer or director.
- 3.4.2 Any action by the Association that would be detrimental to the sale of Lots by Developer. The determination as to what actions would be detrimental to sales shall be in the sole discretion of Developer.

OLLIER COUNTY  
ARTICLE IV  
USE AND MAINTENANCE OF THE LAND  
AND MAINTENANCE OF COMMON AREAS

4.1 COVENANTS FOR USE.

4.1.1 Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot, whether or not it shall be so expressed in such deed or instrument, covenants and agrees that the residential improvement and the Lot shall be used, held, maintained and conveyed solely in accordance with the covenants, reservations, easements, restrictions and lien rights regarding same as are or may be set forth in the Documents including, but not limited to, this Grassmere Declaration and all applicable Supplemental Sections Declarations.

4.1.2 No Owner shall in any way damage, injure or impair the Common Elements.

4.2 MAINTENANCE AND REPAIR OF LAND. The maintenance and repair of the Land is either the responsibility of the Owner or the Association as hereinafter more particularly set forth:

4.2.1 Responsibility of Owners.

- A) Except as set forth in 4.2.2 regarding ordinary lot maintenance, each Owner shall maintain in good condition and repair at his own expense:
  - i) All portions of his Lot and residential improvement.
  - ii) All utility lines, ducts, conduits, pipes, wires and other utility fixtures and appurtenances which are located upon or under his Lot and which service only his residence.

Each owner shall perform promptly all such maintenance and repairs and shall be liable for any damages that arise due to his failure to perform such maintenance and repairs. Furthermore, should the negligence or willful misconduct of an Owner result in the need for work (including, but not

001389  
OR BOOK001459  
PAGE

limited to, work in the nature of maintaining or repairing portions of the Land of the Common Areas) which would otherwise be the responsibility of the Association, the Owner in question shall be liable to the Association for the cost and expense so incurred and shall be subject to a special assessment therefor.

B) Each Owner shall promptly report to the Association any defect known to such Owner which requires repair of the property for which the Association or a party other than that Owner is responsible.

4.2.2 Landscaping. The Association shall be responsible for ordinary lawn care of each and every Lot within Grassare. Such duty of ordinary lawn care shall not extend to areas requiring unusual maintenance such as rose gardens or areas specifically designed by the Association as an "Area of High Maintenance." Areas of High Maintenance shall be maintained by the Owner of the Lot or by such special arrangement as may be approved by the Association. The Association shall contract for the ordinary lawn care of the Lots and the last shall be an Association Expense.

4.2.3 Maintenance and Repair of Common Areas. Maintenance and repair of Common Areas and any improvements located thereon is the responsibility of the Association including landscape maintenance and drainage maintenance. The Association shall not waive or abandon the foregoing maintenance obligations without the prior written consent of all Institutional Mortgagees.

COLLIER COUNTY  
ARTICLE V  
ASSOCIATION EXPENSES  
OF THE CIRCUIT COURT

In order to fulfill the covenants and obligations contained in this Declaration and in order to maintain and operate the Common Areas for the use, safety, welfare and benefit of owners, their families, invitees, guests and lessees there is hereby imposed upon each Lot and its Owners the affirmative covenant and obligation to pay to the Association (in the manner set forth in Article VI hereof), and upon the Association, the obligation to assess, collect and expend, the Association Expenses, for those Association expenses described in this Declaration, including the following:

5.1 COMMON AREA.

5.1.1 Taxes. Any and all taxes levied or assessed at any and all times upon the Common Areas by any and all taxing authorities, including all taxes, charges, assessments and impositions and liens for public improvements, special charges and assessments, and water drainage districts and, in general, all taxes and tax liens which may be assessed against the Common Areas and against any and all personal property and improvements which are now or which hereafter may be placed thereon, including any interest, penalties and other charges which may accrue on such taxes.

5.1.2 Utility Charges. All charges levied for utilities providing services for the Common Areas, whether supplied by a private or public firm including, without limitation, all charges for water, gas, electricity, telephone, sewer and any other type of utility or service charge.

5.1.3 Insurance. The premiums on any policy or policies of insurance obtained by the Association under this Declaration or the Documents.



