



**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
WILLOW CREEK ESTATES**

THIS DECLARATION, made this 24th day of August, 2015, by Willow Creek Development, L.L.C., an Oklahoma limited liability company, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Tulsa County, Oklahoma, which is more particularly described as follows, to-wit:

ALL OF WILLOW CREEK ESTATES, AN ADDITION TO THE CITY OF BIXBY,  
TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE  
RECORDED PLAT THEREOF.

hereinafter referred to as "Willow Creek Estates"; and

WHEREAS, Declarant is presently improving and developing residential lots, together with a "Common Area", as hereinafter defined, within Willow Creek PUD-78; and

WHEREAS, Declarant may construct or provide on the "Common Area" a private park area, drainage facilities and landscaped areas for the use and enjoyment of the owners of the lots and dwelling units within Willow Creek Estates and any future subdivisions within Willow Creek PUD-78; and

WHEREAS, Declarant will convey the lots within Willow Creek Estates subject to certain covenants, conditions, restrictions, reservations, easements, liens, and charges as hereinafter set forth; and

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, mortgaged, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens, and charges, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of Willow Creek Estates. These covenants, conditions, restrictions, reservations, easements, liens, and charges shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof or any part thereof, their heirs, successors and assigns.

**ARTICLE I**  
**DEFINITIONS**

1. "Association" shall mean and refer to Willow Creek Homeowners Association, Inc., an Oklahoma non-profit corporation, its successors and assigns.



2. "Willow Creek Estates" shall mean and refer to that certain real property hereinbefore described. "Willow Creek PUD-78" shall mean any and all subdivisions within the Willow Creek development plan as incorporated in City of Bixby Ordinance No. 2120.
3. "Common Area" shall mean that portion, including easements, of Willow Creek PUD-78 owned or maintained by the Association for the common use and enjoyment of the Owners, together with all improvements which may at any time hereafter be situated thereon including (without limitation) detention ponds, drainage facilities/dams and related improvements, park area and playground equipment (if any), which Common Area specifically includes (without limitation) the following:

Reserve Areas as shown on the plat of Willow Creek Estates, Plat No. 6625 ("Willow Creek Estates").

4. "Lot" shall mean and refer to a platted lot, block or parcel of land shown upon the recorded plat of Willow Creek Estates with the exception of the Common Area.
5. "Member" shall mean and refer to every person or entity who holds membership in the Association.
6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot situated within Willow Creek Estates, including contract sellers, but excluding others having such interest merely as security for the performance of an obligation.
7. "Declarant" shall mean and refer to Willow Creek Development, L.L.C., an Oklahoma limited liability company, its successors and assigns.
8. "Secretary" shall mean and refer to the Secretary of the Association.
9. "Board of Directors" shall mean and refer to the Board of Directors of the Association.
10. "Articles" shall mean and refer to the Articles of Incorporation (including any amendments or changes thereto) pursuant to which the Association, as hereinabove defined, is or has been formed.
11. "Bylaws" shall mean and refer to the existing Bylaws of the Association, including any amendments or changes thereto.

## **ARTICLE II** **POWERS OF ASSOCIATION AND MEMBERSHIP**

1. **POWERS OF THE ASSOCIATION:** The Association, in addition to all other rights, powers and duties provided herein and as contained in its Articles of Incorporation, shall

have all powers, rights and privileges which a not-for-profit corporation organized under the Laws of the State of Oklahoma by law may now or hereafter have to carry out its corporate purposes.

2. **MEMBERSHIP**: Any Owner of a Lot in Willow Creek Estates, an Addition to the City of Bixby, Tulsa County, State of Oklahoma, shall automatically become a Member of the Association. The membership of the Association shall be limited to the record Owner, whether one or more persons or entities, of a fee simple title to a Lot situated within Willow Creek Estates, and in any additional property as may be annexed to or merged into the jurisdiction of the Association or allowed to join according to procedures set forth in the Articles or Bylaws, including (without limitation) property owners in future phases (if any) of the Willow Creek PUD-78, each to be a separate Addition to the City of Bixby, Tulsa County, State of Oklahoma, according to their respective recorded plats thereof. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, other than contract sellers. Membership shall be appurtenant to and may not be separated from ownership of any Lot situated within Willow Creek Estates. Ownership of a Lot shall be the sole qualification for membership with respect to those property owners in Willow Creek Estates.

### **ARTICLE III** **VOTING RIGHTS**

1. **VOTING CLASSES**. The Association shall have two classes of voting membership:

Class A: Class A Members shall be all those persons or entities entitled to membership as defined in Article II with the exception of Declarant. After the Turnover Date described below, Class A Members who own a Lot shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article II; provided, however, when two or more persons or entities hold such interest or interests in any Lot, although all of such persons or entities shall be Members of the Association, the vote for such Lot shall be exercised as they, among themselves, may determine, but in no event shall more than one (1) vote per Lot be cast with respect to any one Lot.

