

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR KINGSTON DUNES**

THIS DECLARATION, made as of the date hereinafter set forth, by Kingston Dunes Homeowners' Association, Inc., a Florida not-for-profit corporation, hereinafter referred to as "Declarant" or "Association".

WITNESSETH:

WHEREAS, Kingston Dunes, Inc. (hereinafter referred to as the "Developer") was the owner of a parcel of real property located in St. Johns County, Florida, which was developed as a community known as Kingston Dunes, more properly described in and depicted on the following plat recorded in the current public records of St. Johns County, Florida, to wit:

All the land described and contained in the Plat of Kingston Dunes, according to Plat thereof recorded in Map Book 21, Pages 79 through 83, public records of St. Johns County, Florida, and all that oceanfront property described in Exhibit "A", attached hereto, (collectively the "Property"); and

WHEREAS, the Developer executed that certain Declaration of Covenants and Restrictions for Kingston Dunes, as recorded on or about December 12, 1991, in Official Records Book 918, Page 951, of the current public records of St. Johns County, Florida, as amended by instruments recorded in the Official Records Book 933, Page 1435, Official Records Book 1191, Page 836, Official Records Book 1407, Page 886, Official Records Book 1092, Page 831, and Official Records Book 3319, Page 80; each of the current public records of St. Johns County, Florida, collectively hereinafter referred to as the "Original Declaration"; and

WHEREAS, Developer provided in the Original Declaration for the establishment of a not for profit association to own, maintain, and administer all Common Property as hereinafter defined and to administer and enforce the easements, covenants, conditions, restrictions, and limitations as set forth in the Original Declaration, and collect and disburse the assessments created in the

Original Declaration, which association is Declarant, Kingston Dunes Homeowners' Association, Inc.

WHEREAS, the Declarant desires to amend and restate the Original Declaration and impose this Amended and Restated Declaration of Covenants and Restrictions for Kingston Dunes on the real property within the community of Kingston Dunes; and, accordingly, pursuant to the laws of the State of Florida, prepared this document to amend and restate the Original Declaration; and

WHEREAS, the Amended and Restated Declaration of Covenants and Restrictions for Kingston Dunes shall hereinafter be referred to as the "Amended and Restated Declaration"; and

WHEREAS, the purpose of this Amended and Restated Declaration is to substantially and completely amend and restate the covenants, conditions and restrictions previously imposed upon the community of Kingston Dunes and place the covenants, conditions and restrictions of record as to the real property hereinafter described, and to limit the use of same, as set forth hereinafter this Amended and Restated;

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, the Declarant hereby declares that henceforth the Original Declaration is merged into and is superseded by this Amended and Restated Declaration such that the real Property described in Article I herein and any additional property made subject to this Amended and Restated Declaration, to the extent permitting by law, shall be held, sold and conveyed, subject to the following easements, covenants, conditions and restrictions, all of which are for the purpose of protecting the value and desirability of, and which, shall be covenants and restrictions to run with said real Property and binding on all parties having any right, title or interest in the real Property described above or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof. The Amended and Restated Declaration shall in no way effect the

priority of the Original Declaration in the public records of St. Johns County, Florida, and the Amended and Restated Declaration shall specifically relate back to the date the Original Declaration was first recorded as if the Amended and Restated Declaration was in full force and effect on the date thereof. All easements, waivers, and setback lines set forth in Article IV and Article VII of the Original Declaration, together with its amendments, shall remain in full force and effect and are fully incorporated hereto as if fully stated herein.

#### ARTICLE I

Unless the context expressly requires otherwise, the words defined below, whenever used in this Amended and Restated Declaration shall have the following meanings:

- 1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.
- 1.2 "Architectural Control Committee" or "ARC" shall mean and refer to an architectural review committee appointed in accordance with Article III, whose duties shall be as set forth in Article III.
- 1.3 "Association" shall mean and refer to Kingston Dunes Homeowners' Association, Inc., its successors and assigns.
- 1.4 "Board of Directors" or "Board" shall mean and refer to the board of directors of the Association.
- 1.5 "By-Laws" shall mean and refer to the By-Laws of the Association as amended from time to time.
- 1.6 "Common Expenses" shall mean and refer to those items of expense for which the Association is or may be responsible under this Amended and Restated Declaration and those additional items of expense approved by the Owners in the manner set forth in the Amended and Restated Declaration, the Articles or the By-Laws.