001389  
OR BOOK001460  
PAGE

**5.1.4 Maintenance, Repair and Replacement.** Any and all expenses necessary to:

- A) Maintain and preserve the Common Areas (including such expenses as grass cutting, tree trimming and other landscape maintenance, operating and maintaining sprinklers and the like); and
- B) Keep, maintain, repair and replace any and all improvements upon the Common Area in a manner consistent with the development of Grassmere, the covenants and restrictions contained herein and all orders, ordinances, rulings and regulations of any and all federal, state and city governments having jurisdiction thereover as well as the statutes and laws of the State of Florida and the United States.

**5.1.5 Administrative Expenses.** The costs of administration for the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association under this Declaration, notwithstanding the fact that some of these services may be expended in providing services to or collecting sums owed by particular Owners. In addition, the Association may retain a managing company or contractors to assist in the operation of Grassmere and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be part of the Common Area Expenses.

**5.1.6 Indemnification.** The costs to the Association to indemnify and save harmless Developer from and against any and all claims, suits, actions, damages and/or causes of action arising from any personal injury, loss of life and/or damage to property sustained in or about the Common Areas or the appurtenances thereto; from and against all costs, counsel fees, expenses and liabilities incurred relating to any such claim or in settlement thereof; the investigation thereof or the defense at any levels of any action or proceedings brought thereon, and from and against any order, judgments and/or decrees which may be entered therein. Included in the foregoing provisions for indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of enforcing rights hereunder, or in the purpose of compelling the specific enforcement of the provisions, conditions, covenants and restrictions contained in this Grassmere Declaration to be kept and performed by the Association and/or the Owners, including the payment of Association Expenses.

Further, the costs to the Association of indemnifying its Officers and members of the Board of Directors for all costs and expenses whatsoever incurred in the pursuance of their duties, obligations and functions hereunder and in any legal defense of such actions or in settlement thereof including, without limitation, counsel fees and costs at all levels of any trial or appeal or other proceeding, costs of investigation and discovery, etc.

Nothing in the provisions of this Paragraph 5.1.6 shall require an Institutional Mortgagee to pay any Association Expenses or portion thereof attributable to costs to the Association to indemnify and save harmless Developer in accordance with such Paragraph. Any such Association Expenses shall be reallocated amongst the Owners other than the Institutional Mortgagees.

001389  
OR BOOK001461  
PAGE

- 5.1.7 **Enforcement.** Any and all expenses incurred by the Association in enforcing any of the covenants, restrictions, terms and conditions of this Grasmere Declaration or in curing any default, violation or failure to perform or abide by such covenants, restrictions, terms and conditions.
- 5.1.8 **Reserve Funds.** The costs to establish, at the discretion of the Association, an adequate reserve fund for replacement and/or capital refurbishment of the Common Areas in amounts determined proper and sufficient by the Association. Each Owner acknowledges, understands and consents that such reserve funds are the exclusive property of the Association as a whole and that no Owner shall have any interest, claim or right to any reserve funds. The Association shall be responsible for maintaining the reserve funds in a separate reserve account and to use such funds only for capital costs and expenses as aforesaid.
- 5.1.9 **Miscellaneous Expenses.** The costs of all items of expense pertaining to or for the benefit of the Common Areas or any part thereof, or the Association not herein specifically enumerated and which is determined to be a Common Area Expense by the Association including, but not limited to, the cost of refuse collection if billed to the Association and not individual Owners and the cost of providing security services in the event the Board of Directors elects to provide such services. The cost of maintaining the lawns on Lots shall also be an Association expense.

## ARTICLE VI

METHOD OF DETERMINING ASSESSMENT OF ASSOCIATION EXPENSES

6.1 **ASSESSMENTS.** It is hereby declared, and all Owners and the Association agree, that the Association Expenses shall be disbursed by the Association out of funds assessed and collected from and paid by all Owners in Grasmere.

6.2 **DETERMINING INDIVIDUAL ASSESSMENTS**

6.2.1 As provided in the Bylaws of the Association, the Board shall prepare an annual estimated Budget which shall reflect the estimated Association Expenses. Thereupon the Board of Directors shall allocate to all lots for which a Certificate of Occupancy has been issued by the appropriate governmental authority an equal share of the Association Expenses. The share of the Association Expenses (including the lot Maintenance Expense) allocated to an Owner is the "Individual Assessment" for each Lot.

