Pine Tree Villas

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DECLARATION OF RESTRICTIONS

FOR

PINE TREE VILLAS

A SUBDIVISION

IN

THE SYLVANIA TOWNSHIP, LUCAS COUNTY, OHIO

This Declaration of Restrictions adopted by MillStream Development Co., an Ohio corporation, hereinafter called "Developer", Louisville Title Agency for N.W. Ohio, Inc., Trustee, hereinafter called "Record Title Holder", and by The Pine Tree Villas Homeowner's Association, an Ohio nonprofit corporation, hereinafter called "Association", on the day and year hereinafter set forth.

WITNESSETH THAT:

WHEREAS, Developer is an Ohio corporation and is the owner of all lots as shown on the recorded plat of The Pine Tree Villas, hereinafter called "Subdivision", legally described on Exhibit A, attached hereto and made a part hereof, recorded in Volume 146, Page 75, Lucas County, Ohio record of Plats, and

WHEREAS, Association is a nonprofit corporation formed by Developer whose members shall be all of the owners of all of the lots in such Subdivision and Association's the owner of all that portion of the Subdivision designated as the common area on such recorded plat including the portions thereof designated to be used for roadway and utility purposes, as well as, recreational and open space purposes; and

WHEREAS, The Pine Tree Villas is a residential subdivision developed as a planned unit development of a subdivision with zero lot lines Sylvania Township, Lucas County, Ohio.

NOW THEREFORE, Developer and Association in consideration of the enhancement in the value of said property by reason of the adoption of the restrictions hereinafter set forth and in furtherance of the community development plan do for themselves, their
successors and assigns hereby declare, covenant and stipulate that all property as shown on the recorded plat of The Pine Tree Villas, a Subdivision in the Sylvania Township, Lucas County, Ohio, shall hereafter be conveyed by them, their successors and assigns subject to the following restrictions, covenants and conditions which restrictions shall to the extent legally permissible, supersede any and all other restrictions heretofore enforced on said property by any other instrument.

ARTICLE I

RESTRICTIONS

1.1 All transfers and conveyances of each and every residential lot in the Subdivision shall be made subject to these covenants and restrictions.

1.2 These covenants and restrictions shall run with the land and shall be binding upon Developer, Association and all persons claiming under or through them until January 1, 2011, at which time said covenants and restrictions shall be automatically extended for successive periods of 10 years.

1.3 These covenants and restrictions may be amended prior to January 1, 2011 or may be amended or terminated after January 1, 2011 by the then owners of at least two-thirds (2/3) of the lots in said Subdivision.

1.4 Any amendment or termination shall be in the form of a written instrument setting forth the changes herein or termination hereof, as the case may be, signed and acknowledged by the then owners of at least two-third (2/3) of said lots with the same formalities then required for the execution of a deed to real estate in Lucas County, Ohio which instrument shall be filed for record with the Recorder of Lucas County, Ohio.

1.5 The effective date of any amendment or termination shall be as of the date such instrument is recorded with the Recorder of Lucas County, Ohio unless a later effective date is indicated in such instrument, in which event such later date shall be the effective date thereof.
1.6 Any violation or attempt to violate any of the restrictions or covenants herein contained while the same are in force shall be unlawful. Developer, The Pine Tree Villas Homeowner's Association, the architectural control committee or the owner of any residential lot in the Subdivision shall have the right to maintain an action at law or in equity against any person or persons violating or attempting to violate any of these covenants or restrictions, to enjoin such violation, to cause the removal of any structure in violation, and to recover damages for any such violation or attempted violation.

1.7 The failure to enforce any violation or breach of any of these provisions no matter how frequent, shall not invalidate any such provisions or restrictions.

1.8 In the event any of the restrictions and covenants contained herein shall be unlawful or void by reason of violation of any rule against perpetuities or similar statutory or common law rule imposing time limitations therefor then such restrictions and covenants shall continue only for and until the day preceding expiration of the maximum length of time for which such conditions and restrictions may legally exist and on such date shall terminate.

1.9 Invalidation of any of the restrictions and covenants, in whole or in part herein, by judgment or court order or by act of the owners as herein provided shall not affect, in any manner, the validity, enforceability or effect of any other provisions contained herein, all of which shall remain in full force and effect.

