

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
LIGHHOUSE POINTE, UNIT NO. 1, A SUBDIVISION**



THIS DECLARATION, made this 4th day of September, 1996, by THE MITCHELL COMPANY, INC., an Alabama corporation, and SOUTH SANTA ROSA PROPERTIES, INC., a Florida corporation, hereinafter collectively referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner collectively of the real property located in Santa Rosa County, Florida, described on Exhibit "A," incorporated herein by reference which is or will be platted as Lighthouse Pointe, Unit No. 1.

NOW THEREFORE, Declarant hereby declares that all of the Property described above together with such additional Property as may, by amendment to this Declaration, be brought under control of the Association (such presently contemplated to be Units 2 and 3) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of said Property and which shall run with the Property and be binding on all parties having any right, title or interest in the described property, or any part thereof, and upon all persons deraining title through the Declarant, and their respective heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Lighthouse Pointe Homeowners Association, Inc., a Florida non-profit corporation, its successors and assigns. This is the Declaration of Covenants, Conditions and Restrictions to which the Articles of Incorporation and Bylaws of the Association make reference. A copy of the Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibits "B" and "C," respectively.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to all or any portion of any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Areas" shall mean all real property, easements and any other interests in real property (including any improvements thereto or thereon) now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association at the time of the conveyance of the first Lot are Parcels A and L, all fence and landscape easements and sign easements shown on the plat.

Section 5. "Common Elements" shall include all fences on any Fence and Landscape Easement shown on the plat, street lights (if installed), all irrigation systems, lighting and signs or other improvements located on Common Areas, all playground equipment and other improvements together with all subdivision signs located on the Common Areas. If proper permits are obtained by Declarant, a dock may be constructed extending into Santa Rosa Sound from Parcel A, the private park, and if such dock facility is constructed, it shall constitute a Common Element.

Section 6. "Lot" shall mean and refer to each of the platted lots as shown on the Plat of Lighthouse Pointe, Unit No. 1, a subdivision as recorded in the public records of Santa Rosa County, Florida and any such shown on Plats of Units 2 and 3 if and when brought under the jurisdiction of the Association. In the event a portion of a lot is added to another lot due to building encroachments, setback violations or for other reasons, such combination of lots and the remainder of a lot shall also each constitute a "Lot" under this definition.

Section 7. "Declarant" shall mean and refer to THE MITCHELL COMPANY, INC., an Alabama corporation, its successors and assigns, and SOUTH SANTA ROSA PROPERTIES, INC., a Florida corporation, its successors and assigns.

Section 8. "Plat" shall mean and refer to the Plat of Lighthouse Pointe, Unit No. 1 Subdivision which is recorded in the public records of Santa Rosa County, Florida in Plat Book 6 at Page 28 and the Plats of Units 2 and 3 if and when same are recorded in the public records of Santa Rosa County, Florida and brought under the jurisdiction of the Association.

Section 9. "Subdivision" shall mean and refer to Lighthouse Pointe, Unit No. 1 Subdivision situated in Santa Rosa County, Florida, according to the Plat and to Units 2 and 3 if and when Plats thereof are recorded in the public records of Santa Rosa County, Florida and brought under the jurisdiction of the Association.

Section 10. "Unit 2" and "Unit 3" shall mean and refer to possible future phases which are currently contemplated to be Lighthouse Pointe, Unit No. 2 and Lighthouse Pointe, Unit No. 3 and may be brought within the jurisdiction of the Association upon recording of the plat or plats therefor and the recording of an amendment to this Declaration specifically setting forth the intent of The Mitchell Company, Inc. to bring such additional Properties under the jurisdiction of the

Association. Notwithstanding anything herein contained to the contrary, nothing contained herein is intended to, nor shall it in any way imply, infer or be interpreted that any property owned by The Mitchell Company, Inc. other than Lighthouse Pointe, Unit No. 1, shall be subject to the covenants, conditions and restrictions herein set forth, and no covenants, conditions or restrictions shall in any way be created hereby with respect to any property other than Lighthouse Pointe, Unit No. 1, whether by negative implication or otherwise.

Section 11. "Future Phases" shall mean Unit 2 and Unit 3.

Section 12. "Type 1 Lots" shall mean and refer to Lots 6 through 26, both inclusive, Block "A," reflected on the Plat of Lighthouse Pointe, Unit No. 1.