6.2.2 For purposes of assessments, the number of residences shall include all residences located upon Land for which a Certificate of Occupancy has been issued by an appropriate governmental agency.

6.2.3 The Individual Assessments shall be payable monthly in advance on the first day of each month of each year.

6.3 **DETERMINATION OF INDIVIDUAL ASSESSMENTS DURING THE INTERIM PERIOD.**

6.3.1 The term "Interim Period" means that period of time commencing with the date of the recordation of this Declaration amongst the Public Records of the County and continuing for a period of one (1) year or until the Turnover Event, whichever is the sooner to occur.



001389  
OR BOOK001462  
PAGE

6.3.2 It is declared and agreed by the Association and Developer that the Owners, shall each pay the "Guaranteed Assessments" (as hereinafter defined) to the Association as Individual Assessments during the Interim Period prorated as of the date of the conveyance of title of a Lot to the Owner by Developer. The "Guaranteed Assessments" shall be One Hundred Ninety Dollars (\$190.00) per lot per month in addition to any assessments payable to the Master Association. Developer covenants and agrees with the Association and the Owners, that during the Interim Period, Developer will pay the difference, if any, between: 1) the Association Expenses, including that portion of the Maintenance Fee attributable to ordinary lawn maintenance and 11) the Guaranteed Assessments levied. During the Interim Period, Developer shall not be required to make any payments of Individual Assessments for Association Expenses for Lots owned by Developer and for which there has been no Certificate of Occupancy issued.

6.3.3 Developer may extend the Interim Period for an unlimited number of additional six-month periods by providing the Association written notice at least sixty (60) days prior to the then current date set forth as the end of the Interim Period of Developer's intention to extend the Guaranteed Assessments and such notice shall state the new termination date of the Interim Period.

6.4 SPECIAL ASSESSMENTS. "Special Assessments" include, in addition to other assessments designated as Special Assessments in the Documents and whether or not for a cost or expense which is included within the definition of "Association Expenses", those assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring improvements for, or on, the Common Areas or the cost (whether in whole or in part) of reconstructing or replace such improvement or improvements on the Land and also any other assessments in addition to the Individual Assessments as shall be levied by the Board of Directors as a result of: i) extraordinary items or expense under this Declaration; ii) the failure or refusal of other Owners to pay assessments of Association Expenses; and iii) such other reason or basis determined by the Board which is not inconsistent with the terms of any of the Documents. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, the Guaranteed Assessment and any such Special Assessments assessed against Owners shall be paid by such Owners in addition to any such Guaranteed Assessments. Special Assessments shall be assessed in the same manner as the Individual Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board of Directors shall, from time to time determine.

6.5 LIABILITY OF OWNERS FOR INDIVIDUAL ASSESSMENTS. By the acceptance of a deed or other instrument of conveyance of a Lot, each Owner thereof acknowledges that each Lot and the Owners thereof are jointly and severally liable for their own Individual Assessment and their applicable portion of any Special Assessments as well as for all assessments for which they are liable as provided for herein. Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner for himself and his heirs, executors, successors and assigns, that in the event Owners fail or refuse to pay their Individual Assessment or any portion thereof or their respective portions of any Special Assessments, then the other Owners may be responsible for increased Individual Assessments or Special Assessment due to the nonpayment by such other Owners, and such increased Individual Assessment or Special Assessment can and may be enforced by the Association and the Developer in the same manner as all other assessments hereunder as provided in this Declaration. The limitations to lots owned by Developer insofar as Special Assessments are concerned also apply to any portion of an assessment arising from the failure of any Owner to pay a Special Assessment or any portion thereof.

