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RESTRICTIVE COVENANTS

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REGISTER'S OFFICE  
RACINE COUNTY, WI

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MARK A. LADD  
REGISTER OF DEEDS

Document Number

Document Title

27-

Recording Area

Name and Return Address

Altamount Development LLC  
1020 West Blvd.  
Racine, WI 53405

Parcel Identification Number (PIN)

Lots 1, 2, 3, 4, and 5, Harbach Estates Subdivision, being a redivision of Parcel 2 of Certified Survey Map No. 2398, (recorded in Volume 7, Pages 433-435, Document No. 18266665) being a part of vacated Kimberly Lane and being a part of the SE 1/4 of the NW 1/4 of Section 34, Town 4 North, Range 23 East, in the Town of Caledonia, Racine County, Wisconsin.

Tax Key No's:

Lot 1	51-004-04-22-34-014-021
Lot 2	51-004-04-22-34-014-022
Lot 3	51-004-04-22-34-014-023
Lot 4	51-004-04-22-34-014-024
Lot 5	51-004-04-22-34-014-025

## **RESTRICTIVE COVENANTS FOR HARBACH ESTATES SUBDIVISION**

Declaration of conditions, covenants, restrictions and easements regarding Harbach Estates Subdivision, Town of Caledonia, Racine County, Wisconsin.

This declaration is made by Altamount Development, LLC. hereinafter called "Owner", as owner of certain real property in Racine County, Wisconsin:

WHEREAS, the Owner holds title to certain real estate located in the Town of Caledonia, Racine County, Wisconsin, described in Exhibit A to this declaration, which lands have been platted as Harbach Estates Subdivision, said land being hereinafter referred to as the "Subdivision"; and,

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties to be bound by these restrictive covenants, the Owner hereby imposes upon the lands described in Exhibit A and known as Harbach Estates Subdivision, the conditions, covenants, restrictions and easements hereinafter set forth which shall inure to the benefit of and pass with all said property and each and every parcel thereof, and shall apply to and bind the successors in interest and any owner thereof.

### **I. GENERAL PURPOSE**

The general purpose of this declaration is to help assure that the Subdivision will become and remain an attractive development, to insure the best use and most appropriate development and improvement of each building site to protect owners of building sites against use of surrounding building sites in such a manner as will detract from the residential value of the property, to guard against the erection on building sites of poorly designed or proportioned structures, to obtain harmonious use of material and color schemes, to insure the highest and best residential development of said property, to encourage and secure the erection of attractive buildings designed and built in accordance with a harmonious theme, to secure the appropriate locations thereof on building sites, to prevent haphazard and inharmonious improvement of building sites; and to secure and maintain proper setbacks from streets.

### **II. TERMINATION**

The restrictions are to run with the land and shall be binding on all parties hereto and all persons claiming under them for a period of twenty-five (25) years from the date they are recorded, at which time, said Conditions, Covenants, Restrictions and Easements shall be automatically extended for successive periods of ten (10) years unless the record owners of three-fourths (3/4) or more of the lots in the Subdivision shall:

A. Execute a written document modifying, amending or rescinding these conditions, covenants, restrictions and easements or any one or more of them in whole or in part; and,

B. Record such document in the office of the Register of Deeds of Racine County, Wisconsin.

### III. SEVERABILITY

Invalidation of any provision of these restrictions by judgment or other court order shall not in any way affect any of the other provisions which shall remain in full force and effect.

### IV. ARCHITECTURAL CONTROL COMMITTEE

No structure shall be erected, placed, or altered on any lot until the building plans, landscape plans, specifications and plot plan showing the location thereof have been approved in writing as to quality, materials, harmony of external design and colors with the existing and planned structures, and as to location with respect to topography, neighboring homes, setbacks, finished grade elevations, driveways and planning by the Architectural Control Committee. Such plans and specifications shall be submitted to the Architectural Control Committee and approved before a building permit from the Town of Caledonia is applied for.

A. The design layout and exterior appearance of each residence shall be such that, in the opinion of the Architectural Control Committee at the time of approving the building plans, the residence will be of compatible design and quality to existing homes in the Subdivision and will have no substantial adverse effect on the property values in the neighborhood.