1.7 "Common Property" shall mean and refer to those tracts of land deeded to the Association for the common use and enjoyment of the owners and their guests and invitees and all improvements constructed thereon. All Common Property is Intended for the common use and enjoyment of the Owners and their guests, lessees or invitees and the visiting general public to the extent permitted by the Board of Directors of the Association subject to any rules and regulations adopted by the Association and subject to all use rights reserved by Declarant herein or prior to conveying any land to the Association.

1.8 "Declarant" shall mean and refer to the Kingston Dunes Homeowners' Association, Inc., its successors and assigns.

1.9 "Developer" shall mean and refer to Kingston Dunes, Inc., a dissolved Florida for-profit corporation.

1.10 "Lot" shall mean and refer to any plot of land together with the improvements thereon, shown on the recorded Subdivision Plat referred to herein and any subsequently recorded Subdivision Plat of any additional contiguous land made subject to this Amended and Restated Declaration and any individual lot developed on the Property described on Exhibit "A".

1.11 "Member" shall mean and refer to any Owner who is a member of the Association;

1.12 "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot shown on the Subdivision Plat referred to herein and any Subdivision Plat of additional contiguous land made subject to this Amended and Restated Declaration, or of any individual Lot developed on the Property described on Exhibit "A" and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

1.13 "Property" shall mean and refer to the following certain real Property, together with improvements thereon and any additional contiguous Property made subject to this Amended and Restated Declaration, to wit:

All the land described and contained in the Plat of Kingston Dunes, according to Plat thereof recorded in Map Book 21, Pages 79 through 83, public records of St. Johns County, Florida, and all that oceanfront property described in Exhibit "A", attached hereto.

1.14 "Rules and Regulations" shall mean all rules, regulations, guidelines, and code of conduct approved by the Board of Directors regarding the use of the Common Property and facilities and the personal conduct of the members and their guests thereon, including any penalties for the infraction thereof.

## **ARTICLE II PROPERTY RIGHTS**

2.1 Owners' Common Property Easements. Subject to the provisions of the Amended and Restated Declaration, the rules and regulations of the Association, and any prior use rights granted in the Common Property, every Owner, their successors and assigns and their families and every guest, tenant, and invitee of such Owner is hereby granted a right and easement of ingress and egress and enjoyment in and to Common Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

2.1.a) The right of the Association to charge reasonable admission and other fees for the use and security of any recreational facility situated upon the Common Property.

2.1.b) The right of the Association to suspend the voting rights and right to use the recreational facilities located on the Common Property by an Owner for any period during which any Assessment against his Lot remains unpaid as provided for by Florida law. In no event may the Association deny an Owner the use of the entrance areas or public or private roads or cul-de-sacs, if any, so as to prohibit ingress and egress to his Lot.

2.1.c) The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer or grant an easement over all or any part of the Common Property to any public agency, authority or utility company for the purpose of providing utility or cable television service to the Common Property and the right of the Board to acquire, extend, terminate or abandon such easement.

2.1.d) The right of the Association to sell, convey or transfer the Common Property or any portion thereof to any third party other than those described in Subsection 2.1.c) for such purposes and subject to such conditions as may be approved by written consent of two-thirds (2/3) of the voting interests of the Association.

2.1.e) The right of the Board of Directors to adopt reasonable rules and regulations pertaining to the use of the Common Property.

2.1.f) The right of the Association to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' rights therein.

2.1.g) The right of the Board to mortgage any or all of the common Property for the purpose of improvement or repair of the Common Property with the approval of a two-thirds (2/3) of the voting interests of the Association.

2.2 Delegation of Use. Any owner may delegate his right of enjoyment: to the Common Property to the members of his family, his tenants, or contract purchasers who occupy the Lot within the Property.

2.3 Leases and Rentals. In order to maintain a community of congenial Owners which are financially responsible and thus protect the value of the Lots, the leasing and rental of Lots or any building constructed thereon shall be subject to the following provisions, which provisions each Owner covenants to observe:

2.3.a) No Owner may rent or lease his or her Lot or any building constructed thereon for a period of less than six (6) consecutive months. No Owner may advertise or solicit any Lot or any building constructed thereon for rent or lease for a period less than of six (6) consecutive months, either directly or through a third party.

2.3.b) Any Subletting of the Lot or any building constructed thereon shall be for a period of not less than six (6) consecutive months. Any Lot or any building constructed thereon shall be rented or leased only in its entirety,

unless prior written approval is granted by the Board, which approval shall not be unreasonably withheld.

