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**AMENDED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS  
 AND RESTRICTIONS  
 FOR SOMERSET AT WINDSTAR**

THIS Amended Declaration of Protective Covenants, Conditions and Restrictions for Somerset AT WINDSTAR is made this 4 day of FEBRUARY, 2008, by SOMERSET AT WINDSTAR HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

WINESSETH:

WHEREAS, the developer Windstar Development Company (the "Developer") created a residential community known as SOMERSET AT WINDSTAR on the property located in Collier County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated by reference (the "Property"); and

WHEREAS, said community now consists of fifty (50) residential dwelling units within twenty-five (25) common buildings (2 units per building under a common roof) but separated by a single eight inch (8") concrete block party wall which party walls shall be the property lines between dwelling units; and

WHEREAS, the community includes permanent common areas and limited common areas owned by the Association for the common use and enjoyment of parcel owners, their agents, assigns, employees and invitees; and

WHEREAS, because of the characteristic of the attached dwelling units, party wall, the close proximity of dwelling units and the need for a method to care and maintain the improvements and common areas in SOMERSET AT WINDSTAR, the Developer imposed upon SOMERSET AT WINDSTAR restrictions under a general plan of improvement for the benefit of all owners and dwelling units in SOMERSET AT WINDSTAR, as further stated in the original Declaration of Protective Covenants, Conditions and Restrictions recorded January 19, 1989 at Official Records Book 1410, Page 461, Collier County, Florida Public Records; and

WHEREAS, the members of the Association desire to amend said original Declaration and have obtained the consent of the requisite number of member votes at a duly noticed members meeting as required by Article IX(E) of the original Declaration governing amendments.

NOW, THEREFORE, the Association hereby declares that all of the Property described in Exhibit "A" attached to this Amended Declaration is and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions, covenants, easements, charges and liens all of which are established for the purpose enhancing and protecting the value, desirability, and attractiveness of the land and every part thereof. All of the limitations, restrictions, conditions, covenants, easements, charges, and liens shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the above-described units.

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**DEFINITIONS**

The terms used in this Amended Declaration and its recorded exhibits shall have the following definitions:

1. "Association" shall mean and refer to Somerset at Windstar Homeowners Association, Inc., a Florida corporation not for profit.
2. "Board" or "Board of Directors" means and refers to the board of directors of the Association.
3. "Common Area" means and refers to all real property which is now or hereafter owned by the Association or dedicated to the Association by recorded plat or original declaration.
4. "Declaration" or "Amended Declaration" means and refers to this Amended Declaration of Covenants, Conditions and Restrictions, and any amendments hereto.
5. "Dwelling" means and refers to the privately-owned residential units located on Parcels located in Somerset at Windstar.

6. "Governing" or "Community Documents" means and refers to this Amended Declaration and the Association's existing bylaws and articles, as may be amended.
7. "Member" or "Owner" refers to every person or entity who is a record owner of a fee interest in any Parcel, except that if a Parcel is subject to an agreement for deed, the purchaser in possession shall be considered the Owner for purposes of determining voting and use rights.
8. "Parcel" or "Residential Parcel" means and refers to the fifty (50) privately owned residential parcels located in Somerset at Windstar and subject to the Community Documents, and any privately-owned improvements thereon.
9. "Residential Unit" or "Residential Dwelling" means and refers to the fifty (50) private residential buildings constructed in Somerset at Windstar.
10. "Rules and Regulations" means and refers to the administrative rules and regulations governing use of the Parcels and Common Areas and procedures for administering the Association, as may be adopted and amended by the Board of Directors.
11. "Windstar Master Association" or "Master Association" means and refers to The Windstar Master Association, Inc., as set forth in the Master Declaration of Covenants, Conditions and Restriction for WINDSTAR, recorded in Official Records Book 1075, page 736, Collier County, Florida Public Records, as amended and restated in O.R. Book 1805, Page 90, Collier County, Florida Public Records and in subsequent amendments.

#### ARTICLE I

#### REQUIRED MEMBERSHIP IN SOMERSET AT WINDSTAR HOMEOWNERS ASSOCIATION, INC.

A. SOMERSET AT WINDSTAR Membership. All owners of parcels in SOMERSET AT WINDSTAR shall be required to become members of SOMERSET AT WINDSTAR Homeowners Association, Inc., a Florida not-for-profit corporation (the "Association") and shall be required to maintain such membership in good standing so long as they own or have an interest in such parcel(s). The primary purpose of the Association is to ensure to all owners in SOMERSET AT WINDSTAR that the common areas and exterior portions of member-owned residential parcels are properly maintained and cared for, to ensure that the restrictions herein contained are properly enforced and generally to protect and preserve the quality of SOMERSET AT WINDSTAR. The Association's amended articles of incorporation and amended bylaws, of even date herewith, are attached to this Amended Declaration and are incorporated herein by reference.