B. The approval or disapproval of the Architectural Control Committee as required by these covenants shall be in writing. Should the Architectural Control Committee fail to approve or disapprove such plans and specifications and the location within thirty (30) days after submission of the plans to it, then such approval will not be required, but all other conditions and restrictions herein contained shall remain in force, and the related covenants shall have been deemed to have been fully complied with.

C. The initial Architectural Control Committee is composed of Raymond C. Leffler and/or John G. Shannon.

D. The address of the Architectural Control Committee is:

1020 West Blvd.  
Racine, WI 53405

E. The Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of a member of the Architectural Control Committee, the remaining member(s) shall have full authority to designate a successor. Neither the members of the Architectural Control Committee, nor its designated representative shall be entitled to any

compensation for services performed pursuant to this covenant.

F. If, at any time, the Architectural Control Committee has ceased to exist as such and has failed to designate a representative to act for it, the owners of a majority of the lots in the Subdivision may elect a successor committee at a meeting of lot owners called by notice in writing, mailed to the last known address of all Subdivision lot owners as shown on the assessment rolls of the Town of Caledonia, and in the absence of such an Architectural Control Committee, the need for the Architectural Control Committee approval is dispensed with.

G. The Architectural Control Committee may grant a special exception to specific restrictions where a literal application would cause undue hardship and where the granting of such special exception would not be incompatible with the basic concept of the Subdivision.

V. DWELLING QUALITY

The face of every outside wall of any residence, including chimney chases, shall be constructed of materials approved by the Architectural Control Committee. All residences shall have roofs constructed of wood shake, asphalt or fiberglass shingles, tile, slate or other material approved by the Architectural Control Committee with not less than a 6" to 12" (6/12) pitch. Every residence hereafter erected shall have minimum floor areas as follows:

1 Story (Ranch Style)	1600 sq. ft. minimum
2 Story (Traditional)	1800 sq. ft. minimum
1 ½ Story (Example: Cape Cod)	1700 sq. ft. minimum

For purposes of this section "floor area" shall be defined as the area within the exterior wall lines of a building and shall not include any floor space below grade at front foundation line, basements, garages, breezeways, and unenclosed porches, attics and other areas not finished or useable as living quarters. The Town of Caledonia currently requires a minimum of 800 sq. ft. of first floor living space.

VI. BUILDING LOCATION

Subject to approval by the Architectural Control Committee, structures may be located anywhere on a lot, provided such location is consistent with the basic principles of good site interrelationship between the various other nearby structures and provided further that no structure or part thereof shall be erected contrary to the Town of Caledonia building code restrictions. The front yard building setback line for each lot in the Subdivision shall be thirty-five (35) feet from the front lot line unless written approval is received from the Architectural Control Committee. The side yard setbacks shall not be less than twelve (12) feet on one side and eight (8) feet on the other side. In no event shall these setbacks requirements violate the Town of Caledonia ordinance regarding setback restrictions. Purchasers are hereby notified that the front lot line may not be located at the curb due to road right-of-way reservations. Purchasers are encouraged to review the plat, or check with the developer, as to the actual front lot line designations.

## VII. GARAGES, DRIVEWAYS, SERVICE WALKS AND SIDEWALKS

A two (2) car garage shall be constructed on a building site and shall be directly attached to the residential structure or attached by a breezeway. Nothing in this section shall be construed to prohibit the construction of an attached garage which is larger than the minimum required by this section (up to a three car garage allowable). To minimize dust and to enhance the appearance of the Subdivision, the driveway or driveways shall, within one (1) year after issuance of the occupancy permit for a building site, be surfaced with concrete, blacktop, brick or other hard surface material acceptable to the Architectural Control Committee. The plans and specifications for residences submitted to the Architectural Control Committee for approval shall include the specifications for the location and surfacing of the driveways and walkways.

## VIII. UTILITIES

All electric lines, telephone lines, television service lines, or any other cable or conduit running from utility service lines or transformers to any residence shall be underground.

## IX. HEDGES AND FENCES

A. Hedges shall be permitted provided that the same are located as required by these covenants and maintained by the lot owner.