2.3.c) The lease and all lessees shall be subject in all respects to the terms and provisions of this Amended and Restated Declaration and the Rules and Regulations of the Association.

2.3.d) All leases shall be in writing and a copy shall be provided by the Owner to the Association within ten (10) days of the date the lease is executed by all parties. Additionally, a copy of the Amended and Restated Declaration and the Rules and Regulations of the Association must be provided by the Owner to all lessees.

2.3.e) Any lease shall not relieve the Owner of his or her responsibilities and obligations under the Articles of Incorporation, By-Laws, the Amended and Restated Declaration, and the Rules and Regulations of the Association. All leases are subordinate to any lien filed by the Association, whether prior or subsequent to the effective date of such lease. .

2.3.g) Owners violating the provisions of this Section may be subject to a fine as provided in Section 4.24 for each infraction.

2.4 Timesharing. No Lot or any building constructed thereon shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot or any building constructed thereon rotates among participants in the program on a fixed or floating time schedule over a period of years.

### **ARTICLE III**

#### **ARCHITECTURAL CONTROL**

3.1 No buildings or structures, including docks and bulkheads, dune walkovers, fences, mailboxes, walls, landscaping or exterior lighting plan or other improvements shall be commenced, erected or maintained upon the exterior of any improvement located on any Lot or on any unimproved portion of any Lot, nor shall any grading, excavating, or tree removal be commenced, exterior addition to or change be made until all construction, grading and landscape

plans and specifications showing the nature, kind, shape, height, color, materials and location of the same have been submitted to and approved in writing by the Architectural Control Committee (hereinafter the "ARC"), in its sole discretion, as to quality of workmanship and materials, harmony of external design with existing buildings or structures, location of said building or structure with respect to topography and finish grade elevation and as to compliance with the provisions of this Amended and Restated Declaration. Said plans shall be either approved or disapproved by the Architectural Control Committee within thirty (30) days following submittal to same. Construction of approved improvements shall be completed within a period of six (6) months from date construction is begun, unless otherwise approved by the ARC.

The members of the ARC shall be appointed by the Board of Directors of the Association.

3.2 The ARC shall have the following powers and duties:

3.2.a) To draft and adapt, from time to time, architectural planning criteria, standards and guidelines relative to architectural styles or details and rules and regulations regarding the form and content of plans and specifications to be submitted for approval all as it may consider necessary or appropriate, hereinafter referred to as the "Architectural Planning Criteria". Any changes to the Architectural Planning Criteria, standards, and guidelines must be approved by a vote of two-thirds (2/3) of the voting interests of the Association voting in person or by proxy at a regular or special meeting of the members. The notice of such regular or special meeting must contain the text of the proposed change(s) to the Architectural Planning Criteria, standards, and guidelines. Said notice must also include the time and date that the vote will be taken.

3.2.b) To require submission to the ARC of two (2) complete sets of preliminary and final plans and specifications as hereinafter defined for any buildings or structures of any kind, including, without limitation, any dwelling, fence, wall, sign, site paving, grading, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object, exterior lighting scheme, docks or bulkheads (hereinafter referred to as "Proposed Improvement" ) the construction or placement of which is proposed upon any Lot or property, together with a copy of any building permits which may be required. The ARC may also require submission of samples of building materials and colors proposed for use

on any Lot or the Property, and may require such additional information as reasonably may be necessary for the ARC to completely evaluate, the Proposed Improvement or structure in accordance with the Amended and Restated Declaration and the Architectural Planning Criteria adopted by the Owners.

3.2.c) To approve or disapprove any Proposed Improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot or the Property and to approve or disapprove any exterior additions, changes, modifications or alterations including the color thereof, therein or thereon. Any party aggrieved by a decision of the ARC shall have the right to make a written request to the Board of Directors of the Association within thirty (30) days of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall in all events be dispositive.

3.2.d) To evaluate each application for the total effect, including the manner in which the home-site is developed. This evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a Proposed Improvement might meet individual criteria delineated in this Article and the Architectural Planning Criteria and still not receive approval, if in the sole judgment of the ARC, its overall aesthetic impact is unacceptable. The approval of an application for one Proposed Improvement shall not be construed as creating any obligation on the part of the ARC to approve applications involving similar designs for Proposed Improvements pertaining to different Lots.