ARTICLE II
RESIDENTIAL LOTS

2.1 The entire Subdivision comprising the planned unit development and the structures to be erected thereon shall be used only for two single family dwellings having one common wall, and for three single-family dwellings having two common walls, hereafter known as a two or three family villa, and single family, together with the usual accessory uses pertaining thereto such as private or storage garages, storage space and community activities including noncommercial recreational facilities.

2.2 The thirty-six (36) lots, located as shown on the recorded plat, shall be residential lots and the remainder of the real estate included in the Subdivision designated as common areas shall be used exclusively for roadway and utility purposes as shown on the recorded plat and the noncommercial recreational facilities and open space areas.

2.3 The twenty-three (23) residential lots consist of seven (7) pairs of two (2) lots each which adjoin each other and three (3) three-family residential lots. Such lots are lots numbered one (1) through twenty-three (23).
ARTICLE III

ARCHITECTURAL CONTROL

3.1 No structure or other improvement including, but not limited to, homes, garages, basements, driveways, fences, walls, bridges, patios, decks, hedges or other enclosures shall be erected, improved, changed or altered on any lot or area in the Subdivision until detailed plans and specifications therefor have been approved in writing by the architectural control committee.

3.2 Such detailed plans and specifications shall show the size, location, type, architectural design, quality, use, material construction, color scheme and grading plan for the lot or area and the finished grade elevation thereof and must be prepared by a competent architect or draftsman.

3.3 Such plans and specifications shall be furnished to the committee in sufficient numbers so that the committee can retain a true copy thereof with its records.

3.4 All residential dwellings and accessory structures must be erected wholly within the residential lot lines and no closer to any of the roadways than the building lines of the residential lots as shown on the recorded plat.

3.5 If approved by the architectural control committee, patios, open porches, decks, walkways, driveways, decorative walls, privacy screens and shrubbery may extend into the common area immediately adjacent to dwellings which have been erected wholly within the residential lot lines.

3.6 The maximum height of all new residential dwellings erected within the Subdivision shall be two and one-half (2 1/2) stories or thirty-five (35) feet.

3.7 Should a residential dwelling or any part thereof be built less than two (2) feet from a side property line then the owner of said residential dwelling may use that side yard space for maintaining and draining his dwelling and yard, but the owner of that lot adjacent to that property line shall have an easement giving him the nonexclusive right to landscape and use that space so long as the adjacent owner properly and regularly maintains said space, the adjacent owner's use of it does not become a nuisance to the owner of that space and the adjacent owner does not prevent the owner of that space from having reasonable access to service his residential dwelling.

3.8 The purpose of requiring detailed plans and specifications as herein set forth is to develop the Subdivision as an architecturally harmonious artistic and desirable residential subdivision having a park-like atmosphere with residences located in an apparent random and casual manner following a precise landscape plan.
3.9 Developer shall establish a master plan for landscaping of the entire Subdivision which master plan shall take priority over individual landscaping plans with individual fences or hedges being allowed only with committee approval. Such master plan for landscaping shall be filed with the Association.

3.10 Developer shall establish a general architectural theme for roof design and material, trim colors, brick specifications and window detail and reserves the sole and exclusive right to establish grades and slopes of lots and to fix the grade at which any building or structure shall hereafter be erected or placed thereon so that the same may conform to the master plan for the development and use of the Subdivision.

3.11 In approving or withholding approval of any detailed plans and specifications submitted to it, the architectural control committee may consider the appropriateness of the improvement contemplated with relation to the improvements on contiguous or adjacent lots, its adaptability to the lot on which it is proposed to be constructed and such other matters as may be deemed to be in the interest and benefit of the owners of lots in the Subdivision as a whole. Any determination made by the architectural control committee in good faith shall be binding on all parties in interest.

3.12 Members of the architectural control committee shall be appointed by the Developer until such time as Developer assigns in writing the Architectural control to the Association. Thereafter members of the architectural control committee shall be appointed by The Pine Tree Villas Homeowner’s Association. Developer reserves the right, prior to conveyance of all lots in the Subdivision to others and erection of structures thereon, to relinquish its power to appoint the members of the architectural control committee by written instrument delivered to the Association whereupon the right to appoint members of the architectural control committee shall thereafter be exercised by the Association.