B. Firewood or other materials of a similar nature stored or kept on any lot must be screened from view by means of a fence or wall of sufficient height to conceal the same, but no higher than four (4) feet, by shrubbery of sufficient density to accomplish the same purpose, or other approved screening. Nothing in this paragraph should be deemed to restrict perimeter fences to four (4) feet in height. Perimeter fencing location, material and height are to be approved by the Architectural Control Committee.

C. No hedge may extend to a point nearer to the street on which the house fronts than the front foundation line of such house.

D. No fence shall be permitted to extend nearer to any street than the rear foundation line of the principal structure, except those specifically approved by the Architectural Control Committee for the express purpose of screening air conditioning units or firewood or decorative fencing.

E. Except as herein stated, fences and walls shall be permitted provided that the material and location of the same are in conformity with the Town of Caledonia building codes. The location, design, construction and material for all fences or walls are subject to approval by the Architectural Control Committee. Easement areas are not allowed to be fenced in. Chain link fences are expressly prohibited. It should be noted that the Town of Caledonia requires homeowner's to obtain a permit prior to installation of any fence.

X. PETS

No animals may be kept or maintained upon any lot except dogs, cats, or other usual and ordinary household pets. Separate outbuildings or enclosures may be erected or kept upon a lot for the purpose of housing or restraining any permitted animal or pet provided the location, design, construction and material for such structure is approved by the Architectural Control Committee.

XI. FILLING BUILDING SITE AND CHANGING CONTOUR

Where fill is necessary on the building site to obtain the proper topography and finished ground elevation, it shall be ground fill, free of waste material, and shall not contain noxious materials which will give off odors of any kind, and all deposited fill materials shall be leveled immediately after completion of the building. Any excess excavation of earth shall be removed from the building site. Grade plans shall be submitted to the Architectural Control Committee for approval before altering the contour of any lot so as to 1) change the pre-existing surface water drainage as affects any adjoining lots, and/or 2) create a slope of more than three (3) horizontal feet to one (1) vertical foot within twenty (20) feet of any lot line. The finished grade of any improved lot in the Subdivision shall comply with the Master Grading Plan on file with, and approved by the Town of Caledonia. Changes to this covenant are only allowed with written Architectural Control Committee approval. No sod, gravel, sand, or soil may be removed from any lot except in connection with the construction of a building upon said lot and then only so much as is necessary and essential in the furtherance of such construction.

XII. NOXIOUS ACTIVITY

No noxious, offensive, or dangerous activity of any kind may be conducted upon any lot; nor may any trade, business or profession be carried on; and generally, no activities may be conducted which would constitute a nuisance to other owners of lots within the Subdivision.

XIII. SIGNS

No signs of any character, size, or description shall be maintained upon any lot in the Subdivision except signs of a size no larger than ten (10) inches by eighteen (18) inches bearing the name, address, or both of the resident occupying such lot, security service warning signs or residential re-sale "For Sale" signs. The content, size and design of all signs shall be controlled by the Architectural Control Committee. The Owner, its successors and assigns, shall be exempt from these sign restrictions during the entire development period. Larger signs may be used by the Owner or its agents or by a builder to advertise the property during the sale and/or construction period. Further, the Owner, its successors and assigns shall be allowed to erect and maintain signs and markers identifying the Subdivision.

#### XIV. SWIMMING POOLS

Swimming pools, including above ground swimming pools, are allowed with the approval of the Architectural Control Committee and must be constructed in conformity with these restrictions and the ordinances of the Town of Caledonia, including any requirements for fencing surrounding pools. No portion of a swimming pool or the adjoining enclosed area shall be constructed or maintained nearer to the street line than the rear foundation line of the principal structure.

#### XV. TREE AND BRUSH REMOVAL

All trees, brush, stumps, roots, or other similar materials that may be cut or cleared upon any lot shall be removed from the Subdivision, or in the alternate, reduced to firewood within ninety (90) days after such cutting or clearing. When any tree is felled upon any lot, it shall be done in such a manner that no stump or protrusion above the level of the ground remains.