#### ARTICLE II

#### REQUIRED MEMBERSHIP IN THE WINDSTAR MASTER ASSOCIATION, INC.

A. The Windstar Master Association, Inc. All owners of the above-described parcels shall be required to become a member of The Windstar Master Association, Inc.

("Master Association") as set forth in the Declaration of Covenants, Conditions and Restriction for WINDSTAR, recorded in Official Records Book 1075, page 736, Public Records of Collier County, Florida, as amended and restated in Official Records Book 1805, Page 90 (Collier County, Florida Public Records) and subsequent amendments, and all the terms and provisions thereof shall be binding upon and the benefits inure to each owner of the above-described parcels. Any conflict between the provisions of this declaration and the declaration of the Master Association shall be resolved in favor of the Master Association.

### ARTICLE III

#### ASSESSMENTS

A. Common Expenses. The term "Common Expenses" shall include all expenses assessed in equal shares to all residential parcels in SOMERSET AT WINDSTAR including:

1. The Cost of routine and periodic maintenance of all existing and approved landscaping, plantings, trees, lawns and sprinkler systems whether located on common areas owned by the Association or on member-owned residential parcels. The Association does not own any portion of the landscape located on private residential parcels, but for consistency in appearance has the exclusive right to perform periodic routine maintenance on said landscaped areas. The Association is hereby granted an easement upon all residential parcels to perform said maintenance and to operate any irrigation system in furtherance of said maintenance. Common expenses shall not include, however, the costs of curing conditions of disrepair in the landscaping, plantings, trees, lawns caused by the negligent or willful act of an individual member or his family, tenants, guests or invitees or necessary replacement of those items which are located on private residential parcels as the result of ordinary wear and tear over time (said costs being the responsibility of that member as a Particular Expense).

2. The cost of routine and periodic maintenance of all existing paved roadways and curbing on the common areas and serving all parcels whether located on common areas owned by the Association or on member-owned residential parcels. The Association is hereby granted an easement upon all residential parcels to perform said maintenance. Common expenses shall not include, however, the costs of curing conditions of disrepair caused by the negligent or willful act of an individual member or his family, tenants, guests or invitees or necessary replacement of those items which are located on private residential parcels as the result of ordinary wear and tear over time (said costs being the responsibility of that member as a Particular Expense).

3. The cost of maintenance of any other common elements including the community pool and appurtenances.

4. The cost of all ad valorem taxes assessed against real property owned by the Association and against all personal property owned by said Association

5. The cost of any other taxes assessed against or payable by the Association.

6. The cost of premiums for insuring the common elements including casualty, liability and any other form of insurance as determined by the Association's Board of Directors to be reasonably necessary or desirable.

7. The cost of accounting services, legal services, and such other professional, management and employee services as may be deemed reasonably appropriate by the Board of Directors.

8. The cost of all amounts required by the Master Association's declaration of covenants, conditions and restrictions described herein, as may be amended.

9. The cost of utilities serving all residential parcels as determined by the Board of Directors.

10. Such other expenditures and costs deemed reasonably necessary or desirable by the Association's Board of Directors for the purpose of accomplishing the intent, purposes and objectives set forth herein.

B. Particular Expenses. The Association does not own any portion of the private residential parcels, but for consistency in appearance has the exclusive right to require the maintenance, repair and replacement of the exterior portions of said parcels including the dwellings located thereon. The term "particular expenses" shall include the cost of non-routine maintenance, repair and replacement of the exterior of a particular residential parcel, including but not limited to driveways, improved footpaths, walls, roof, doors and windows serving individual residential dwellings, whether caused by the negligent or willful act of an individual member or his family, tenants, guests or invitees or as the result of ordinary wear and tear over time.

Should the Association determine that the exterior of a private residential parcel or dwelling unit(s) is not being maintained in a condition that is clean and attractive and consistent with the community standard prevalent in SOMERSET AT WINDSTAR, the Association through its Board of Directors shall have the right to require the owner(s) of said parcel(s) to perform the maintenance or work required to repair conditions of disrepair or other conditions on the residential parcel(s) which, in the sole discretion of the Association i) are inconsistent with the community standards; ii) are in violation of local, state or federal laws; or iii) threaten the safety of other property or persons in the community. If the owner(s) has not corrected said condition following fifteen (15) days written notice from the Association, the Association shall have the right to enter the parcel in violation and perform the necessary maintenance, repair or replacement and

assess the owner(s) for all costs incurred which shall become a particular expense, which shall be secured by a lien on the parcel as provided Article VI(B). In the event of an emergency or other event of disrepair that must be addressed in less than fifteen (15) days in the discretion of the Board, the Association shall have the right to perform the necessary repair, maintenance or replacement without notice to the parcel owner and the costs of same shall be a particular expense.

