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By PATRICK F. GILL, Auditor & Recorder
Designation

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Crary, Huff, Inkster, Sheehan, Ringgenberg, Hartnett & Storm, P.C. ISBA # 02554

SPACE ABOVE THIS LINE
FOR RECORDER

CASTLES GATE
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS

**CASTLES GATE
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS**

This Declaration of Covenants, Conditions and Restrictions (hereinafter the "**Declaration**") is made this 7th day of October, 2004 by BMT, Inc., an Iowa corporation, of Woodbury County, Iowa, hereinafter referred to as "**Declarant**," fee owner of that certain real estate, all of which real estate shall hereinafter be referred to as the "**Property**," legally described as follows:

Lots 3, 4, 5, 6, 7, 8 and 9, Castles Gate, First Addition to the City of Sioux City, Woodbury County, Iowa; and

Tracts A and B, Castles Gate, First Addition to the City of Sioux City, Woodbury County, Iowa.

Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Property. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use, occupation and enjoyment of such Property as is now or hereafter subjected to this Declaration. This Declaration does not and is not intended to create a condominium within the meaning of the Iowa Horizontal Property Regime (Condominium) Iowa Code Chapter 499B.

NOW, THEREFORE, Declarant does hereby impose and charge the Property with the covenants, agreements, easements, restrictions, conditions, and charges hereinafter set forth, hereby specifying that all of said Declarations shall constitute covenants to run with the land and shall be binding on all parties having any right, title, or interest in the Property or any portion of the Property, their heirs, successors, assigns, and all persons claiming under them, said Declarations being intended to inure to the benefit of each owner of the Property or any portion thereof and, further, said restrictions and covenants being designed to keep said Property uniform and to insure the highest and best residential use of said Property.

**ARTICLE I
DEFINITIONS**

1. **Definitions.** The following words when used in this Declaration shall have the meanings set forth below:

- a. "**Assessment**" shall mean a quarterly or a special assessment assessed against any Parcel pursuant to the provisions of Article IV of this Declaration.
- b. "**Association**" shall mean Castles Gate Homeowners' Association, an Iowa non-profit corporation, as well as its successors and assigns.

Membership shall be appurtenant to, and may not be separated from, ownership of any Parcel.

3. Association Responsible for Maintenance and Repair.

a. Common Areas. The Association shall be responsible for the maintenance and repair of all Common Areas located within the Property, which Declarant may dedicate to the Association or which the Association may otherwise acquire. The Association shall also have the duty to fix, levy, collect, and enforce payment of all charges and assessments therefor. The Association hereby assumes and shall be responsible for all obligations of the Declarant under an Agreement for Maintenance of Storm Water Detention System entered into with the City of Sioux City on or about September 1, 2004 (hereinafter the "Storm Water Detention Agreement"). The Association hereby agrees to hold harmless, defend and indemnify Declarant against all claims, expenses and costs arising out of, directly or indirectly, the Storm Water Detention Agreement.

b. Townhouses. In addition to the Association's responsibility for the maintenance of all Common Areas as set forth above, the Association shall also be responsible to maintain certain limited aspects of all Townhouses that may be located upon the Property (hereinafter referred to as the "Townhouse Maintenance") and the Association shall also have the duty to fix, levy, collect, and enforce payment of all charges and assessments therefor. The Association's responsibility for Townhouse Maintenance shall include the following:

- i. Snow removal from the paved driveways and sidewalks.
- ii. Mowing and landscape maintenance, excluding gardens or flower beds planted by the Townhouse Unit Owner.
- iii. Coordinating the irrigation of the lawn and landscaping so all lawn and landscaping of the Townhouses has a uniform appearance.
- iv. Paying for all water charges in connection with the irrigation of the lawn and landscaping for each Townhouse.
- vi. Customary maintenance of the irrigation equipment, including winterizing and spring start up, but excluding any replacement of such equipment which shall be the responsibility of the Townhouse Unit Owner.

All costs, expenses and charges incurred by the Association in connection with the Townhouse Maintenance shall hereinafter be referred to as the "Townhouse Maintenance Expenses." All other items of maintenance not specifically set forth above shall be the responsibility of the Townhouse Unit Owners. In the event a maintenance responsibility is not clearly defined by this Declaration, the Board shall

have the sole authority to determine whether the Townhouse Unit Owners or the Association shall bear the responsibility.