001389  
OR BOOK001463  
PAGE

## ARTICLE VII

ESTABLISHMENT AND ENFORCEMENT OF LIENS

7.1 **LIENS.** Any and all Individual Assessments for Association Expenses, and Special Assessments and all installments thereof (collectively the "Assessments") with interest thereon at the highest rate allowed by law and costs of collection, including attorneys' fees are hereby declared to be a charge and continuing lien upon the Lot against which each such Assessment is made. Each Assessment against a Lot, together with interest thereon at the highest non-usurious rate allowed by law (and if no such rate is specified by law, then at eighteen percent [18%] per annum) and costs of collection thereof, including attorneys' fees, shall be the personal obligation of the person, persons or entity owning the Lot assessed. Said lien shall be effective only from and after the time of recordation amongst the Public Records of the County, of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a recordable satisfaction of the statement of lien. Where an Institutional Mortgagee obtains title to a Lot as a result of foreclosure of its mortgage or deed given in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of Assessments pertaining to such Lot or chargeable to the former Owner which become due prior to the acquisition of title as a result of the foreclosure, unless such share is secured by a claim of lien for Assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of Assessments shall be added to the Assessments collectible from all other Lots. The foregoing shall not excuse an Institutional Mortgagee from payment of Assessments pertaining to a Lot which accrue during the period of ownership of such Lot by such Institutional Mortgagee whether or not such Lot is occupied.

7.2 **ENFORCEMENT.** In the event any Owner shall fail to pay Assessments or any installment thereof charged to his Lot within fifteen (15) days after the same becomes due ("Delinquent Owner"), then the Association, through its Board of Directors, shall have any of the following remedies to the extent permitted by law:

- 7.2.1 To accelerate the entire amount of any Assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.
- 7.2.2 To advance on behalf of the Delinquent Owner funds to accomplish the needs of the Association and the amount or amounts of monies so advanced, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of the Delinquent Owner, together with interest at the highest non-usurious rate allowable by law (and if no such rate is specified by law, then an eighteen percent [18%] per annum), may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.
- 7.2.3 To place of record a claim of lien against the Lot of the Delinquent Owner.
- 7.2.4 To file an action in equity to foreclose its lien at anytime after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.
- 7.2.5 To file an action at law to collect said Assessment plus interest at the highest non-usurious rate allowable by law (and if no such rate is specified by law, then at eighteen percent

001389  
OR BOOK001464  
PAGE

[18% per annum] plus court costs and attorneys' fees without waiving any lien rights and/or rights of foreclosure in the Association.

7.3 **COLLECTION BY DEVELOPER.** In the event for any reason the Association fails to collect the Assessments, then in that event Developer, until the Developer no longer owns a Lot, shall have the right to collect the same in the same manner as the Association.

#### ARTICLE VIII

##### INSURANCE

8.1 **COMMON AREAS INSURANCE.** The Association shall purchase the following coverage for the Common Areas subject to the following provisions:

- 8.1.2 **Liability Insurance.** The costs of the policy or policies of insurance in the form generally known as Public Liability and/or Owners policies insuring the Association against any and all claims and demands made by any person or persons whatsoever for injuries received in connection with the use, operation and maintenance of Common Areas and improvements and buildings located thereon, or for any other risk insured against by such policies which the Association, in its sole discretion, determines to insure against. Each policy purchased by the Association shall have limits of not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and One Hundred Thousand Dollars (\$100,000) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Association shall include protection against liability for property damage, bodily injuries and deaths of person in connection with the operation, maintenance or use of the Common Areas, legal liability arising out of law suits related to employment contracts of the Association, water damage liability, liability for non-owned and hired automobiles, liability of hazards related to usage and liability for property of others. All such policies will name the Association (and Developer for so long as Developer shall own any portion of the Common Areas as their respective interests may appear) as the insured under such policy or policies. The insurance purchased shall contain a "severability of interest endorsement", or equivalent coverage, which would preclude the insurer from denying the claim of an Owner because of the negligent acts of either the Association, the Developer or any other Owner, or deny the claim of either the Developer or the Association because of the negligent acts of an Owner. No liability insurance shall be required to be obtained if the Association has no Common Property.
- 8.1.2 **Casualty Insurance.** The costs of the policy or policies of insurance to allow the Association to insure any improvements now located or which may hereafter be located, built or placed upon the Common Areas against loss or damage caused by or resulting from at least the following: fire and other hazards covered by the standard extended coverage endorsement, sprinkler leakage, windstorm, vandalism, malicious mischief, water damage, debris removal and demolition, and such other risks as the Association shall determine are customarily covered with respect to developments similar to Grassere in construction, location and use.
- 8.1.3 **Fidelity Coverage.** Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Directors and all others who handle and are responsible for handling funds of the Association, such coverage

001389  
OR BOOK

001465  
PAGE

to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived in writing by all Institutional Mortgagees:

- A) Such bonds shall name the Association as an obligee;
- B) Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Association Expense; and
- C) Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

**8.2 MISCELLANEOUS INSURANCE.** The Association may also obtain such forms of insurance and in such coverages as the Association shall determine for the protection and preservation of the Common Areas. Such insurance may include, without limitation, workmen's compensation insurance and flood insurance.