The above-referenced costs of maintenance, repair and replacement of the exterior portions of particular residential parcels and dwellings incurred by the Association shall be assessed to the member(s) owning said parcel(s) or dwelling(s). This shall not be a "common expense" as described above. The Association is granted an easement upon each individual parcel and its improvements to accomplish the purposes set forth in this section.

C. Budget. The Budget of the Association and assessments shall be in such amounts as shall be deemed sufficient by the Board of Directors to enable it to carry out its purposes and obligations herein and to adequately provide for the funds sufficient to cover the Expenses of the Association.

1. Contingency Account. The Board of Directors shall have the right but not the obligation to include in the budget a monthly or quarterly contribution to a general contingency fund as the Board deems necessary to meet the unforeseen operational needs of the Association. Said fund may be used for unforeseen operational expenses, replacements, improvements or budget shortfalls. Said fund may also be created or supplemented by a special assessment, as further provided in Article VI(A) below.
2. Reserves. As part of the approval process for this amended Declaration, the members have elected to waive reserves and that any existing reserve funds shall be transferred to the above-referenced contingency fund upon recording of this amended Declaration. Notwithstanding, the Association's future Budgets may include reserve accounts for capital expenditures and deferred maintenance for which the Association is responsible. Reserves shall be determined, maintained and waived as provided in Section 720.303 of the Florida Statutes.

#### ARTICLE IV

#### VOTING RIGHTS

A. Voting Rights. Each of the fifty (50) residential parcels in SOMERSET AT WINDSTAR shall be entitled to one vote at Association meetings in conformity with the Articles of Incorporation and Bylaws of SOMERSET AT WINDSTAR HOMEOWNERS ASSOCIATION, INC., as amended.

## ARTICLE V

### RIGHTS AND OBLIGATIONS OF SOMERSET AT WINDSTAR ASSOCIATION

A. Obligations of SOMERSET AT WINDSTAR Association. The Association shall undertake the following responsibilities and liabilities.

1. The Association shall have the exclusive right and obligation to perform routine periodic maintenance on all existing landscaping, plantings, trees, irrigation systems and lawns located in SOMERSET AT WINDSTAR in a safe, clean, orderly and attractive condition, whether located on Association common areas or member-owned parcels. The costs thereof shall be a Common Expense, as provided above. The costs of maintaining seasonal flowers planted by parcel owners shall be a Particular Expense, as defined above.

2. The Association shall have the exclusive right and obligation to perform routine periodic maintenance on all existing paved roadways and curbs in SOMERSET AT WINDSTAR in a safe, clean, orderly and attractive condition, whether located on Association common areas or member-owned parcels. The costs thereof shall be a Common Expense, as provided above.

3. The Association shall have the exclusive right and obligation to require the performance of necessary repairs, non-routine maintenance and replacement of the exteriors of all residential parcels and dwellings including private driveways, walls, roofs, windows and doors in SOMERSET AT WINDSTAR in a safe, clean, orderly and attractive condition. Costs incurred by the Association to carry out this duty shall be a Particular Expense and not a Common Expense, as provided in Article III (B) herein.

4. To the extent not maintained by public authority(s) or utilities, the Association shall maintain all access, drainage and utility easements, including restoration of landscaped areas disturbed by the servicing thereof; storm drains, lakes, drainage courses, electrical lighting and other necessary utility services for the common area.

5. The Association shall have the right to hire licensed and insured laborers and acquire equipment to perform its maintenance obligations, as deemed reasonably necessary by the Association through its Board of Directors.

6. The Association shall obtain and maintain public liability insurance insuring itself and the parcel owners as members of the Association, as their respective interests may appear, in such amount as the Board of Directors may deem appropriate in its sole discretion. The Board of Directors shall have authority to compromise and settle all claims by or against the Association from time to time.



Nothing herein contained shall be construed to relieve parcel owners from responsibility of procuring and maintaining casualty and public liability insurance covering losses which may occur to on or about his/her residential parcel as he/she may deem appropriate nor to shift any liability which a parcel owner may have to the Association or to third parties. In addition to the above, no parcel owner may take any action which will result in an increase in the rate of any insurance policy or policies covering part of SOMERSET AT WINDSTAR which the Association maintains.