4. **Voting.** Members shall be entitled to one vote for each Parcel subject to assessment. When more than one person holds an interest in any such Parcel, all such persons shall constitute one Member and one vote. The vote for each such Parcel shall be exercised as the persons holding an interest in that Parcel among themselves determine, but in no event shall more than one vote per parcel be cast. Unless otherwise provided herein or in the By-Laws of the Association, the vote of a majority of a quorum of the Members of the Association, whether taken at a formal meeting or by writing in lieu thereof, shall be sufficient for the transaction of the Association's business.

5. **Meetings.** Subject to the By-Laws of the Association, the Members of the Association shall meet at least annually, upon ten (10) days written notice to the Members. The Members of the Association shall elect such directors, officers, and committees as permitted by the By-Laws of the Association. Nothing herein shall prevent the waiver of notice of meetings by attendance at such meetings or the informal consent of Members to actions taken. The By-Laws of the Association shall provide for the use of proxies.

ARTICLE III COMMON AREAS

1. **Property Rights in the Common Areas.** Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to his or her Parcel, subject to:

- a. This Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;
- b. The right of the Association to limit the number of guests, and to adopt rules regulating the use and enjoyment of the Common Areas;
- c. The right of the Board to suspend the right of an Owner to use any facilities within the Common Areas: (i) for any period during which any charge against such Owner's Parcel remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of this Declaration or the By-Laws, or rules of the Association;
- d. The right of the Association, acting through the Board, to dedicate or transfer all of any part of the Common Areas.

2. **Delegation of Use.** Any Owner may delegate, subject to the provisions hereof, his or her right of enjoyment to the Common Areas and any Association facilities to his or her tenants or contract purchasers who occupy the Owner's Parcel.

ARTICLE IV
COVENANT FOR QUARTERLY AND SPECIAL ASSESSMENTS

1. **Creation of the Lien and Personal Obligation for Assessments.** The Owners, for each Parcel owned by them within the Property, hereby covenants, and each subsequent Owner of any Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) quarterly assessments or charges, and (ii) special assessments for capital improvements or capital equipment to be owned by the Association, such assessments to be established and collected as hereinafter provided. The quarterly and special assessments due with respect to each Parcel, together with interest, costs and reasonable attorneys' fees, shall be a charge on and a continuing lien against such Parcel. Quarterly assessments shall become a lien upon each Parcel as of the first day of each calendar quarter of the year in which such assessment is due and payable. Special assessments shall become a lien on the earliest date any part of the same is due and payable. Quarterly assessments and special assessments shall be due and payable as determined by the Board. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Parcel at the time when the assessment fell due.

2. **Purpose of Assessments.** The quarterly assessment levied by the Association shall be used for the payment of taxes and assessments levied by any taxing authority on the Common Areas and the cost of utilities and insurance for and improvement, repair, and maintenance of the Common Areas and personal property owned by the Association. An adequate reserve fund funded from quarterly assessments and not from special assessments shall be maintained for maintenance, repair and replacement of those elements of the Common Areas that must be replaced on a periodic basis. In addition to the foregoing, the quarterly assessments levied by the Association shall be used to pay for the Townhouse Maintenance Expenses. Any Parcel that does not contain a Townhouse Unit shall not be assessed or otherwise responsible for any Townhouse Maintenance Expenses.

3. **Special Assessments for Capital Improvements.** In addition to the quarterly assessments authorized above, the Association may levy, in any calendar year, a special assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of (i) a capital improvement upon the Common Areas, including fixtures and personal property related thereto or (ii) capital equipment to be owned by the Association, provided that any such assessment shall have the assent of a simple majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

4. **Notice and Quorum for Any Action Authorized Under Section 3.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 of this Article shall be sent to all Members not less than ten (10) days no more than fifty (50) days in advance of the meeting. At the scheduled meeting, the presence of Members or of proxies entitled to cast a majority of the outstanding votes are represented at a meeting, a majority of the votes so represented may

adjourn the meeting to a future time with a minimum three (3) day notice to all Members. At such adjourned meeting held at the appointed future time, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

5. **Rate of Assessment.** Except as provided herein, both quarterly and special assessments shall be fixed at a uniform rate per Parcel and no assessment may be made on a front foot or other basis. Notwithstanding the foregoing, a Townhouse Unit shall have additional quarterly and special assessments made in connection with the Townhouse Maintenance Expenses. Declarant shall not be required to pay any portion of the quarterly or special assessments assessed against any Parcel owned by Declarant.