3.2.e) If any Proposed Improvement as aforesaid shall be changed, modified or altered without prior approval of the ARC or such change, modification or alteration, and the plans and specifications therefor, if any, then the Owner shall cause the Proposed Improvement to be restored to comply with the original plans and specifications, or the plans and specifications originally approved by the ARC, and shall bear all costs and expenses of such restoration, including any costs incurred by the ARC. The Association may pursue all remedies available at law and as provided in the Amended and Restated Declaration upon the failure of the Owner to comply with Section 3.2, including

the levy of a fine as set forth in Section 4.24 herein, after delivery of a fifteen (15) day notice to cure any such non-compliance.

3.2.f) In addition, any Owner making or causing to be made any Proposed Improvement or additions to the Property or a Lot agrees and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors and assigns to hold the ARC, Association, and all other Owners harmless from any liability, damage to the Property and from expenses arising from any Proposed Improvement and such Owner shall be solely responsible for the maintenance, repair and insurance of any Proposed Improvement and for assuring that the Proposed Improvement meets with all applicable governmental approvals, rules and regulations.

3.2.g) The ARC is hereby authorized to charge a reasonable fee as it deems necessary to cover the cost of review of the plans and specifications.

#### **ARTICLE IV**

##### **USE RESTRICTIONS**

4.1 No lot shall be used for any purpose except residential. No building other than one (1) single-family dwelling, not to exceed three (3) stories in height as all Lots, including oceanfront Lots, may be constructed on any one Lot. All garages, utility rooms, porches and screened-in areas shall be designed in harmony with the dwelling. No residence shall be constructed or placed on any Lot containing less than one thousand two hundred (1,200) square feet of heated and cooled living area, for a one (1) story dwelling, no less than eight hundred (800) square feet of ground floor area for a dwelling of more than one (1) story, with a minimum of one (1) enclosed attached garage. All garages, utility rooms, porches and screened-in areas shall be in addition to the minimum 1,200 square feet of living area and not considered a part thereof. All front yards shall be sodded and landscaped from the edge of the paved roadway to the foundation of the residence and must be maintained in a healthy and good condition free from weeds. No business or commercial buildings or equipment may be erected or kept on any Lot.

4.2 No structure shall be erected in violation of the setback line restrictions as set forth in Article IV of the Original Declaration, together with its amendments, which said restrictions

remain in full force and effect and are fully incorporated hereto as if fully stated herein, restated for reference purposes only as follows: "No structure shall be erected less than fifteen feet (15') from the front Lot line or five feet (5') from the rear Lot line. Structures may be constructed on or adjacent to the boundary of any other Lot, provided there is a minimum of ten feet (10') between structures. All setbacks shall be measured from the foundation and eaves and cornices may project beyond the setback lines established herein. In the event eaves or cornices project beyond the boundary of an adjoining lot, the owner of such structure shall have an easement of a width of eighteen inches (18") over such adjoining Lot to permit such eaves and cornices and to allow for the maintenance, repair and replacement of same."

4.3 All walls or fences must have prior approval from the ARC as to type, location, size or construction, however, in no event shall a wall or fence exceed seven (7') in height.

4.4 No trade or business may be conducted in or from any residence or Lot, except that an Owner or occupant residing in a residence may conduct business activities within the residence so long as: a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; b) the business activity conforms to all zoning requirements for the Property; c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or hazard or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Association.

4.5 No trailer, boat (including "wave Runners" or other personal water craft), camper, motor home, tractor trailer, box truck, or vehicle with commercial signs may be kept or parked on any Lot or driveway unless same is completely inside a garage or is parked temporarily only for the time period necessary to load or unload same, which in no event shall exceed twenty-four (24) hours.

4.6 No inoperable vehicles or vehicles without current registration and insurance will be permitted on any Lot or Common Property. No repairs to any vehicle may be made on any Lot or in driveways unless the vehicle is completely inside a garage.

4.7 No livestock, poultry or animals of any kind or size shall be raised, bred or kept on any Lot; provided, however, that dogs, cats or other domesticated household pets may be raised and kept provided such pets are over ten (10) weeks old and shall not exceed two (2) in number. No such pets shall be allowed on the Property other than on the Lot of the owner of such pets, unless confined to a leash.

4.8 Persistently barking dogs, or dogs running at large shall constitute a nuisance, per se, and a violation of the restriction set forth in Section 4.10 hereof.

4.9 No Lot or Lots shall be re-subdivided or combined.

4.10 No immoral, unlawful, noxious or offensive activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance.

4.11 No structure of a temporary character, tent, shack, garage, barn, trailer or other outbuilding shall be used on a Lot as a residence either temporarily or permanently.