7. A. The Association shall obtain and maintain in force insurance covering all permanent existing improvements in SOMERSET AT WINDSTAR in amounts determined annually by the Board of Directors, including common areas, residential parcels and exteriors of the private residential dwellings. The Association shall maintain this insurance because of the right to perform routine maintenance and the right to require non-routine maintenance, repairs and replacements of the exterior of the residential parcels and dwellings and because of the difficulty of apportionment of the costs of repair in the event of damage to a parcel or dwelling of more than a cosmetic nature and, to this extent, the Association is appointed agent of the parcel owners. The name of the insured shall be the Association and the parcel owners without naming them, and their mortgagees, as their interests shall appear. The premiums for all such insurance shall be part of the "Common Expenses." Should the costs of repair or rebuilding part or all of a residential parcel or dwelling unit exceed the insurance proceeds, the excess shall be borne by the owner of the unit which is being repaired or rebuilt. Required coverage shall include:

1. Property. Loss or damage by fire, extended coverage, vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract. The Association shall not be obligated to insure the fixtures, improvements and personal contents on the interior of the residential dwelling units. The Association shall not be obligated to insure any alterations, additions or improvements made to a residential parcel.
2. Flood. If the community is located in the category flood zone such that mortgagees require the Association and owners to obtain flood insurance, in amounts available and deemed adequate by the Board of Directors.
3. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with coverage as determined by the Board of Directors, with cross liability endorsement to cover liabilities of the owners as a group to an owner. The premiums for all such insurance shall be part of the "Common Expenses". Should the costs of repair or rebuilding part or all of a dwelling unit exceed the insurance proceeds, the excess shall be borne by the owner of the dwelling unit which is being repaired or rebuilt.
4. Directors and Officers Liability.

- B. Each owner is responsible for maintaining liability insurance on his parcel and dwelling and property insurance for those portions of the parcel which are excluded from the Association's responsibilities as set forth herein.
- C. All policies purchased by the Association shall be for the benefit of the Association, the owners and their mortgagees, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust and disburse them for the purposes stated herein. The Association is hereby irrevocably appointed as agent for each owner to adjust all claims arising under these policies for damage or loss to those portions of the community within the Association's insurance responsibility.
8. The Association shall be responsible for the payment of all ad valorem taxes assessed against real property owned by the Association and against all personal property owned by said Association and to make payment of any other taxes assessed against or payable by the Association. The members are responsible for the ad valorem taxes assessed against their own individual parcels.
9. The Association shall be responsible for procuring accounting services, legal services, or such other professional, management or employee services as may be deemed appropriate by the Board of Directors.
10. The Association shall have the right and responsibility to adopt reasonable rules and regulations regarding parcel use to further the purposes of this amended Declaration.
11. The Association shall be responsible for the enforcement of all the terms, covenants and provisions of the community documents and regulations.

## ARTICLE VI

### COLLECTION OF ASSESSMENTS AND LIENS

A. Collection of Assessments. The Board of Directors of the Association shall approve the annual budgets of projected and anticipated income and estimated common expenses for each fiscal year, and it is the individual obligation of each owner(s) to pay for his/her unit's share of all assessments that come due while he or she is the parcel owner, regardless of how title to the parcel is acquired. One-fourth of each unit's annual assessment shall be due and payable in advance to the Association on the first day of each quarter of each fiscal year beginning January 1. The Board may alternatively elect to collect assessments on a monthly basis if determined to be in the best interests of the Association. The Association may send invoices as a courtesy to the address(s) provided by the members, but in no event shall the receipt of an invoice be a prerequisite for timely payment of regular monthly or quarterly assessments. In addition, the Board

of Directors shall have the power to levy special assessments against the unit owners, on an equal basis, if necessary to cover unanticipated expenditures which may be incurred during the fiscal year. Any assessments (including assessments collected on behalf of the Windstar Master Association) which are not paid within ten (10) days of their due date shall bear interest from the due date at the highest rate of interest permitted by law, and shall incur an administrative late fee at the highest amount permitted by law. The Association has the right to enforce this provision by either an action for damages, where it shall be entitled to reasonable attorney's fees and costs incurred to compel payment, and/or by lien foreclosure as provided below. A parcel owner is jointly and severally liable with the previous parcel owner for all unpaid assessments that came due up to the time of transfer of title, regardless if title is transferred to a mortgagee or other third party through foreclosure. This liability is without prejudice to any right the present parcel owner may have to recover any amounts paid by the present owner from the previous owner.