6. **Date of Commencement of Quarterly Assessments; Due Dates.** The Board shall fix the amount of the quarterly assessment provided for herein against each Parcel subject to assessment at least thirty (30) days in advance of each quarterly assessment period. The initial quarterly assessment period shall commence on the first day of the month following the recording of this Declaration and run throughout and including the next succeeding calendar quarter (i.e., March 31, June 30, September 30, or December 31). Written notice of the quarterly assessment shall be sent to every Owner subject thereto. 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 Parcel have been paid.

7. **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 rate of fifteen percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the same manner as a real estate mortgage may be foreclosed. No Owner may waive or otherwise escape liability for assessments by non-use of the Common Areas or abandonment of his or her Parcel.

8. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Parcel shall not affect the assessment lien. However, the foreclosure of any such first mortgage shall extinguish the lien of such assessments as to payments which become payable prior to the completion of such foreclosure or which become payable during any period of redemption and, if the assessments for which liens were extinguished cannot be collected in an action against the person personally obligated to pay them, the Association shall bear such assessments as a common cost. No sale or transfer shall relieve such Parcel from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V DESIGN REVIEW COMMITTEE

1. **Design Review Committee.** The Design Review Committee (DRC) shall consist of three (3) persons, but not more than five (5) persons, at least one of whom shall be a director on the Board. The DRC shall have exclusive jurisdiction over all construction on all or any portion of the

requirements as provided for by the ordinances and amendments thereto of the City of Sioux City, Iowa.

3. **Construction Site Envelope: Building Locations.** Buildings, outbuildings or dwelling units shall be located within the building site envelope provided by the DRC. However, gazebos or other recreational facilities may be located outside the building site envelope so long as they do not block the view of adjacent property owners, are an integral part of the landscaping plan, and are approved in writing by the DRC.

4. **Removal of Soil and Grade Level.** No soil shall be removed from the Property resulting from any excavation without first obtaining the written approval of the DRC. There shall be no material change in grade levels as they now exist without the written approval of the DRC.

5. **Replating and Subdividing Not Permitted Except by Declarant.** No one Parcel or multiple adjacent Parcels shall be subdivided or replatted pursuant to Iowa Code Chapter 354 without the prior written consent of Declarant at Declarant's sole discretion. No one, except Declarant, shall at any time in any other manner change the plat of the Property, or dedicate any of the Property for a public thoroughfare, or permit any part of the Property to be used as a public thoroughfare. Notwithstanding any provisions contained herein to the contrary, Declarant may: (i) further divide the Parcels by subdivision or plat of survey and (ii) combine platted Parcels or portions thereof with other platted Parcels, which combination may be treated as one Parcel by the Design Review Committee.

No Parcel shall be made subject to any type of time-sharing, fraction-sharing, or similar program whereby the right to exclusive use of the Parcel or dwelling unit rotates among members of the program on a fixed or floating time schedule over a period of years.

6. **Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Parcel within the Property, except dogs, cats, or other usual and common household pets, provided that they are not kept for any reason other than as household pets. However, those pets which are permitted to roam free on the Property other than the pet owner's Parcel shall be removed upon request of the Board. Also, those pets which endanger the health of property owners and other parties, make objectionable noise, or constitute a nuisance or inconvenience to the Owner of any Parcel within the Property shall be removed upon request of the Board. Dogs shall at all times, whenever they are outside, be confined on a leash held by a responsible person unless the dogs are on the Owner's Parcel. No horses shall be kept or stabled on any of such Parcels.

7. **Nuisances.** No noxious, offensive, or illegal trade or activity, as defined by laws or as defined by the Association, nor any trade or commercial activity of any kind, shall be carried on upon any Parcel within the Property nor shall anything be done which may be or become an annoyance or nuisance, as defined by law, to the neighborhood or individuals residing or owning Parcels therein, except that an Owner or occupant residing therein may conduct business activities within the Parcel so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Parcel; (b) the business activity conforms to all

zoning laws, ordinances, and requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. Self-employed business where the public is invited shall not be permitted. Without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of the Property. No portion of any Parcel shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of a Parcel that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Parcels.