**8.3 POLICY CANCELLATION.** All insurance policies and fidelity bonds obtained by the Association shall provide that they may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

**8.4 INSURANCE TRUSTEE.** The Board of Directors may, if it deems it to be in the best interests of the Association provide that insurance policies be deposited with an Insurance Trustee whose duty shall be to receive any and all proceeds from the insurance policies held by it as such Insurance Trustee and to pay such proceeds to the Association pursuant to the terms hereof.

**ARTICLE IV  
GRANT AND RESERVATION OF EASEMENTS**

As the Owner of those portions of the Land committed or which may be committed to the terms hereof Developer and Consenting Existing Owners, as their interest may appear, hereby reserve and grant the following easements over and across the Land for the duration of the term of this Declaration (except as hereafter provided) and for the benefit of the parties or properties as hereinafter specified for the following purposes:

**9.1 UTILITY AND GOVERNMENTAL SERVICES EASEMENTS.** An easement or easements to provide utility services, including (but not limited to) power, electric transmission, television cable, light, telephone, gas, water, sewer, and drainage and governmental services including police and fire protection including rights of access to maintain, repair, replace or install fixtures and appurtenances necessary for such utility and governmental services for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

**9.2 RIGHTS-OF-WAY.** A perpetual nonexclusive easement is hereby declared, granted and reserved in favor of Developer, Developer's grantees, the Association, the Master Association, Owners and "Owners" (as defined in the Master Declaration) within any portion of Wyndemere, their lessees and family members, guests and invitees over and upon the walks and other rights-of-way within the Common Areas to provide ingress, egress and access to and from, through and between the Land and publicly dedicated roads.

**9.3 EASEMENT FOR ENCROACHMENT.**  
(1) An easement for encroachment in favor of all Owners in the event any portion of any of the residential improvements now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement, (ii) an easement for encroachment in favor of Developer, Owners and the Association where any portion of the Common Areas encroaches upon any portion of the Land or any Lot therein.

001389  
OR BOOK001466  
PAGE

(iii) an easement in favor of the Owner of each residence for encroachment of any portion of the residence upon the Common Areas, (iv) any encroaching improvements shall remain undisturbed for so long as the encroachment exists. The easements for encroachment include an easement for the maintenance and use of the encroaching improvements in favor of the Owner or Owners thereof and their designees.

**9.4 RIGHT OF ASSOCIATION TO ENTER UPON THE LAND.** An easement or easements for ingress and egress in favor of the Association by its Board or the designees of the Association to enter upon each portion of the Land for the purpose of fulfilling its duties and responsibilities of ownership, administration, maintenance and repair in accordance with the Documents.

**9.5 USE AND ENJOYMENT OF COMMON AREAS.** A nonexclusive easement for the use and enjoyment and for access over and to the Common Areas on behalf of Developer, the Association, and Owners their lessees, family members, guests and invitees; provided, however, an Owner's easement to such use and enjoyment may be temporarily suspended by the Association upon written notice for a period not to exceed thirty (30) days for failure of an Owner, his lessee, or their family members, guests or invitees to conform to the rules and regulations promulgated by the Association in regard to use of the Common Areas.

**9.6 EASEMENT FOR OWNERS WITHIN WYDEMERE.** An easement in favor of the owners of any residential dwelling unit now or hereafter located upon any portion of Wydemere for purposes of ingress and egress across, over and upon the Land and the private roadways located or to be located thereon to and from publicly dedicated rights-of-way.