B. Liens. Each residential unit in SOMERSET AT WINDSTAR is subject to a lien against said unit for the amount of any unpaid assessment, together with interest and charges as provided herein. Subject to the notice requirements set forth in Section 720.3085 of the Florida Statutes, the Association is granted the right to file and record in the Public Records of Collier County, Florida, a written Claim of Lien against any parcel for which there remains any unpaid assessment, interest and/or charges as provided herein. Said lien shall attach only upon the recording of said Claim of Lien in the public records and shall thereafter be enforceable by the Association by as hereinafter provided and shall secure all amounts and charges that become due after recording. The aforementioned lien for assessments levied against each parcel described above shall be subordinate and inferior only to ad valorem or special assessments levied by the County of Collier and the lien of certain first mortgages as provided herein.

The aforesaid lien for assessments shall be subordinate to the lien of any bona fide first mortgage hereafter placed upon any of the parcels described above prior to the recording of the aforementioned Claim of Lien; provided, however, that such subordination shall apply only to assessments which shall become due and payable prior to the sale or transfer of a parcel described above pursuant to a decree of foreclosure or any other proceeding or transfer in lieu of foreclosure. No sale or transfer shall relieve any property from liability for any assessments thereafter becoming due, and as stated above, each parcel owner is jointly and severally liable with the previous parcel owner for all unpaid assessments that came due up to the time of transfer of title, regardless if title is transferred to a mortgagee or other third party through foreclosure.

The aforesaid assessment lien may be enforced by the Association by bringing an action in its name to foreclose the lien in the same manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessment(s) without waiving any claim of lien. In the event the Association shall institute suit to foreclose such lien, it shall be entitled to recover from the owner of such unit the amount of said lien, plus interest, together with any late charges, and reasonable attorneys' fees incurred by the Association incident to the collection of such

assessment or enforcement of such lien, including appellate proceedings, and including court costs. Further, in the event of non-payment of assessments and the institution of foreclosure proceeding by the Association, the remaining installments due for the remaining fiscal year of any assessments may be accelerated by the Association to maturity, by giving to the defaulting unit owner ten (10) days notice of intent to accelerate, unless all delinquent sums are paid within that time.

## ARTICLE VII

### ARCHITECTURAL CONTROL

A. Architectural Control. No structural or exterior repair, additions, modification or rebuilding of or to any parcel shall be commenced or performed until the construction plans and specifications and a plan showing the exact work to be performed have been approved by the Association as to the quality of workmanship and material, harmony of external design and appearance independent of and with existing structures, and as to the location with respect to topography and finished grade elevation. No fence, walls or hedge shall be erected or placed on or around any parcel unless similarly approved. The purpose hereof is to maintain SOMERSET AT WINDSTAR with the same appearance as when completed by the original Developer and any of the foregoing which, in the sole opinion of Association, will not improve or enhance such appearance will be denied. The Board of Directors shall have the right to adopt specific guidelines regarding the size, locations, types and materials for exterior improvements and alterations and shall have the authority by itself or through a duly appointed architectural review committee to review and approve plans and specifications based on such guidelines, as permitted by law. Approval or disapproval shall be granted within 30 days and in writing. In assessing the merits of any application, impact on neighbors and the incorporation of landscaped privacy features will be especially taken into account. The Association's Board of Directors shall have the right but not the obligation to delegate responsibility for architectural review decisions to a committee of members.

In addition to fines and suspension of use rights as provided herein and by Florida Statutes Chapter 720, the Association has the right to enter any parcel and remove any unapproved alteration, improvement or structure and/or proceed in equity to compel the removal of said unapproved alteration, improvement or structure, and the owner(s) in violation shall be responsible for costs incurred by the Association to compel compliance, including the costs of labor to remove the unapproved item and/or reasonable attorney's fees and costs.

## ARTICLE VIII

### USE RESTRICTIONS

A. Use Restrictions. No residential parcel shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any parcel other than the one single-family dwelling unit not to exceed two stories in height

and a private two-car garage made part of the dwelling unit that was constructed thereon by the original Developer and such repairs and replacements thereof as may be required by the Association pursuant to Article III(B) hereof or approved by the Association or its architectural review committee pursuant to Article VII hereof or occasioned by fire or other casualty or wear, tear and decay, all of which replacement must be made only as provided in this amended Declaration. No detached structure or other improvements of any kind or nature shall be erected or permitted. The grade level established by the original Developer shall not be altered nor shall any filling be done. No additions shall be placed on any structure, including porches, decks or lanais, garages closed in or converted to purpose other than garage and utility areas or no other structural change shall be made of whatever kind or nature, except with the consent and approval required herein. The purpose and intent of this paragraph is to maintain a uniform appearance for all parcels and dwellings and to cause all repairs and replacements of such improvements to be the same kind, character and quality as originally constructed by the original Developer, all with a view toward maintaining the common appearance and scheme of SOMERSET AT WINDSTAR.