Section 13. "Type 2 Lots" shall mean, for purposes of this Declaration, Lots 27 through 33 (both inclusive), Block "A," Lots 59 through 72 (both inclusive), Block "A" and Lots 178 and 190, Block "B."

Section 14. "Type 3 Lots" and "Type 4 Lots" shall be defined in future amendments, if any, to this Declaration in the event Future Phases are annexed and brought under the jurisdiction of the Association.

ARTICLE II PROPERTY RIGHTS

Section 1. Common Area Easements. Every owner of every Lot shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with title to every Lot (even if not referenced in the document of conveyance) for the following purposes:

- (a) Displaying and maintaining a sign identifying the subdivision on Parcel L shown on the Plat or on any sign easement shown on the Plat.
- (b) Erecting and maintaining fences on the Fence and Landscape Easements shown on the Plat as more specifically referenced in Section 3 of this Article.
- (c) Installing and maintaining landscaping, lighting, irrigation systems, playground equipment, and any other possible improvements (all at the sole discretion of Declarant) on Parcel A and landscaping and irrigation systems on the Fence and Landscape Easements as shown on the Plat.

- (d) Such other rights and easements as the Association may determine to be suitable for the use and enjoyment of the Owners.

Section 2. General. The rights and easements of enjoyment herein created and reserved shall be subject to the following provisions:

- (a) The right of the Association to expand or bring other properties within the jurisdiction of the Association.
- (b) An easement in favor of Declarant and Association to develop and construct improvements on the Common Areas and to repair and maintain any existing improvements on such Common Areas provided, however, Declarant shall have no obligation to so repair and maintain any improvements once constructed, such being the responsibility of the Association.

Section 3. Easement for Maintenance of Wooden Fences Around Retention/Detention Pond. Inasmuch as Declarant intends to place on the areas designated as the Fence and Landscape easement surrounding the Retention/Detention Ponds reflected on the Plat, a wooden privacy fence outside of the chain link fence (as such is required by Santa Rosa County) and such wooden fence will not be maintained by Santa Rosa County, Declarant hereby creates and imposes for the benefit of the Association and its members a perpetual, non-exclusive easement over the area designated as the Fence and Landscape easement surrounding the Retention/Detention Ponds reflected on the Plat for the purposes of ingress and egress for the Association, its agents, employees, and independent contractors hired by the Association for the purpose of installing, maintaining, repairing and replacing a wooden privacy fence thereon.

Section 4. Common Elements. The Common Elements shall be owned by the Association for the use and benefit of every Lot Owner and shall be properly maintained in good repair and condition by the Association.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be all Owners with the exception of the Declarant (who shall become a Class A member as provided hereafter) and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B members shall be Declarant and it shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, provided, however, that if, after conversion of the Class B membership to Class A membership Future Phases are annexed, the Class B membership shall thereupon be reinstated with Declarant being a Class B member as to all lots owned by Declarant in the annexed unit until the then total votes outstanding in the Class A membership again equals or exceeds the then total votes outstanding in the Class B membership in that Unit.

Section 3. Notwithstanding the foregoing, members other than the Declarant (which excludes builders, contractors, or others who purchase a Lot for the purpose of constructing improvements thereon for resale) are entitled to elect at least a majority of the members of Board of Directors three months after ninety percent (90%) of the Lots in Lighthouse Pointe, Unit No. 1 and in all Future Phases of the subdivision have been conveyed to members.

Section 4. Declarant shall be entitled to elect at least one member to the Board of Directors as long as Declarant holds at least five percent (5%) of the Lots for sale in the ordinary course of business.

Section 5. After Declarant relinquishes control of the Association, Declarant may continue to vote any Declarant owned lots in the same manner as any other member.

Section 6. In all events, Class B membership shall cease to exist and be converted to Class A and shall not thereafter be reinstated December 31, 2001.

Section 7. The Declarant shall not exercise its voting rights granted to it under this Article in an unreasonable manner nor in such a way as to cause undue hardship upon any Owner. Likewise, Class A members shall not exercise their voting rights granted to them in a manner so as to hinder the Declarant, in any manner, in selling the lots it has remaining, nor to affect any reservation or right of the Declarant

contained herein, or elsewhere, so long as Declarant holds at least one lot for resale purposes.