**9.7 ASSIGNMENT; ADDITIONAL EASEMENTS.** The easements reserved hereunder unto Developer may be assigned by Developer in whole or in part to the Association, any city, county or state government or agency thereof, or any duly licensed or franchised public utility or any other designee of Developer. The Owners, by the acceptance of a deed of conveyance of a Lot, authorize Developer and/or the Association to execute on their behalf and without further authorization, such grants of easement or other instruments as may, from time to time, be necessary to grant easements over and upon the Land or any portion or portions thereof in accordance with or to implement the provisions of this Article. Notwithstanding the foregoing, no such easement shall be permitted or deemed to exist which causes any buildings, permanent structures or other permanent facilities which have been constructed (i) in accordance with the Documents; and (ii) prior to the use of such easement; to be materially altered or detrimentally affected thereby nor shall any such easement be granted or deemed to exist under any such structures or buildings so built in accordance with this Declaration and the Documents prior to the actual use of such easement. The foregoing shall not preclude such easements under then-existing improvements other than buildings or structures provided that the use and enjoyment of the easement and the installation of facilities in connection therewith would not result in other than minor, temporary alterations to such improvements other than a building or structure (such as, but not limited to, temporary alteration or removal of a fence or temporary excavation within a paved area) and provided that same is repaired and/or restored by the one making use of such easement at its expense and within a reasonable time thereafter.

#### ARTICLE X

##### CONDEMNATION

**10.1 TAKING OR PARTIAL TAKING.** If at any time during the term of this Declaration the whole or any portion of the Common Areas shall be taken ("Taken Area") for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of eminent domain or by agreement between those authorized to exercise such right (hereinafter for the purpose of this Paragraph called "Condemnation"), this Declaration and all obligations hereunder as to the Taken Area shall terminate and expire on the date of such taking, and Expenses provided to be paid for such Taken Area shall be apportioned and paid to the



001389  
OR BOOK

001467  
PAGE

date of such taking. The Association shall represent the Owners in the condemnation proceedings or in negotiations, settlements and/or agreements with the condemning authority for acquisition of the Taken Area, or part thereof, by the condemning authority.

10.2 DIVISION OF AWARDS. The rights of Developer and other Owners in and to the net award or awards ("Taken Area Award") after any Condemnation (after reasonable fees and expenses of collection) shall be determined as follows:

10.2.1 To the extent that Developer owns any Lots, Developer shall participate in any Taken Area Awards for its interest in the Common Areas along with and to no lesser degree than other Owners.

10.2.2 The Association shall have the right to attend and participate in all hearings relevant to the Condemnation and to receive notice from Developer of such hearings.

10.3 REPAIR AND PLACEMENT. If any improvements upon the Common Areas not included in the Taken Area shall be damaged or partially destroyed by such Condemnation, then the Association shall proceed with reasonable diligence to demolish, if necessary, and to construct, repair, replace or rebuild such improvements so such improvements are complete and in good condition and repair. The Association shall hold that portion, if any, of the Taken Area Award which represents consequential damages to said improvements or replacements thereof in trust for application of the same to the cost and expense as herein provided. Repair of such improvements shall be conducted under the supervision of any architect or engineer licensed in the State of Florida selected by the Association, and such work shall be done in accordance with plans and specifications prepared and approved in writing by such architect or engineer and submitted to Developer for approval, which approval shall not unreasonably be withheld.

10.4 TEMPORARY USE. If the temporary use of the whole or any part of the Common Areas shall be taken at any time during the term of this Declaration by the exercise of the right of Condemnation, the term of this Declaration shall not be reduced or affected in any way, and the Association Expenses herein provided to be paid shall continue to be due and payable and the various Owners shall be entitled to the entire award granted by reason of such taking.

10.5 TAKING OF LAND. In the event of any Condemnation of the Land, the award therefor and with interest thereon as shall represent compensation for the value of the property taken shall be payable jointly to the record Owner or Owners and Institutional Mortgagees or Institutional Mortgagees thereof as of the date of taking in accordance with the respective interests in such property.

ARTICLE XI

ENFORCEMENT

The covenants and restrictions contained in the Documents may be enforced by Developer, the Association, any Owner and any Institutional Mortgagee holding a first mortgage on a Lot or upon a portion of the Land in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant or restriction hereunder. The failure by any party to enforce any covenant, restriction or easement herein contained shall in no event be deemed a waiver of such covenant, restriction or easement or of the right of such party to thereafter enforce such covenant, restriction or easement. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees.

001389  
OR BOOK001468  
PAGE

## ARTICLE XII

AMENDMENT AND MODIFICATION

12.1 Prior to conveyance of a Lot by Developer as evidenced by the recording of the instrument of conveyance amongst the Public Records of the County, Developer may modify and/or amend this Declaration; provided, however, that any such modification and/or amendment shall be reflected in an instrument executed by Developer and recorded amongst the Public Records of the County.