8. **Vehicle Parking.** No vehicles shall be temporarily or permanently parked within the Property without being garaged unless such parking is by bona fide temporary guests of the Owner or unless approved by the Design Review Committee. No garbage or large commercial trucks may be permanently parked or housed within the Property even within garages. No recreational vehicles, trailers, campers, camper trailers, boats and other watercraft, and boat trailers shall be allowed upon any Parcel unless such recreational vehicle is parked within the garage serving said Parcel. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted upon the Parcels except within enclosed garages. Any vehicle or item parked in violation of this Section 8 or in violation of parking rules promulgated by the Association may be towed and stored by said Association, all at the expense of the subject owner.

9. **Garbage Containers and Refuse Disposal.** No Parcel shall be used or maintained as a dumping ground for rubbish or storage area for any commercial equipment not contained within a dwelling. Trash, garbage or other waste shall be kept in sanitary containers, which containers shall be kept out of the front yard except on collection day. Storage of such containers while in use shall be within garages or within properly screened areas.

10. **Signs.** Except as expressly set forth in this Section 10, no sign of any kind shall be displayed to the public view on any Parcel, except name plates or address designations. Declarant and Declarant's agents shall be allowed to erect and display such signs as shall be necessary to indicate to the public that Parcels within the Property are available for purchase. Further, Owners shall be allowed to erect and display such re-sale signs as shall be necessary to indicate to the public that their Parcel is available for purchase, said signs to be in keeping with the size and type of re-sale signs typically used by realtors.

11. **Vacant Parcels.** The persons owning vacant Parcels must maintain the Parcels by seeding, re-seeding and growing grass and regularly mowing and spraying for weeds as is necessary. Upon failure to do this, and after fourteen (14) days notice is given, the Association may perform such maintenance as necessary and bill the Parcel Owner for the expense incurred and file a lien

15. **Air Conditioning Units**. No window air conditioning units may be installed in any dwelling upon the Property. All air conditioning units shall be shielded and hidden so they will not be visible from any road, street or adjacent property.

16. **Energy Conservation Equipment**. Unless written approval from the Design Review Committee is first obtained, no solar energy collector panes or attendant hardware or other energy conservation equipment shall be constructed or installed on any structure within the Property. Such equipment must be an integral and harmonious part of the architectural design of a structure as determined by the Design Review Committee.

17. **Skylights**. The use of skylights is acceptable only when used on the side or rear elevation of the structure or building. The skylights should be designed as an integral part of the roof plane. The glazing should be clear or solar bronze, and the frame and sash should closely match or blend in with the roof.

18. **Pools**. In-ground pools with fencing and screening must be reviewed and approved in writing by the Design Review Committee, prior to installation. Jacuzzis, hot tubs, spas, or any similar apparatus, including the fencing and screening, must be reviewed and approved in writing by the Design Review Committee, prior to installation. Equipment for pools, spas, and the like shall be completely screened from adjoining properties. No above-ground swimming pools shall be erected, constructed, or installed upon any Parcel.

19. **Utilities**. All utilities shall be underground.

20. **Mailboxes**. Mailbox designs shall be approved by the DRC.

21. **Combining Parcels**. Except as provided herein, only one (1) single dwelling unit will be approved for construction on each platted Parcel. If contiguous platted Parcels are owned by the same Owner, the Design Review Committee may consider approving plans for construction of a single dwelling which straddles the boundary between such Parcels. Notwithstanding the foregoing, Townhouses shall be permitted on each platted Parcel

22. **Flagpoles**. Flagpoles, if any, shall be residential in size and shall be reviewed and approved in writing by the Design Review Committee.

23. **Firearms**. The discharge of firearms within the Property is prohibited. The Association shall not be obligated to take action to enforce this Section.

24. **Recreational Vehicles**. No recreational vehicles except golf carts shall be operated in the Common Areas or roads or streets or public rights-of-way. Easements across the Common Areas may be established by the Declarant for golf cart traffic.

25. **Sidewalks**. Each Owner of a Parcel or Parcels shall construct or cause to be constructed either: (i) at the time of the construction of a dwelling or (ii) within twenty-four (24)

months after the purchase date of the Parcel, or (iii) at the time the City of Sioux City orders the installation of sidewalks pursuant to a Subdivision Improvements Installation Agreement, whichever occurs first, a concrete sidewalk four (4) feet in width extending across the entire Parcel or Parcels consistent with the remaining sidewalks in the Property. In the event that any Owner of a Parcel or Parcels fails to install a sidewalk, the Declarant and/or the Association, at its option, shall have the right to construct it or cause to be constructed, and such Owner shall be liable to the Declarant and/or Association for any and all costs in connection therewith. The Declarant and/or Association is hereby empowered to claim and enforce a lien against the affected Parcel or Parcels for the cost of such construction and all costs of enforcement of the lien, including a reasonable attorney's fee.