3.13 No structures or any part thereof shall be erected or maintained over any part of the areas designated as easement, utility easement, drainage easement or words of similar import on the recorded plat of the Subdivision. The term structures for this purpose shall include houses, garages, other buildings and similar structures but shall not include driveways, walkways, patios, fences, decks and similar improvements.

3.14 Until such time as Developer has conveyed to others all residential lots and dwellings owned by it, in the Subdivision, then notwithstanding any of the provisions contained in this Declaration of Restrictions, the Developer shall be permitted to construct and use sales and construction offices and model homes on one (1) or more of the lots in the Subdivision and maintain a large temporary sign on Heidaway Lane advertising the sale of property in the Subdivision.
3.15 Each Grantee of Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, easements, and the jurisdictional rights and powers of Developer and the Association, created or reserved by this Declaration or by plat or deed restrictions heretofore recorded, and all easements, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall run with the land and bind every owner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance. The violation of any restriction or condition, or the breach of any covenant or provision herein contained shall give Developer, its successors or assigns, or the Association, the right (a) to enter upon the land upon which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of the owner of said lot or lots, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provision hereof, and Developer or the Association not thereby be deemed guilty of any manner of trespass; or (b) the continuance of any breach may be enjoined, abated, or remedied by appropriate legal proceedings, either at law or in equity, by Developer or its successors or assigns, or by the Association.

In the event that Developer or its successors and assigns, or the Association or its successors and assigns, shall exercise any enforcement rights or remedies under this Article Three, Section 1, each Grantee of Developer shall be liable for the costs and expenses of said enforcement activities and/or actions, including but not limited to attorney fees and costs; and expenses immediately upon demand therefor by Developer or the Association or their respective successors and assigns.

3.16 Affidavit of Restrictions Violation. Developer, its successors and assigns, hereby reserves the right to file for record in the Recorder’s Office of Lucas County, Ohio, an affidavit evidencing notice(s) given by Developer to an owner or owners of any lot within The Pine Tree Villas, that restrictions violation(s) may exist upon said lot.

3.17 No restriction, imposed hereby shall be abrogated or waived by any failure to enforce the provisions, hereof, no matter how many breaches may occur.

3.18 The invalidity of any restrictions hereby imposed or of a provision shall not impair or affect in any manner, the validity, enforceability or effect of the rest of this Declaration.
3.19 Violation of any of the rules and regulations adopted by the association acquiring the rights and benefits of Developer shall be deemed a violation of this Declaration and may be enjoyed as herein provided. The rights, privileges and powers herein retained by Developer shall be assignable to and shall inure to the benefit of its successors and assigns.

3.20 "Any dispute arising out of the enforcement or the interpretation of this covenant or any dispute in any way relating to this covenant shall be submitted to binding arbitration at Toledo, Ohio, in accordance with the Rules and Regulations promulgated by the American Arbitration Association or in accordance with the Rules and Regulations promulgated by the Toledo Bar Association's Arbitration and Mediation Service. The decision of the Arbitrator/Arbitrators shall be final and binding. The award of the Arbitrator/Arbitrators may be enforced in any court of competent jurisdiction. The Arbitrator/Arbitrators shall award to the prevailing party reasonable attorneys fees and costs."

ARTICLE IV

THE Pine Tree Villas HOMEOWNERS ASSOCIATION

4.1 All owners of residential lots in the Subdivision and all persons who hereafter acquire title to a residential lot in the Subdivision shall automatically become members of The Pine Tree Villas Homeowner's Association entitled to all the rights and privileges of such membership and subject to all of the duties and obligations thereof as set forth in the recorded plat, this Declaration of Restrictions and the Articles and Code of Regulations of such Association.

4.2 Each member of the Association, in common with all other members as owners of residential lots in the Subdivision, shall have the right to use the common areas and facilities in the Subdivision for all purposes incident to the use and occupancy of his residential lot as a place or residence and other incidental uses including the non-exclusive easement together with other lot owners to the use and enjoyment of the common areas and facilities and for ingress and egress to and from each residential lot.

4.3 All members shall use the common areas and facilities in such manner as will not restrict, interfere or impede with the use thereof by other members of the Association and their respective families, guests, invitees, and servants except to the extent that the architectural control committee has approved the extension into the common area immediately adjacent to dwellings erected on residential lot patios, open porches, docks, walkways, driveways, decorative walls, privacy screens and shrubbery.
4.4 The Association shall collect and disburse funds for all purposes which the Board of Trustees determines from time to time to be for the general benefit of the owners of all residential lots in the Subdivision.