12.2 Except as to amendments provided for elsewhere in this Article, this Declaration may be amended at any regular or special meeting of the Owners called and held in accordance with the Bylaws by the affirmative vote of the Owners owning a majority of the Lots. An amendment to the Declaration shall be evidenced by a certificate executed by the Association. The amendment shall become effective upon the recording of the certificate amongst the Public Records of the Collier County, Florida.

12.3 Whenever it shall appear to the Association that there is a technical or minor defect, error or omission in the Declaration, the Association, through its Board of Directors, may amend the Declaration. The amendment shall become effective upon the recording of the certificate amongst the Public Records of Collier County, Florida.

12.4 Prior to the conveyance of one-third (1/3) of the Lots, Developer may amend this Declaration provided that such amendment does not materially and adversely affect any Owner's, other than Developer's property rights. This amendment shall be signed by Developer and a copy of the amendment shall be furnished to each Owner, and the Association as soon after recording thereof amongst the Public Records of the County, as is practicable.

12.5 Notwithstanding anything contained in this Declaration, the Developer in its sole discretion without the consent of any Owners or the Association may execute and record a Supplemental Section Declaration to this Declaration declaring additional Land within Wyndemere to be subject to all of the terms, conditions, rights and obligations of Owners of Lots on the Land already committed.

12.6 No amendment shall be adopted which shall impair or prejudice the rights or priorities of Developer, the Association and any Institutional Mortgagee under this Declaration without the specific written approval of Developer, the Association or any Institutional Mortgagee affected thereby, nor shall any amendment which would affect the surface water management system, including the water management portions of the Common Areas be made without the prior approval of the South Florida Water Management District.

12.7 The following amendments shall require the affirmative votes of the Owners owning at least sixty-seven percent (67%) of the Lots.

12.7.1 Amend Article VI of this Declaration to change the method of determining the obligations, assessments, or other charges which may be levied against any owner;

12.7.2 Amend Article VIII of this Declaration to decrease the minimum insurance requirements as to the Common Areas.

## ARTICLE XIII

TERM

This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, easements, burdens and liens contained herein, including without limitation, the provisions for assessment of a Lot shall run with and bind the Land and inure to the benefit of Developer, the Association, Owners and their respective legal representatives, heirs,

001389  
OR BOOK001469  
PAGE

successors and assigns for a term of ninety (90) years from the date of the recording of this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each, unless at least one (1) year prior to the termination of such ninety (90) year term or of any such ten (10) year extension thereof there is recorded amongst the Public Records of the County, an instrument signed by the then Owners owning two-thirds (2/3) of the Lots and all Institutional Mortgagees in existence one (1) year prior to the termination of such term or extension agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of the ninety (90) year term or the ten (10) year extension during which such instrument of termination is recorded.

## ARTICLE XIV

GENERAL PROVISIONS

14.1 **NOTICES.** Any notices or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Owner, to the last known address of the person whose name appears as the Owner on the records of the Association at the time of such mailing; (ii) the Association at 3000 Livingston Road, Naples, Florida 33999, or such address as the Association shall hereafter notify Developer and all Owners of in writing; and (iii) Developer at 3000 Livingston Road, Naples, Florida 33999, or such other address or addresses as Developer shall hereafter notify the Association of in writing, any such notice to the Association of a change in Developer's address being deemed notice to the Owners.

14.2 **CAPTIONS.** Article and Paragraph captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms and provisions of this Declaration.

14.3 **CONTEXT.** Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

14.4 **SEVERABILITY.** In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said jurisdictional determination shall in no way affect any of the other provisions hereof which shall remain in full force and effect. Further, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or a reduction in the term of the same by reason of the rule of law known as the "rule against perpetuities" shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

14.5 The Association, pursuant to resolution duly adopted by its Board of Directors, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board of Directors from time to time.

14.6 **ATTORNEYS' FEES.** Any provision herein for the collection or recovery of attorneys' fees shall be deemed to include, but not be limited to, court costs and attorneys' fees for the attorneys' services at all trial and appellate levels and postjudgment proceedings and, unless the context clearly indicates a contrary intention, whether or not suit is instituted.