B. Temporary Structures. No structure of a temporary character, trailer, house trailer, tent, shack, garage, barn or other outbuilding shall be used on any parcel at any time either temporarily or permanently with the exception of the customary general contractor's office or trailer during the course of any construction approved by the Association.

C. Garage Use, Visible Parking or Storage. With the exception of non-commercial operable passenger automobiles, no vehicles of any kind shall be parked or stored except inside an enclosed garage. No vehicle of any kind shall be parked in the public street or right-of-way. Further, no golf carts, commercial trucks, construction vehicles, construction materials, construction equipment, motor homes, trailers, boats, racing cars, commercial equipment or any other commercial or recreational vehicle or vessel and related equipment shall be parked or stored outside of an enclosed structure or be otherwise exposed to view from an adjacent parcel. Except for ingress and egress or temporary work, garage doors shall remain closed at all times.

D. Water and Sewer. All buildings shall use and be connected to the central water and sewer service; no well shall be drilled on any parcel, except with the consent and approval required in Article VII, and no septic tank shall be installed, used, or maintained, on any parcel. Should the Board of Directors determine that an individual parcel owner(s) is using an unreasonably high level of said utility services, it shall have the right to equitably assess said owner(s) as a Particular Expense. The Board reserves the right to require the installation of individual or sub-meters if determined to be in the best interests of the Association.

E. Underground Utilities. All utility line and lead-in-wires, including but not limited to, electrical lines, cable television lines, telephone lines, water and sewerage located within the confines of any parcel or parcels shall be located underground. Except for antennas or satellite dishes designed to receive direct satellite service, video

programming service or television broadcast signals which are one (1) meter or less in diameter, no television or other antenna shall be installed or maintained including but not limited to, satellite dishes or similar systems or devices unless approved by the Association. The Association may require that any such device be shielded from visibility by screening or landscaping or other reasonable means in order to blend into the dwelling unit and be removed from the view from the street and other dwelling units.

F. Leasing and Transfers. Any owner wishing to lease or sell his parcel shall make application to the Association and provide any information required by the Board of Directors. A transfer into an owner's living trust for estate planning purposes shall not constitute a transfer. The Association shall respond with approval or disapproval within twenty (20) days of receipt of all information required to make a complete application. The Association's failure to respond in a timely manner shall be deemed approval. The Association shall provide a certificate of approval in recordable form for any approved sales. Parcels may be leased up to three (3) times per year and for a term of no less than twenty-eight (28) days. The Association shall have the right to charge a reasonable lease application fee as determined by the Board of Directors. All leases shall be deemed to include the agreement of the owner and tenant for compliance with community covenants, rules and regulations, violation of which will be grounds for termination of the lease and eviction of tenant(s) and liability for the legal fees and costs incurred by the Association to enforce the covenants and/or remove the tenant(s). The following shall constitute grounds for disapproval of a proposed lease or other transfer:

1. Failure by the owner or member to pay all amounts owed to the Association at the time of the proposed transfer;
2. Prior conviction of the proposed tenant(s) or transferee(s) of a felony involving violence or damage to persons or property;
3. Prior conduct of the member, owner or proposed tenant(s) or transferee(s) showing a pattern of disregard for the rights of others in SOMERSET AT WINDSTAR or other community;
4. The lease or transfer application on its face indicates an intent to violate the Association's covenants and regulations.

G. Easements. The original Developer reserved easements for installation and maintenance of utilities and for drainage facilities as shown on the recorded Plat of WINDSTAR and parcel plan of SOMERSET AT WINDSTAR. Within these easements no structure, planting, fill or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or drainage. The slope, grade, and elevation of the ground surface within the easement may not be modified in any manner which might interfere with the drainage or surface waters.

H. Nuisances. No noxious or offensive activity shall be carried on in any unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

I. Signs. Signs (including but not limited to "For Sale" or "For Rent" signs) may be displayed on any parcel in SOMERSET AT WINDSTAR only if in conformity with the Association's adopted architectural guidelines and as permitted or limited by the covenants and regulations of the Windstar Master Association.

J. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any parcel except that dogs, cats or other non-exotic household pets may be kept provided they are not kept, bred or maintained for any commercial purpose. Pets must be kept on a leash at all times when outside of a residential dwelling and owners and tenants shall promptly clean up any pet waste whether left on a member-owned parcel or common area.

K. Refuse Disposal. No unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage, recycle and other waste shall be kept only in sanitary containers which shall be kept in a clean and sanitary condition and screened from view from neighboring units. Garbage receptacles shall only be stored on the curb for pick-up from 6 p.m. on the day prior to normal collection days and removed and screened from view as soon as possible after collections and in no event not later than 6 p.m. on the day of collections.

L. Clotheslines. No clotheslines or drying yards shall be located so as to be visible from neighboring units.

M. Streets and Right-of-Ways. Each owner shall have a non-exclusive easement for ingress and egress over all streets and rights-of-way in SOMERSET AT WINDSTAR. Vehicles shall not be parked in a manner to block or impede said easement. Parking in the street or other common right-of-way is prohibited. The Association has the right to tow any vehicle parked in violation of these covenants, and the responsible owner(s) or tenant(s) shall be responsible for the towing costs.

N. Lawns and Landscaping. All lawns in the rear, side and front of each residence shall be extended to the pavement line or the property line of SOMERSET AT WINDSTAR as the case may be even if same is beyond the unit line. All such lawns shall be maintained, mowed, and cared for by the Association as provided herein. No gravel, blacktop or paved parking strips shall be constructed or maintained except as approved by the Association as set forth above.

O. Other Restrictions. The Association's Board of Directors shall have the right to adopt additional reasonable rules and regulations regarding parcel and common area use in furtherance of its right and duty to operate SOMERSET AT WINDSTAR.

ARTICLE IX

## PARTY WALL AGREEMENTS

A. Party Wall Agreements. In constructing the residential units subject to this Amended Declaration, the original Developer built certain dwelling units which have common walls, or party walls, upon the property line separating the respective units. These common walls shall be known as party walls and shall be subject to this agreement, which agreement shall be binding upon all subsequent owners of units in SOMERSET AT WINDSTAR and shall be a covenant running with the land.

Each owner of a unit in SOMERSET AT WINDSTAR which has a wall common to the structure of such unit and the structure of an adjacent unit shall at all times be jointly responsible for the maintenance, repair and rebuilding of such party wall with the owner of such adjacent unit. Each such owner shall at all times maintain, use and care for such wall in a manner such as to be consistent and compatible with the use and maintenance of said party wall by the adjacent owner. Reciprocal easements are hereby granted and reserved on each adjacent unit for the party wall and within said party wall for the maintenance of any water line, sewer lines, electrical conduit, wires, TV cables or other utilities or similar apparatus and for the support, maintenance and repair of the common roof. Nothing shall be attached to or within said wall which may interfere with the rights of the adjacent owner in and to said wall for the purpose of support of the adjacent structure and the continued right of enclosure thereof. In the event it should be determined that such party wall has been constructed in a location other than directly on the property line, then the owner of the adjacent unit shall be deemed to have granted an easement and license to the other unit owner for the continued use of such party wall and the use and occupation of any lands between the property line and said party wall, if any, as though said party wall were erected directly on the property line. The party benefiting from said easement releases the adjoining owner from any liability incident to ownership.

In the event of damage or destruction to said party wall from any cause whatsoever, other than the negligence or willful misconduct of only one of the owners of the party wall, then the adjacent owners at their joint expense shall repair and rebuild said party wall. If such maintenance, repair or construction is required to be done solely because of the negligence or the willful misconduct of only one of the owners using the party wall, then any expense incidental to the maintenance, repair or construction shall be borne solely by such wrongdoer. If any unit owner shall refuse to promptly repair or rebuild the party wall or pay his share of such cost of repair or replacement, then the other owner may have such wall repaired or reconstructed and shall be entitled to a lien on the dwelling unit of the owner so failing to pay his share, which lien may be effectuated by filing a demand for such lien with the Association which shall perfect said lien in the same manner as liens of the Association are perfected. If a unit owner shall give or shall have given a mortgage upon his unit, then the Mortgagee shall have the full right at its option to exercise the rights of the mortgagor as owner hereunder and, in addition, the right to add to the outstanding balance of such mortgage any amounts paid



by the Mortgagee for repair or construction hereunder which have not been reimbursed to said Mortgagee by the adjacent owner.

In the event that a party wall is not adjacent to another residential dwelling but is adjacent to a common area, said wall shall be the responsibility of the owner.