4.12 No lot shall be used or maintained as a dumping ground for rubbish and trash. Garbage or other waste shall only be kept in sanitary containers. No drilling, quarrying, mining or excavating operations of any kind shall be permitted upon or in any Lot.

4.13 If the Association elects not to contract with a landscape maintenance service or other lawn service companies as provided in Section 8.2, then it shall be the responsibility of the Owner of each Lot to assure that: the Lot is maintained in a neat and attractive condition; that the Lot is edged and mowed regularly, including the area between the Lot line and the edge of the paved street; and, that all landscaping and plant materials are maintained in a neat and attractive condition including all landscaping and plant materials in areas contained in fenced backyard areas or other inaccessible areas, if any.

4.14 The Owner of each Lot which borders on the storm water retention pond shall maintain that area, including the slopes, down to the edge of the water in a neat well-kept condition. Washouts or erosion on the Lots adjoining the storm water retention pond shall be properly attended to by the respective Lot Owner. Notwithstanding the foregoing, no Owner may

do anything, or as the case may be, neglect to take any action, which may cause any modification of the storm water management system.

4.15 No children's toys, tricycles, bicycles, or other unsightly material will be permitted to remain or be regularly left on any Lot forward of the building setback line. No recreational or play structures, such as but not limited to, basketball goals, swing sets, or sandboxes, shall be permanently installed on any Lot where they are visible from the street, and same must be approved by the ARC. Any portable recreational or play devices, such as but not limited to, portable basketball goals, canoes and kayaks, must be kept in a garage when not in use, unless stored in an outdoor storage container not visible from the street which was approved by the ARC.

4.16 No sign of any kind shall be displayed on any Lot except approved signs showing the Owners' name and number of residence, and temporary "For Sale," "For Rent" or "Open House" signs complying with Architectural Planning Criteria. Any sign not specifically permitted under Architectural Planning Criteria must be approved by the ARC prior to installation.

4.17 Television antennas, satellite dishes or weather stations may be installed as permitted by Federal Law, however, the ARC may promulgate reasonable criteria, standards and guidelines regarding the appearance and location of the installation as long as the proposed guidelines comply with Federal Law by: not unreasonably delaying or preventing its installation, maintenance or use; not unreasonably increasing its cost of installation, maintenance or use; and, not precluding its reception of an acceptable quality signal.

4.18 No tree of a diameter in excess of four Inches (4") at a height of four feet (4') above ground level may be removed from a Lot without the approval of ARC. All requests for tree removal shall be submitted to the ARC along with a site plan showing the location of such tree or trees.

4.19 No window air conditioning unit may be placed in any window of the residence.

4.20 The design, placement, construction and materials of all exterior lighting, including lamp posts and landscape lighting, shall be in accordance with specifications promulgated by the ARC and approved by the ARC prior to commencement of installation of same. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot for the purpose

of illumination shall be clear, white or no-frost light bulbs, unless approved by the ARC prior to use. Notwithstanding, yellow "bug light" light bulbs may be installed at the front and rear exterior doors. Nothing in this Section shall be construed to prohibit an Owner from complying with any law, ordinance or regulation governing exterior lightning, including laws, ordinances and regulations regarding the protection of marine turtles.

4.21 No mail or newspaper boxes shall be permitted on any Lot except those oceanfront Lots located along the coastal highway.

4.22 No fishing, swimming, wadding, bathing or boating in the storm water pond is permitted. No docks, ramps or other structures shall be constructed in the storm water retention pond or bulkhead. All other uses of the storm water retention pond shall be regulated by the Association and the St. Johns River Water Management District.

4.23 Swimming pools shall be limited to in-ground pools only. Pumps or other pool equipment shall be concealed from adjacent Lots or streets in the Property.

4.24 In addition to any remedy provided to the Association herein, the Association may levy fines for violations of the Amended and Restated Declaration and Rules and Regulations of the Association. Multiple violations may be deemed separate violations and fines may be levied for each violation as set forth in this Section. A fine up to \$100.00 may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine per violation may not exceed, in the aggregate, the maximum permissible amount as provided by Florida Law. A fine levied pursuant to this Section shall be a lien against the Lot. In an action to recover a fine or to foreclose a lien for an unpaid fine, the prevailing party is entitled to recover its costs and reasonable attorney's fees from the non-prevailing party. This Section shall be governed by Chapter 720 of the Florida Statutes, as may be amended from time to time, and in the event that this Section's terms may come to be in conflict with the Florida Statutes, the Florida Statutes shall control.