14.7 **INTERPRETATION.** In the event of a conflict between the provisions of this Declaration and the Articles and Bylaws, the provisions of this Declaration shall control. In the event of a conflict between this Declaration and the Master Declaration, the Master Declaration shall control.



001389  
OR BOOK

001470  
PAGE

14.8 **RULE AGAINST PERPETUITIES.** In the event any court should hereafter determine any provisions as originally drafted herein are in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, "measuring lives" shall be those of the signatories hereof.

IN WITNESS WHEREOF, this Declaration of Covenants, Restrictions and Easements for Grassmere has been signed by Developer and the Association the day and year first above set forth.

WITNESSES:

*Thomas E. Mahoney*  
*D. J. Wigg*

WYNDEMERE FARMS DEVELOPMENT, INC.  
A Florida Corporation

By *Laurence A. Mullins*  
Laurence A. Mullins, President

Joined In, Acknowledged and Consented to by the following:

*Thomas E. Mahoney*  
*D. J. Wigg*

WYNDEMERE HOMEOWNERS ASSOCIATION, INC.  
a Florida Non-For-Profit Corporation

STATE OF FLORIDA )  
COUNTY OF COLLIER )

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Laurence A. Mullins, as President of WYNDEMERE FARMS DEVELOPMENT, INC., a Florida Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 18 day of OCT, 1988.

*Thomas E. Mahoney*  
Notary Public  
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA  
BY COMMISSION EXP. NOV. 21, 1992  
BONDED THRU GENERAL INV. UDD.

STATE OF FLORIDA )  
COUNTY OF COLLIER )

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared MICHAEL NESSEL, as PRESIDENT of WYNDEMERE HOMEOWNERS ASSOCIATION, INC., a Florida Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

001389  
OR BOOK

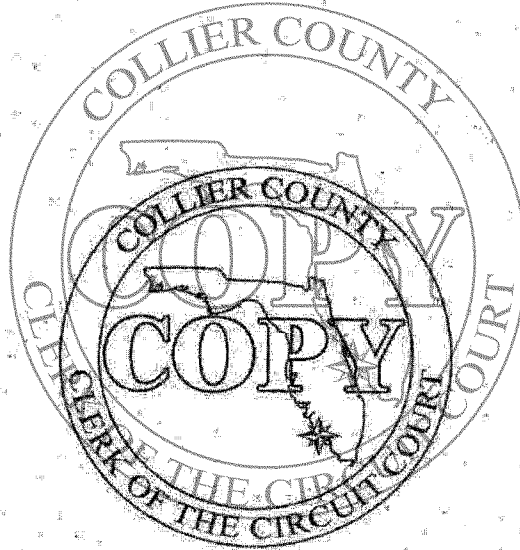
001471  
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WITNESS my hand and official seal in the County and State last aforesaid this  
18 day of OCT, 1888.

*Thomas E. Mahony*

Notary Public  
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. NOV. 21, 1991  
BONDED THRU GENERAL INV. 690.

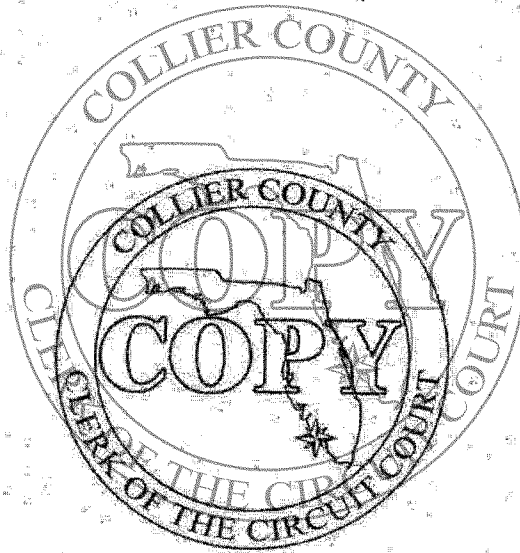


001389  
OR BOOK

001472  
PAGE

EXHIBIT A

Lots 1 through 36, Grasmere at Wyndemere, Phase I, according to plat recorded in Plat Book 15, pages 22 and 23, Public Records of Collier County, Florida.



Recorded and Verified  
in Official Records of  
COLLIER COUNTY, FLORIDA  
JAMES C. GILES, CLERK