26. **Fill Addendum.** There may be filed with the plat of Castles Gate, First Addition an addendum showing the general location of the areas of original fill which are five (5) feet or more in depth. The absence of such an addendum shall not for any purpose be interpreted or construed that there is no filled ground. The Declarant makes no warranty or representation whatsoever for any purpose as to the existence of filled ground. It shall be the sole and exclusive responsibility of Owners to perform all appropriate soil tests and sampling as to soil conditions before construction of any improvements. No Owner shall at any time deposit dirt or other materials on any other Parcel before, during, or after construction of improvements on any Parcel.

27. **Golf Course Setback.** The Declarant wishes to implement a natural buffer zone over and across those Parcels adjacent to the golf course which may be built. Therefore, a setback line of a minimum of twenty-five (25) feet and a maximum of fifty (50) feet from the golf course property line shall be established by the Declarant ("Golf Buffer Zone"). This Golf Buffer Zone is the area between the Parcel lines bordering the said golf course and this setback line. Notwithstanding any provisions contained in this Declaration, no buildings, garages, outbuildings or other structures shall be constructed, allowed or located within the entire Golf Buffer Zone and no man-made features and/or landscaping (such as fences, walls, swings, gardens, gazebos) shall be constructed, allowed or located within the Golf Buffer Zone.

28. **Golf Course Easements.** If a golf course is built adjacent to the Parcels, then every Parcel is burdened with an easement permitting golf balls unintentionally to come upon such Parcel and for golfers at reasonable times and in a reasonable manner to come upon the Parcel or exterior portions of a building to retrieve errant golf balls; provided, however, if the golfer has some barrier to entry, such as a structure or dense shrubbery, the golfer shall seek the Owner's permission before entry. The existence of the easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant, the Association and its successors in title or its officers and Members (in their capacity as such). The Parcels immediately adjacent to the golf course are hereby burdened with a non-exclusive easement in favor of the golf course for overspray of water from any irrigation system serving the golf course. Under no circumstances shall the Declarant or the owners of the golf course be held liable for any damage or injury resulting from such overspray or exercise of this easement. Some Parcels are subject to a golf cart easement as shown on the plat of Castles Gate, First Addition to the City of Sioux City, Woodbury County, Iowa.

29. Golf Course Construction. All persons, including all Owners of Parcels, are hereby advised that no representations or warranties have been made or are made by the Declarant or any other person with regard to the construction, ownership, operation, and/or short-term or long-term existence of a golf course which may be located adjacent to the Property, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without amendment to this Declaration executed or joined in by the then owner of any adjacent golf course. No consent of the Association or of an Owner shall be required to effectuate a transfer or conversion of any adjacent golf course.

30. Pipeline and Electric Utility Line Easements. THE PROPERTY IS SUBJECT TO PIPELINE EASEMENTS AND ELECTRIC UTILITY EASEMENTS SHOWN OF RECORD AND ON THE PLAT. NO MAN-MADE FEATURES AND/OR LANDSCAPING (SUCH AS FENCES, WALLS, SWINGS, GARDENS, GAZEBOS) SHALL BE CONSTRUCTED, ALLOWED OR LOCATED ON THE PROPERTY SUBJECT TO THE PIPELINE AND UTILITY EASEMENTS, OR SUCH PROPERTY OTHERWISE DISTURBED BY OWNER, WITHOUT OBTAINING THE WRITTEN APPROVAL AND CONSENT OF THE OWNER OF THE RESPECTIVE EASEMENT AND THE BOARD.