4.25 In the event that a fine is levied against a Lot pursuant to Section 4.24, the Association may then provide maintenance upon the Lot's unimproved areas and the exterior of any improvements thereupon when necessary to preserve the beauty, quality, or value of any or all portions of the Property in accordance with this Section. Such maintenance shall include but

not be limited to painting, roof repair and replacement, repair of gutters, repair of downspouts, maintenance of exterior building surfaces, maintenance of fencing, and landscape clean-up and landscape maintenance. Each affected Owner shall have fifteen (15) days within which to perform the required maintenance after being notified in writing by the Association that such maintenance is necessary before the Association undertakes the maintenance. The cost of any maintenance undertaken by the Association under this Section shall be assessed against each Lot upon which such maintenance is performed. Exterior maintenance assessment shall not be considered a part of the annual or special assessments imposed upon the Property pursuant to Article VI of this Amended and Restated Declaration. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Lot and shall become due and payable in all respects, together with interests, attorney fees, and costs of collection, as provided in Section 6.1 herein, and shall be subordinate to mortgage liens to the extent provided in Section 6.7 herein

## ARTICLE V

### MEMBERSHIP AND VOTING RIGHTS

5.1 Every Owner of a Lot shall be a member of the Kingston Dunes Homeowners' Association, Inc. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

5.2 The Association shall have one (1) class of voting members.

5.3 Each member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in a Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one (1) vote be cast with respect to any Lot owned by a member.

5.4 If a member is more than ninety (90) days delinquent in paying any monetary obligation due to the Association in excess of \$500.00, the Association may suspend the voting rights of the member without notice or hearing. The suspension ends upon full payment of all of the member's obligations currently due or overdue to the Association.

5.5 A member's voting interest which has been suspended by the Association pursuant to Section 5.4 may not be counted towards the total number of voting interests of the Association for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this Amended and Restated Declaration.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENT

6.1 Each Owner of a Lot is hereby deemed to covenant by acceptance of his deed for such Lot, whether or not it shall be so expressed in his deed, to pay to the Association annual assessments and special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Property and a continuing lien on each Lot against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

6.2 The annual assessments levied by the Association shall be paid either in monthly or annual installments and used exclusively:

6.2.a) to promote the health, safety, welfare, and recreation of Owners of Lots in the Property;

6.2.b) for the improvement and maintenance of all Common Property, landscaped areas and all areas required to be maintained under St. Johns River Water Management District Permit pertaining to the Property for the administration of the Association (including but not limited to the storm water retention pond bulkhead);

6.2.c) for landscaping and irrigation services provided by the Association, in its discretion, to each Lot, as set forth in Section 8.2;

6.2.d) for the establishment of a maintenance, repair and reserve account, for the installing and maintenance of Common Property; and

6.2.e) for payment of taxes and insurance on all Common Property and for such other purposes as are set forth or permitted in this Declaration, the Articles of Incorporation or By-Laws.

6.3 In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property. Any such assessment must be approved by two-thirds (2/3) of the voting interests of the Association who are voting in person or by proxy at a meeting duly called for such purpose. The right of assessment for annual and special assessments authorized herein shall be equal and uniform for all Lots.

6.4 The annual assessments authorized herein shall commence on December 1, 1991. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the due date thereof, and shall fix the dates such amounts become due. Notice of the annual assessments shall be mailed to every Owner subject thereto.

6.5 The Association shall, on demand and for a reasonable charge, furnish to the Owner liable for any assessment a certificate in writing, signed by an officer of the Association, setting forth whether the assessments against a specific Lot have been paid, and if not, the amounts owed therefore.

6.6 Any assessment not paid within thirty (30) days after the due date shall be deemed in default and such assessment together with interest from the due date at the highest rate allowed by law and costs of collection thereof, including a reasonable attorney fee at the trial and appellate level, shall become a continuing lien against the Lot. The Association may bring an action at law against the Owner personally obligated to pay same, or may foreclose the lien

against the Lot as provided herein. The Association shall have the right to record a Claim of Lien in the Public Records of St. Johns County, Florida, giving notice to all persons that the Association is asserting a lien upon the Lot. Said Claim of Lien shall state the description of the Lot, name of the record owner thereof, the amount due and the due date thereof. Such Claim of Lien shall be signed and verified by an officer or authorized agent of the Association and shall continue in effect until all sums secured by same have been fully paid. Upon full payment of the total amount due, the party making payment shall be entitled to a recordable Satisfaction of Lien. No Owner may waive or escape liability for the assessments provided for herein by abandonment of his Lot.