#### XVI. COMPLETION OF CONSTRUCTION

The interior and exterior construction of a residence shall be substantially completed and the residence shall be ready for occupancy within one (1) year after commencement of construction; such time of completion shall be extended to the extent of any delay due to strike, lockouts and acts of God. In its sole discretion, the Architectural Control Committee shall determine 1) when a residence is substantially completed and ready for occupancy; 2) the extent of the delay due to strike, lockouts and acts of God; and 3) may, for good cause, allow additional time for completion of construction.

#### XVII. TEMPORARY STRUCTURES

No structure of a temporary character, no boat, trailer, truck, basement, tent, shack, garage, barn or other outbuilding shall be used at anytime as residence either temporarily or permanently. No previously used building shall be moved on to any lot in the Subdivision from another location.

#### XVII. GARBAGE OR REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. All equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition. To insure the attractive appearance of the Subdivision, all equipment shall be kept in an enclosure and out of view from the street and adjacent or neighboring property owners. Burning of refuse or yard waste may be permitted *subject to Town of Caledonia ordinances*. Homeowner is directed to verify with the Town any requirements for burning of refuse.

## XIX. ACCESSORY OR UTILITY BUILDINGS

Detached accessory buildings shall be permitted on lots in the Subdivision provided that the design and location of the same are approved by the Architectural Control Committee prior to construction. Any accessory or utility building submitted to the Architectural Control Committee must be of the same construction as the residence (same roof, siding, etc.). For purposes of this Section XIX, a deck, patio, gazebo, pergola or other similar structure shall not be construed to be a detached accessory building, and the same may be construed without prior approval of the Architectural Control Committee. The outside storage of boats, trailers, mobile homes, motor homes, motorcycles, snowmobiles, non-operable vehicle, etc. is prohibited. Lot owner is urged to check with the Town of Caledonia regarding the requirement for any building permit for accessory buildings. Architectural approval does not negate the need to obtain the necessary town permits.

## XX. MODIFICATION

This declaration may be amended at any time through execution of the owners of seventy-five percent (75%) of the residential lots affected by these restrictive covenants of an amendment which shall take effect on the date of recording thereof in the office of the Register of Deeds for Racine County, Wisconsin. However, no modifications to these Restrictive Covenants shall be allowed without the consent of the Developer as long as Developer owns any lot in the Subdivision.

## XXI. ENFORCEMENT OF RESTRICTIONS

If the owner of any lot subjected to these restrictive covenants shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning or co-owning any other lot subjected to these restrictive covenants to prosecute an action at law or in equity against the person or persons violating or attempting to violate any such covenants, either to prevent him, it or them from doing so or to recover damages for such violation, or to compel him, it or them to replace any grades for drainage or enforce any of the covenants and restrictions herein contained.

## XXII. EASEMENTS

Easements are herewith reserved for installation and maintenance of utility lines and/or drainage lines and swales, as set forth on the recorded plat of the Subdivision.


## XXIV. AGREEMENT TO TERMS

By acceptance of a conveyance of property which is subject to this declaration, the grantee, mortgagee, or transferee thereof acknowledges, accepts and agrees to each and every term, right, duty and obligation herein contained and the right of enforcement of this declaration as aforesaid.



IN WITNESS WHEREOF, Altamount Development, LLC has caused these presents to be executed this 17<sup>th</sup> day of October, 2002.

ALTAMOUNT DEVELOPMENT, LLC.

By:   
Raymond C. Leffler Member

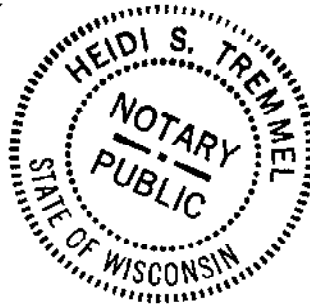
By:   
John G. Shannon Member

STATE OF WISCONSIN    )  
                                  ) ss.  
COUNTY OF RACINE    )

Personally came before me this 17<sup>th</sup> day of October, 2002, the above named Raymond C. Leffler and John G. Shannon, Members of Altamount Development, LLC, to me known to be the person who executed the foregoing instrument as an act of the corporation, by its authority.



\* Heidi S. Tremmel  
Notary Public - State of Wisconsin  
My Commission expires: 4/2/06



Document drafted by: Raymond C. Leffler  
Return to: 1020 West Blvd.  
Racine, WI 53405