31. Townhouses.

a. Townhouse Exterior and Party Walls. The Townhouse Unit Owners shall coordinate their efforts to maintain, replace and repair the exterior of the Townhouse in good condition and uniform in appearance. The Townhouse Unit Owners shall not paint, decorate, install landscaping, siding materials, roofing materials, doors, windows or otherwise change any aspect whatsoever of the exterior of any Townhouse Unit unless written consent of the DRC is first obtained. In the event of a dispute between Townhouse Unit Owners, the Board shall attempt to mediate the dispute. A Townhouse Unit Owner shall perform maintenance and repair in such a manner so as to not unreasonably disturb other persons residing in adjacent Townhouse Units. The Townhouse Unit Owners shall jointly maintain the party walls in good condition and agree to not make any alteration to a party wall. The Unit Owner shall have an easement upon or into the adjoining Townhouse Unit, and a right-of-entry as is necessary, to perform such work and shall not be liable for trespass for such entry or work.

b. Insurance. By virtue of taking title to a Townhouse Unit, each Townhouse Unit Owner shall carry insurance as required herein, including a casualty insurance policy or policies affording fire and extended coverage in an amount that at least equals the full replacement value of the Townhouse Unit and a liability insurance policy or policies in amounts not less than \$500,000 and in addition a \$1,000,000 umbrella policy or such additional amounts as the Board may deem advisable from time to time covering the Townhouse Unit Owners or other persons entitled to occupy the

purchase of a Parcel and/or fails to complete said home within twelve (12) months thereafter, Declarant is given and granted the option to repurchase the Parcel, with any improvements thereon, at fifty percent (50%) of the original sales price of the Parcel unless Declarant extends such period in which to commence or complete construction in writing, provided, however, that this option will not immediately extend to adjacent Parcels owned by one (1) Owner so long as construction is commenced upon one (1) Parcel within the twenty-four (24) month period and is completed within the twelve (12) month period. This option shall extend, however, to other Parcels owned by one (1) Owner after the first twenty-four (24) month period expires. Each purchaser of a Parcel, when purchasing a Parcel, gives and grants this option of repurchase to Declarant. The purpose of the repurchase option is to guarantee that the Property will be promptly used for residential housing.

3. **Enforcement.** Enforcement shall be by proceedings at law or in equity against any person or persons instituted by Declarant or any Parcel Owner against any person or persons violating or attempting to violate any covenant, either to enjoin or restrain the violation, or to recover damages, or both.

4. **Liquidated Damages.** The damages for violation of any of the restrictions and covenants set forth in this instrument, being difficult to ascertain, shall be the liquidated damages as set forth in this paragraph as expressly agreed to by all purchasers of Parcels. Such damages for the violation of any restriction or covenant contained in this instrument are hereby expressly set at Five Hundred Dollars (\$500.00) per violation, which sum shall be paid by the violator to the Association. Said liquidated damages shall not be the sole remedy of the remaining Owners, but shall be cumulative with, and the remaining Owners shall retain, all other remedies, at law or in equity, and as set forth above, for purposes of enforcement of this Declaration.

5. **Future Development.** Declarant reserves the right, but not the obligation, to subject additional property to this Declaration. Owners, or their heirs, successors or assigns, are notified that Lots 1, 2, 10 and 11 of Castles Gate, First Addition to the City of Sioux City, Woodbury County, Iowa, which are not subject to this Declaration, may be zoned for multiple dwelling use and/or for other commercial uses and may be developed in that manner; said Owners or their heirs, successors or assigns acknowledge that such end use of the above-mentioned adjacent land is not and will not become injurious to their rights as area property owners when such adjacent areas are so developed; in the event that the Owners or their heirs, successors or assigns take any action which will impair or impede the orderly development of said projects on said adjacent property then, and in that event, they shall be liable to the owners of said areas for all damages caused thereby, including court costs and reasonable attorney fees for any necessary legal representation required to protect the rights of said owners and developers of said adjacent land.

6. **Notices.** Any notices required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when hand-delivered or mailed postage paid to the last known address of the person who appears as such Owner on the records of the Association at the time of such mailing.

7. **Severability.** Invalidation of any one of these covenants by judgment or court order

IN WITNESS WHEREOF, we have hereunto set our hands on the day and year first above written.

BMT, Inc.
an Iowa corporation, Declarant

By: Todd D. Sapp Pres.
Todd D. Sapp, President

STATE OF IOWA)
: SS
COUNTY OF WOODBURY)

On this 7th day of October, 2004, before me, a Notary Public, in and for said State, personally appeared Todd D. Sapp, to me personally known, who being by me duly sworn did say that he is the President of said corporation, that no seal has been procured by the said corporation and that said instrument was signed on behalf of the said corporation by authority of its board of directors and the said Todd D. Sapp acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.

Jenny Bertrand
Notary Public in and for said State