4.5 The Association shall enforce, all provisions of the recorded plat, these restrictions and regulations promulgated by it with respect to the use and occupancy of residential lots and common areas in the Subdivision.

ARTICLE V

ASSESSMENTS

5.1 Commencing June 1st, 2000 and thereafter each residential lot in the Subdivision and the owners thereof shall be subject to an annual assessment for each fiscal year thereafter in amounts as determined by the members of the Association prior to the end of the preceding fiscal year.

5.2 The annual assessment shall be payable in equal quarterly installments on or before the first day of each month during the fiscal year for which the assessment is levied.

5.3 Each assessment as aforesaid shall become a lien against each residential lot on the first day of the fiscal year in which it becomes due and payable.

5.4 A Notice of Lien may be recorded in the Lien Records of the Recorder of Lucas County, Ohio if any monthly installment of an annual assessment is in arrears for more than sixty (60) days from the date it is due and payable.

5.5 Such Notice of Lien shall identify the residential lot, the year and amount of the annual assessment, and be executed by the president of the Association with the formalities then required to record a lien against real estate in Lucas County, Ohio.

5.6 The Association's Lien shall be subordinate to the lien of any real estate mortgage on any residential lot recorded prior to recording of the aforesaid Notice of Lien.

5.7 The sale or transfer of any residential lot pursuant to judicial foreclosure proceedings of a mortgage thereon shall extinguish such lien with respect to payments which became due and payable prior thereto but shall not relieve such lot from liability for assessments thereafter becoming due or payable or from the lien thereof.
ARTICLE VI

USE AND ACTIVITIES

6.1 No portion of any residential lot or structure thereon shall be used or permitted to be used for any business purposes whatsoever and no noxious, offensive or reasonably disturbing activities shall be carried on upon any part of the Subdivision, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Subdivision.

6.2 No well for gas, water, oil or other substance shall at any time be erected, placed or maintained on any of such residential lots other than a well for water for recreation or maintenance purposes which shall first have been approved by the architectural control committee.

6.3 No residential lot shall be used for the storage of automobiles, trailers, scrap iron, water, paper, glass, or any reclamation products or material except that during the period while the structure is being erected, upon any such lot, building materials to be used on the construction of such structure may be stored thereon, provided however, any building material not incorporated in said structure within ninety (90) days after its delivery to such lot, shall be removed therefrom.

6.4 All structure must be completed within one (1) year of the date of the beginning of the construction thereof. No sod, dirt or gravel other than that incidental to construction of approved structures shall be removed from said lots without the approval of the architectural control committee.

6.5 No trailer, basement, tent, shack, garage, barn, mobile home or other temporary shelter or housing device shall be maintained or used as a residence temporarily or permanently in the Subdivision. No dwellings erected in the Subdivision shall be used as a residence until the exterior thereof has been completed in accordance with the detailed plans and specifications approved therefor by the architectural control committee.

6.6 Any truck, boat, bus, tent, mobile home, trailer or other similar housing device, if stored on any lot, shall be suitably housed within a garage building.

6.7 Dogs, cats or other household pets suitably maintained and housed within the residential dwelling may be kept subject to rules and regulations adopted by the Pine Tree Villas Homeowner’s Association, provided, however, no animal of any sort may be kept, bred or maintained for any commercial purpose and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be subject to permanent removal and exclusion from the Subdivision in accordance with rules and regulations adopted by the Association.

6.8 All rubbish, debris and garbage shall be stored in underground containers or entirely within the dwelling structure.
6.9 No signs of any character other than small signs of not more than ten (10) square feet advertising the sale of the lot or villa on which such sign is located shall be erected, placed, posted or otherwise displayed on or about any lot without the written consent of the Association and the Association shall have the right and discretion to prohibit, restrict and control the size, construction, material, wording, location and height of all such signs.

6.10 Any owner who leases his residential dwelling shall be required to provide in his lease that the term of the lease shall be subject in all respects to the provisions of these Restrictions, and the Association's Articles of Incorporation and Code of Regulations, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases are required to be in writing and shall be for a minimum term of thirty (30) days, provided, however, that the minimum initial term of any such lease shall be six (6) months.