6.7 The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. A sale or transfer of any Lot shall not affect the assessment lien. However, in the event that any Lot is sold or transferred pursuant to a mortgage foreclosure or any proceeding in lieu thereof, the liability of a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage, who acquires title to a parcel by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that become due before the mortgagee's acquisition of title, shall be as provided by Chapter 720 of the Florida Statutes, as may be amended from time to time.

**ARTICLE VII**

**EASEMENTS**

7.1 The Association reserves the right without further consent from any other Lot Owners to grant to any public utility company, municipality or other governmental unit, water or sewage company or cable television company an easement over all easements located on the Common Property as shown on any plat of the Property.

7.2 The Association shall have the right and obligation to access any area of the Property to maintain all storm water management areas, including but not limited to areas required to be maintained under the St. Johns River Water Management District Permit pertaining to the Property for the administration of the Association and the storm water retention pond

bulkhead. If access is required upon any Lot for storm water management purposes, reasonable written notice shall be provided to the Lot Owner prior to entering on the Lot, except in the event of an emergency. The Association's access upon any Lot for storm management purposes shall be limited to the exterior, unimproved portions of the Lot, and shall not be deemed trespass by the Lot Owner.

7.3 The Association, its officers, agents, employees, contractors, and any management company selected by the Association may access the unimproved portions of any Lot subject to this Amended and Restated Declaration during reasonable hours and after providing reasonable notice, except during an emergency, to perform the duties of the Association required under this Amended and Restated Declaration. If access is required to a Lot, access shall be limited to the exterior of any improvements and any unimproved portions of the Lot, and said access shall not be deemed a trespass by the Lot Owner.

## ARTICLE VIII

### GENERAL PROVISIONS

8.1 Enforcement of these restrictions shall be by proceedings at law or in equity against any person violating or attempting to violate any covenant or restriction either to restrain the violation or to recover damages, or both. The prevailing party in any such action shall be entitled to recover reasonable attorney's fees and court costs at all levels of the proceeding.

8.2 The Association may, in its discretion, cause a landscaping maintenance service or other lawn service companies (hereinafter referred to as "Landscaping Service") to provide landscaping and irrigation services to each Lot, including mowing, trimming and bedding of shrubs or bushes, which are not in inaccessible fenced areas, and trimming of palm trees. Notwithstanding the forgoing, it shall be the continuing responsibility of the Owner of each Lot that the Lot is kept clear of any objects that may interfere with such landscaping and irrigation services, and to maintain in a neat condition all landscaping and plant materials contained in fenced backyard areas or other inaccessible areas, if any. The Association may elect not to contract with a Landscaping Service by a vote of two-thirds (2/3) of the voting interests of the Association voting in person or by proxy at a regular or special meeting of the members. If the Association elects not to contract with a Landscaping Service as provided in this Section, then it

shall be the responsibility of the Owner of each Lot to assure that the Lot is edged and mowed regularly as set forth in Section 4.13 herein.

8.3 The Association may, in its discretion, cause its agents to routinely maintain and inspect the operation of the irrigation system located on the unimproved area of any Lot during reasonable hours. The Association may cause its agents to make, but is not obligated to make, emergency repairs to the irrigation system. The access of an Association's agent to a Lot shall be limited to the unimproved area of any Lot in accordance with Section 7.3 herein.

8.4 Invalidation of any of these covenants or restrictions by Judgment or court order shall not affect any of the other provisions hereof, which shall remain in full force and effect.

8.5 Any failure of the Association, its successors or assigns to promptly enforce any of the restrictions or covenants contained herein, shall not be deemed a waiver of the right to do so thereafter.

8.6 Notwithstanding the foregoing, these covenants and restrictions may be amended by a vote of two-thirds (2/3) of the voting interests of the Association voting in person or by proxy at a regular or special meeting of the members. The notice of such regular or special meeting must contain the text of the proposed amendments.

8.7 The Association may, in its discretion, cause a Landscaping Service to provide landscaping and irrigation services to each Lot, pursuant to Section 8.2 herein. The Association does not guarantee or warrant, expressly or impliedly, the merchantability or fitness for use of any such Landscaping Service. There shall be a limitation of liability solely for the benefit of the Association relating to providing landscaping and irrigation services as follows:

8.7.a) In the event that the acts of the Landscaping Service cause damage or injury to a Lot or any person or property located on the Lot, the Association shall not be liable for any losses which are the direct or proximate cause of the acts of the Landscaping Service.