The provisions of this Article IX may be terminated or modified only by an instrument in writing signed by the owners of all of the units in SOMERSET AT WINDSTAR and their mortgagees, which writing must be recorded in the Public Records of Collier County, Florida.

## ARTICLE X

### GENERAL PROVISIONS

A. Common Area Conveyance. The original Developer has conveyed free and clear of any mortgages or liens to the Association certain common areas, as more particularly shown on the plan shown on Exhibit "B" attached hereto. This plan is not a recorded plat and is not intended to be an accurate map showing the location of each unit but is a graphic display only. The Association accepted such conveyance and owns and maintains such common area in accordance with the provisions of this Amended Declaration, its Articles and Bylaws, as amended. The common areas include rights-of-ways, amenities and any other property owned by or dedicated to the Association. The common areas shall be used on a non-exclusive basis by the owners of units in SOMERSET AT WINDSTAR, their guests, tenants and invitees subject to such rules and regulations for use of said common area as may be promulgated by the Association.

B. Enforcement. These covenants and restrictions may be enforced by the Association against any unit owner or tenant by an action at law or in equity against any person violating or attempting to violate the covenants and restrictions. Each lease shall be deemed to include the agreement of the tenant to abide by the community documents and that violation is grounds for eviction and that the owner and tenant are responsible for the legal costs incurred by the Association to compel compliance.

Decisions on enforcement of these covenants shall be made by the Association's Board of Directors. Except in an emergency, the Board must provide written notice of a violation and a reasonable opportunity to cure before imposing a penalty(s) or taking legal action. Subject to the dispute resolution requirements set forth in Florida Statutes Section 720.311, the party bringing the action to enforce the community documents may seek to recover damages and/or injunctive relief and the prevailing party shall be entitled to recover costs and attorneys' fees so incurred in accordance with Florida Statutes Section 720.305. In addition, the Association shall have the right to impose and collect fines of up to \$100 per day of continuing violation and suspend use rights, as further provided by Florida Statutes Section 720.305. An approved fine shall not become a lien on a parcel.

C. Term. These covenants and restrictions shall run with the land and shall be binding on all parties and persons claiming under them for a period of 30 years from date of recording of this Amended Declaration, after which time, the covenants and restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by 66-2/3 percent of the then owners of the above-described units agreeing to terminate said covenants in whole or in part has been recorded in the Public Records.

D. Modification. These restrictions may be modified at any time by the written consent or vote of a majority of all voting interests. The owners of the units hereby appoint the Association as their agent in SOMERSET AT WINDSTAR for the purpose of making minor non-substantive changes, changes required by law, changes required by the Windstar Master Association or waiving minor violations in these restrictions.

E. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Association has caused this instrument to be executed this 4 day of FEBRUARY, 2008.

WITNESSES:

SOMERSET AT WINDSTAR  
HOMEOWNERS ASSOCIATION, INC.

*(Signature of witness)*  
*(Signature of witness)*

By: *(Signature of George L. Nolin)*  
Name: GEORGE L. NOLIN  
Title: President

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2008, by George Nolin, as president of SOMERSET AT WINDSTAR HOMEOWNERS ASSOCIATION, INC., a Florida Not-for-Profit Corporation.

*(Signature of Notary Public)*  
Notary Public

My Commission expires:

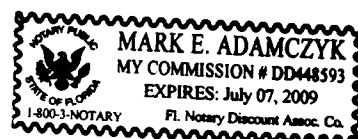


EXHIBIT "A"

Tract "E" of Windstar, a subdivision as recorded in Plat Book 14, Pages 11 through 15 of the Public Records of Collier County, Florida.

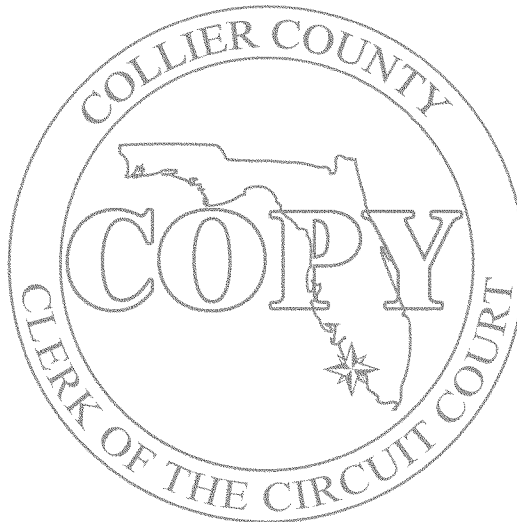


EXHIBIT "B"

Survey / Plat