ARTICLE VII
DEVELOPER

7.1 Developer shall have the exclusive right to consent and grant easements and rights of way for the construction, operation and maintenance of electric light, telephone, telegraph and other public or quasi-public utilities, lines, poles, wires and conduits including underground facilities on, over, below or under the common areas designated on the recorded plat and along and upon all highways now existing or hereafter established and abutting the Subdivision.

7.2 Developer also reserves the right to go upon or permit any public or quasi-public utility company to go upon the lots in the Subdivision from time to time to install, maintain and remove such equipment and to trim trees and shrubbery which may interfere with the successful and convenient operation of such equipment.

7.3 Developer reserves the right to relinquish its powers with respect to easements as set forth in this Article by written instrument delivered to the Association whereupon all rights with respect to easements as set forth in this Article shall thereafter be exercised by the Association.

7.4 Developer shall have the right to construe and interpret these restrictions and the interpretation made in good faith shall be conclusive and binding as to all persons and property benefited or bound by these restrictions.
7.5 Developer reserves the right to relinquish its power to construe and interpret these restrictions by written instrument delivered to the Association whereupon all rights with respect thereto shall thereafter be exercised by the Association.

ARTICLE VIII

GENERAL

8.1 Any lot owner may request and upon payment of the reasonable expense thereof shall receive from the secretary of the Association a Certificate setting forth whether all assessments have been paid for such owner’s lot and the total amount of unpaid assessments, if any. Such Certificate shall be conclusive evidence of such payment and of the amount of any unpaid assessments.

8.2 In the event the Association shall be dissolved or otherwise cease to exist, ownership of its property shall automatically thereupon be transferred to the then owners of the residential lots in the Subdivision with each owner having an equal undivided interest in the common areas for each residential lot owned, provided, however, that in no event and under no circumstances shall there be any partition of the common areas and facilities through judicial proceedings or otherwise unless approved by the owners of at least two-thirds (2/3) of the residential lots in the Subdivision.

8.3 Until June 30, 2003, Developer shall maintain each residential lot owned by developer. Initially, all others will be assessed $90.00 per month for each month a dwelling is erected thereon and $37.50 per month for each month prior to completion of a dwelling thereon until such time as amended by the Homeowners Association. Assessments will automatically increase 5% per year. Such assessment shall be payable and be a lien in the same manner as assessments as set forth in Article V hereof.
Witnesses

Louisville Title Agency for N.W. Ohio, Inc., Trustee

By: J. L. Martin, Pres., and Agency for N.W. Ohio, Inc., Trustee
By: 
By: Rodney R. Fry, V.P.

STATE OF OHIO, COUNTY OF LUCAS, ss:

The foregoing instrument was acknowledged before me this 8th day of December, 1999,
by John L. Martin, Pres., and Agency for N.W. Ohio, Inc., Trustee

an Ohio corporation, on behalf of the corporation.

Jennifer Lieber
Notary Public, State of Ohio
Commission Expires 7-29-2003

The Pine Tree Villas Homeowner’s Association

By: 

STATE OF OHIO, COUNTY OF LUCAS, ss:

The foregoing instrument was acknowledged before me this 7th day of December, 1999,
by Douglas C. Warrick, President of The Pine Tree Villas Homeowner’s Association

an Ohio corporation, on behalf of the corporation.

Notary Public

Vicki L. Selby
Notary Public, State of Ohio
Commission Expires 4-14-2002

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IN WITNESS WHEREOF, MillStream Development Co., an Ohio corporation, Louisville Title Agency for N.W. Ohio, Inc., Trustee, and The Pine Tree Villas Homeowner's Association, an Ohio nonprofit corporation, have executed this Declaration of Restrictions in the Sylvania Township, Lucas County, Ohio, this 23rd day of December, 1999.

Witnesses:
Branda Warner

MillStream Development Company
By: D.C. Welsh

STATE OF OHIO, COUNTY OF LUCAS, ss:

The foregoing instrument was acknowledged before me this 23rd day of Dec., 1999, by Douglas C. Welsh as President of MillStream Development Co., an Ohio corporation, on behalf of the corporation.

Vicki L. Pet
Notary Public
Commission Expires 4-14-2002

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