8.7.b) In the event that the Association's agents perform routine maintenance, inspections, or make emergency repairs to the irrigation system pursuant to Section 8.3 herein, and damage or injury is incurred to a Lot or any person or property

located on the Lot which is directly or proximately caused by the Association's agents, the Association shall be liable up to a sum not exceeding Five Hundred and NO/100 (\$500.00) U.S. Dollars. This Association shall not be liable for any damage or losses resulting from the gross negligence or willful misconduct of its agents. Any limitation of liability for the benefit of the Association set forth herein shall not be construed to limit any individual liability of the Association's agents for their gross negligence or willful conduct. In no event shall the Association be liable for consequential damages, wrongful death, personal injury or commercial loss.

8.7.c) The liability of the Association as to any loss or damage to the Lot or persons or property located on the Lot relating to the Association's selection of, or contracting with, its agents or with any Landscaping Service shall be limited to a sum not exceeding Five Hundred and No/100 (\$500.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage. Furthermore, in no event shall the Association be liable for consequential damages, wrongful death, personal injury or commercial loss.

8.7.d) The Association's agents, employees, independent contractors, and Landscape Service are specifically not included in any limitation of liability benefiting the Association set forth in this Section.

8.7.e) The limitations set forth in this Section shall not be construed to waive or limit any relief which may be available to a non-Owner.

8.8 These covenants and restrictions shall run with the land and shall be binding on all parties and all persons claiming through, by or under them until December 31, 2021. After said date, said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by two-thirds (2/3) of the voting interests of the Association has been recorded agreeing to change said covenants in whole or in part.

8.9 This Amended and Restated Declaration hereby adopts and incorporates the terms of Chapter 720, Florida Statutes, et seq., in effect as of the date of the recording of this Amended and Restated Declaration and as may be amended from time to time.

IN WITNESS WHEREOF, the undersigned Association has caused this instrument to be executed by its President and its corporate seal to be affixed on this 19<sup>th</sup> day of DECEMBER, 2013.

Signed, sealed and delivered in the presence of:

Kingston Dunes Homeowners' Association, Inc.  
a Florida not-for-profit corporation

[Signature]  
Witness DAVID M. WHITE

By: [Signature]  
DAVID L. CHESTER  
Its: President

[Signature]  
Witness ALAN B. HARRISON

COPY

STATE OF FLORIDA  
COUNTY OF St. Johns

I HEREBY CERTIFY that on this day, before me, the undersigned authorities, personally appeared DAVID CHESTER as President, for KINGSTON DUNES HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, known to be the individual described in and who executed the foregoing Amended and Restated Declaration of Covenants and Restrictions and acknowledged before me that he executed the same as such officer for the uses, and purposes therein expressed and is the act and deed of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 19 day of December, 2013.

Marion Richardson  
Notary Public  
State of Florida at Large  
My commission expires: 2/2/14

MARION RICHARDSON  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# DD957616  
Expires 2/2/2014



COPY

## EXHIBIT "A"

DESCRIPTION OF OCEANFRONT PROPERTY

That certain oceanfront parcel situate, lying and being in Section 20, Township 6 South, Range 30 East, St. Johns County, Florida, described as follows:

Commence at the intersection of the West line of Section 20, with the Southwest corner of Kingston Dunes, as recorded in Map Book 21, Pages 79 through 83, public records of St. Johns County, Florida; thence run North 89 degrees 15 minutes 30 seconds East, along the Southern boundary of Lots 3 through 21 of Kingston Dunes, 1345.29 feet to the West right-of-way line of State Road Highway A-1-A; thence continuing running North 89 degrees 15 minutes 30 seconds East across said State Road A-1-A to East right-of-way line of said State Road and the point of beginning of the herein described parcel of land; thence run North 14 degrees 25 minutes 00 seconds West along the East right-of-way line of said State Road A-1-A a distance of 514.59 feet; thence run North 89 degrees 15 minutes 30 seconds East a distance of 196.00 feet, more or less, to the mean high water mark of the Atlantic ocean; thence meander Southerly along said mean high water mark, a distance of 515.00 feet, more or less, to the intersection with a line that bears North 89 degrees 15 minutes 30 seconds East, from the point of beginning; thence run South 89 degrees 15 minutes 30 seconds West, a distance of 187.00 feet, more or less, to the East right-of-way line of State Road A-1-A and the Point of Beginning.

COPY