

Recorded: 4/1/2016 at 8:53:14.960 AM  
Fee Amount: \$17.00  
Revenue Tax:  
Polk County, Iowa  
Julie M. Haggerty RECORDER  
Number: 201500187611  
BK: 15945 PG: 72

Prepared by and return to: Jennifer Drake, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266, (515) 280-2057

*SPACE ABOVE THIS LINE FOR RECORDER*

**SECOND MODIFICATION OF  
DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS  
APPLICABLE TO TUSCANY  
ALTOONA, POLK COUNTY, IOWA**

**THIS SECOND MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO TUSCANY, ALTOONA, POLK COUNTY, IOWA** is made this 30<sup>th</sup> day of March, 2016, by **TUSCANY RESERVE, LLC**, (“Declarant”), an Iowa limited liability company.

**WHEREAS**, Declarant, as owner of Tuscany as defined in Section 1.02(m) thereof, subjected Tuscany to that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Tuscany, Altoona, Polk County, Iowa, dated July 2, 2008, and filed for record in the Office of the Recorder for Polk County, Iowa on December 10, 2008, in Book 12850 beginning at Page 219 and as amended by the First Modification of Declaration of Covenants, Conditions, Easements and Restrictions recorded on August 28, 2012 in Book 14413, Page 798, (the “Declaration”);

**WHEREAS**, Declarant reserved the rights in Section 6.12 of Article VI of the Declaration to amend the Declaration;

**WHEREAS**, Declarant desires to amend Section 1.02(m) of Article I to remove a portion of the property subject to the Declaration;

**NOW, THEREFORE**, Declarant hereby amends the Declaration as follows:

1. Article I, Section 1.02(m) of the Declaration is hereby deleted in its entirety and a new Section 1.02(m) is substituted in lieu thereof as follows:

“(m) **“Tuscany”** shall mean Lots 1 through 123 and Outlots R, S, T, U, V, and W of Tuscany Plat 1, an Official Plat, now included in and forming a part of the City of Altoona, Polk County, Iowa, and any single-family lots or open space outlots hereafter created in Outlot X of Tuscany Plat 1, an Official Plat, now included in and forming a part of the City of Altoona, Polk County, Iowa, except that Tuscany shall not include that property described as Parcel 2016-4, as recorded in Polk County Records at Book 15905 Page 184, being located in Outlot X of Tuscany Plat 1, an Official Plat, now included in and forming a part of the City of Altoona, Polk County, Iowa,

together with all additional real estate which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, including all lots and outlots, except streets, parks and other lots, if any, conveyed to the City (as defined in Section 1.02(d)), developed in any plats of any part of the foregoing described real estate or in any plats of any part of any additional property which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, and any replats of any portions of any of said plats or parcels, all together with all easements and servient estates appurtenant thereto, and subject to (1) zoning and other applicable building ordinances, (2) easements, covenants and restrictions of record.”

- 2. Except as expressly modified by this Second Modification of the Declaration, all of the terms, conditions, easements, restrictions and provisions of the Declaration continue and remain in full force and effect.

Dated this 30<sup>th</sup> day of March, 2016.

**TUSCANY RESERVE, LLC**

By: **Hubbell Realty Company, Managing Member**

By: \_\_\_\_\_  
**Joe Pietruszynski, Vice President**

By: \_\_\_\_\_  
**Jennifer L. Drake, Assistant Secretary**

STATE OF IOWA            )  
  )        SS.  
COUNTY OF DALLAS    )

This instrument was acknowledged before me on this 30<sup>th</sup> day of March, 2016 by Joe Pietruszynski and Jennifer L. Drake, as the Vice President and Assistant Secretary, respectively, of **Hubbell Realty Company**, the managing member of **TUSCANY RESERVE, LLC**, an Iowa limited liability company, on behalf of whom this instrument was executed.

Christine Cordaro  
Notary Public in and for the State of Iowa



MORTGAGEE'S CONSENT AND SUBORDINATION

KNOW ALL MEN BY THESE PRESENTS: that, First National Bank of Omaha ("FNBO") is the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by Tuscan Reserve, LLC, an Iowa limited liability company, as Mortgagor, to FNBO, as Mortgagee, October 31, 2007, and filed for record in the Office of the Recorder for Polk County, Iowa on November 1, 2007, in Book 12433 at Page 36, and any amendments or modifications thereto, (the "Mortgage"), which Mortgage creates a lien on portions of Tuscan. FNBO hereby consents to the within and foregoing Second Modification to Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Tuscan, Altoona, Polk County, Iowa, (the "Declaration"), and agrees that the lien of its above-described Mortgage is subordinate to the easements and appurtenant rights created in the Declaration.

Dated this 22<sup>nd</sup> day of March, 2016.

FIRST NATIONAL BANK OF OMAHA

By: Scott W. Danow, its VICE PRESIDENT

STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF DOUGLAS )

On this 22<sup>nd</sup> day of March, 2016, before me the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Scott W. Danow, to me personally known, who, being by me duly sworn, did say that he/she is the VICE PRESIDENT of FIRST NATIONAL BANK OF OMAHA, executing the within and foregoing instrument; that the instrument was signed on behalf of said bank corporation by authority of its Board of Directors; and said Scott W. Danow, as such officer, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by him/her voluntarily executed.

Pamela M. Waite  
Notary Public in and for said State

