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Polk County Iowa
TIMOTHY J. BRIEN RECORDER
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RETURN TO:

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

**AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
THE VILLAGE AT JOHNSTON STATION TOWN HOMES**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE VILLAGE AT JOHNSTON STATION TOWN HOMES is made this 27th day of December, 2005, by **TRITON HOMES, L.C.** (hereinafter referred to as "Declarant"). This Amendment relates to the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at Johnston Station Town Homes ("CCR's"), which Declaration was dated September 1, 2005, and filed November 17, 2005, in Book 11399, Page 972, of the records of the Recorder of Polk County, Iowa.

WHEREAS, the CCR's provide for the ability to create amendments thereto, so long as such amendment is signed by not less than the owners of 90% of the lots within the first 21 years; and,

WHEREAS, the Declarant is the owner of not less than 90% of the lots within The Village at Johnston Station.

NOW, THEREFORE, pursuant to the authority described above, set forth in Article X of the CCR's, the Declarant hereby makes the following amendment to the CCR's:

I. The following new section to the CCR's shall be added to Article X thereof:

Section 11. Decks. Certain of the Living Units relating to this development have a deck associated therewith which shall be dealt with as follows:

a. An easement is hereby granted over such portions of Outlot Z as may be necessary for the location of all decks within the Properties to allow for the construction and continued usage of such decks. The usage of a deck associated with a particular Living Unit shall be reserved solely for the occupants of such Living Unit and shall be to the exclusion of all other Lot Owners in a similar fashion to what would be a Limited Common Element in a condominium regime. An access easement across Outlot Z and within the 10-foot perimeter of the deck is hereby

granted to allow for access to the decks to perform all maintenance, repairs and replacements therefor. Such easement shall be similar in scope and nature to the access easement set forth in Article VIII, Section 5, of the CCR's.

b. The maintenance, repair and replacement of a deck shall be the sole expense of the Lot Owner that relates thereto; provided, however, that all maintenance, repair and replacement of decks shall be done in a uniform fashion, as much as reasonably possible, including, but not limited to, staining and/or sealing of such decks in order to allow for a uniform appearance of all decks within the Properties. Any stain or seal used on decks shall be of a uniform type chosen by the Board of Directors of the Association. Any staining or sealing of any deck shall only be done after permission therefor has been granted by the Board of Directors of the Association and only in the event that staining or sealing then takes place for all decks in one building, at the same time. In the event that the Lot Owners affected thereby cannot agree as to the timing of such staining or sealing, the Board of Directors of the Association shall have the right to arrange and perform such work and shall charge the expense therefor back to the Lot Owner affected thereby as a special assessment relating to such Lot. Any Lot Owner who wishes to seal his or her deck shall first make application therefor with the Board of Directors of the Association in order to coordinate approval thereof and the staining or sealing of other decks relating to the same building. Lot Owners shall have **NO RIGHT** to stain or seal their decks without the prior written approval of the Board of Directors of the Association.

II. Article III, Section 3.d.1., entitled "Utility Easement and Maintenance Agreement" shall have Section 1 thereof deleted in its entirety and the following shall be inserted in lieu thereof:

1. The Declarant hereby grants a perpetual non-exclusive easement and right-of-way under, over, on, through, across and within each of the lots within the Properties (known as "Easement Area"), for the purpose of the Association and/or the Lot Owners to reconstruct, repair, replace, enlarge, inspect and maintain any and all sanitary sewer, water services, including the fire sprinkler system, electrical services, cable wiring, or other utilities ("Utility Services"), along with all necessary structures and appurtenances thereto, which may be located within the Properties at any time. Declarant agrees to originally design and construct the Utility Services to be located within the Properties at Declarant's sole cost and expense. By acceptance of the Deed for any Lot within the Properties, the Lot Owners shall be deemed to have accepted the terms of this easement without any subsequent document or agreement being necessary, and such Lot Owner, by such acceptance, agrees to be obligated to perform all reconstruction, repair, replacement, enlargement, inspection and maintenance relating to the Utility Services that are located on each Lot Owner's lot, subject to the obligations of the Association set forth in sections (d)(3), and (4), hereinafter set forth.