ARTICLE IV
COVENANT FOR SUBDIVISION MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.
The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of any Deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements, such annual and special assessments to be established and collected as hereinafter provided (any annual assessment due under this Article IV referred to hereinafter as the "annual assessment," and any special assessment due under this Article IV referred to hereinafter as the "special assessment"), (annual assessments and special assessments under this Article IV referred to hereinafter at times collectively as "assessments"). The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but shall continue as a lien on the lot until satisfied.

Section 2. Purpose of Assessments.

(a) The annual and special assessments levied by the Association under this Article IV shall be used exclusively to promote the recreation, health, and welfare of the Owners, their invitees or licensees, and for the improvement and maintenance of the Common Areas, and any improvements situated thereon and for maintenance of the Common Elements which shall include compliance with all state and federal environmental laws, rules and regulations. The Association shall have the obligation to maintain any Common Areas and all improvements thereon and shall maintain the Common Elements and shall maintain adequate liability insurance, and fidelity bond coverage in such minimal amounts as may be required by FHA, VA and FNMA, from time to time.

(b) The Owner shall be responsible for maintenance and repair of any and all improvements located within his Lot, including, but not limited to painting, repairing, replacing and caring for roofs, exterior building surfaces, trees, shrubs, grass, walks, driveways, and other exterior improvements.

Section 3. Annual Assessment. Until January 1, 1998, the maximum annual assessment under this Article IV shall not exceed \$180.00 per year per Lot. The exact

amount of the assessment (subject to the foregoing limitations) shall be as established by the Board of Directors of the Association.

(a) From and after January 1, 1998, the maximum annual assessment under this Article IV may be increased each year by an amount not more than ten percent (10%) above the potential maximum assessment for the previous year without prior approval by a majority vote of the owners.

(b) From and after January 1, 1998, the maximum annual assessment may be increased by more than ten percent (10%) by a vote of two-thirds of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors of the Association may fix the annual assessment under this Article IV at an amount less than the maximum assessment without a vote of the owners.

Section 4. Special Assessments for Subdivision Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment under this Article IV for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of an improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such special assessment shall have the approval of not less than two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one percent (51%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another second meeting may be called subject to the same notice requirement, and the required quorum at the second meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meetings shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual assessments and special assessments under this Article IV shall be fixed at a uniform rate for all Lots in the Subdivision including all Future Phases when such are brought under the jurisdiction of the Association, provided, however, Declarant shall not be obligated to pay any annual assessments for Lots owned by it for two years after the recording of the Plat establishing such Lots, provided The Mitchell Company, Inc. pays the portion of common expenses incurred by the Association that exceed the amount assessed against other Lot Owners. Each Owner shall be responsible for an equal share of the total annual

assessment and any special assessment computed by multiplying the total annual or special assessment by a fraction, the numerator which shall be one and the denominator of which shall be a number equal to the total number of lots then under the jurisdiction of the Association. For purposes of Lighthouse Pointe, Unit No. 1 only, each owner shall be responsible for 1/49 share of the total annual assessment and any special assessment until Future Phases are annexed.

Section 7. Annual Assessment Periods and Due Date. The obligation for assessments shall commence for each owner, other than Declarant, on the date the Owner acquires title to a Lot and shall be payable in a prorata amount according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each owner subject thereto. The due date shall be established by the Board of Directors if other than as set forth herein. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments - Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for under this Article IV herein by non-use of the Common Areas, or by sale or abandonment of his Lot, or any other reason.

Section 9. Subordination of the Lien to Mortgages of Record. Any lien of the Association for assessments and as provided elsewhere in this Declaration recorded after the date of recordation of any mortgage shall be subordinate to the mortgage on the Lot. When the mortgagee of a mortgage of record, or other purchaser, of a Lot obtains title to the Lot as a result of foreclosure of the mortgage, or, as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the assessments by the Association pertaining to such Lot or chargeable to the former Owner of such Lot which became due prior to the acquisition of title as a result of the foreclosure, or deed in lieu of foreclosure, unless such assessment is secured by a claim of lien for assessments that is recorded in the public records of Santa Rosa County, Florida, prior to the recording of the foreclosed mortgage (or for which a deed in lieu of foreclosure is given), and such subordinate lien shall be extinguished automatically upon the recording of the certificate of title or the deed in lieu of foreclosure. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Lot from liability for, nor the Lot so sold or transferred, from the lien of any assessments thereafter becoming due. All such assessments, together