Class B: The Class B Member shall be Declarant. The Class B Member shall be entitled to five hundred (500) votes; provided, that the Class B membership shall cease and be converted to Class A membership on the earlier to occur of:

- (a) the date all Lots in Willow Creek PUD-78 (as opposed to just those Lots in the Subdivision) so platted have been sold by Declarant; or
- (b) December 31, 2035; or
- (c) such date as Declarant (in its sole discretion) executes and records with the County Clerk of Tulsa County, Oklahoma, a notice that Declarant has elected to convert the Class B membership to Class A membership.

2. **DECLARANT CONTROL OF ASSOCIAITON.** The Declarant, or its designee, shall be in sole and complete legal control of the Association from the inception thereof until such time as the Declarant relinquishes control thereof as set forth herein. The date on which Declarant's rights under this Section 2 shall terminate shall be referred to as the "Turnover Date". The first and all subsequent Boards prior to the Turnover Date shall consist of those persons designated by Declarant. Declarant's rights under this section to designate the members of the Board shall terminate on the date the Class B Membership is converted into Class A Membership under Section 1 of this Article III. From and after the Turnover Date, the Board shall be constituted and elected as provided in the Association Bylaws. Prior to the Turnover Date all of the voting rights of the Owners shall be vested exclusively in Declarant. The Owners, prior to the Turnover Date, shall have no voting rights. Despite having no voting rights at that point in time, such Owners' Lots shall nevertheless be subject to assessment. The Declarant, upon request, shall supply such Owners with an annual accounting of the manner in which collected assessments have been spent.

#### **ARTICLE IV** **PROPERTY RIGHTS**

1. **MEMBERS' EASEMENTS OF ENJOYMENT:** Every Member shall have the nonexclusive right and pedestrian access easement to use and enjoy the Common Area and all improvements constructed thereon. Such right and easement shall be appurtenant to and shall pass with the title to every Lot within Willow Creek Estates, subject, however, to the following provisions:

- (a) The right of the Association to limit the number of guests of Members as well as the volume of noise and any other nuisance which interferes with the peaceful enjoyment of Willow Creek Estates;
- (b) Subject to the provisions of Article V hereof, the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and improvements constructed thereon and in aid thereof to mortgage said property, but only upon the prior written consent of the Declarant. In the event such property is so mortgaged, the rights of the Members of the Association hereunder to use and enjoy such Common Area shall be subject and subordinate to the rights of the mortgagee therein.
- (c) The right of the Declarant, until the conversion of all Class B Membership into Class A Membership, to dedicate or transfer all or any part of the Common Area to any governmental body, public agency, authority, or utility for such purposes and subject to such conditions as determined in the Declarant's sole discretion.

- (d) Upon the conversion of all Class B Membership into Class A Membership, the right of the Association to dedicate or transfer all or any part of the Common Area to any governmental body, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. Such dedication and transfer shall be effective only upon the recording of an instrument signed by Members entitled to cast one-half (1/2) of the votes of the Class A membership in which such Members evidence their agreement to such dedication and transfer, or upon the affirmative, majority vote of the Board of Directors but only after said Board receives written consent from the Declarant;
- (e) The right of the Association to suspend the voting rights and suspend or terminate the right to use and easement of the Common Area of a Member:
  - (i) with respect to voting rights, for any period during which any assessment against his Lot remains unpaid; provided, however, the Association shall give written notice to the deficient Member, or
  - (ii) with respect to use and easement of the Common Area, for any period during which any assessment against his or her Lot remains unpaid or for any infraction of the published rules and regulations of the Association relating to such use.
- (f) The right of the Association to prescribe rules and regulations for the use, enjoyment and maintenance of the Common Area.

2. **DELEGATION OF USE OF COMMON AREA:** Any Member may delegate, in accordance with the Bylaws of the Association, his right to use, but not ownership of his easement right to, the Common Area and facilities and improvements situated thereon, to his or her family members and guests, and to tenants who reside in Willow Creek Estates.

3. **TITLE TO THE COMMON AREA:** The Declarant herein reserves the right and easement to enter upon the Common Area and construct, repair and maintain improvements therein. Maintenance of the Common Area shall be borne by the Association; provided, however, in the event the Association fails or refuses to maintain the Common Area, the Declarant shall have the right, but not the obligation, to maintain the Common Area in a reasonable manner and the Association shall reimburse the Declarant for such expenses upon demand. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, subject only to any easements and restrictions of record, either prior to or upon the conversion (in the Declarant's sole discretion) of its Class B membership to Class A membership pursuant to the provisions of Article III. Conveyance of the Common Area to the Association shall not be refused by the Association.

4. **DAMAGE TO COMMON AREA:** If, due to the act or omission of any Owner, his family, tenants, contract purchasers, guests, licensees or other invitees, the Common Area is damaged (normal wear and tear excepted) and maintenance, repair or replacement shall be required thereby, then such Owner shall pay for the full cost of such maintenance, repair and replacement as shall be determined by the Association.

## **ARTICLE V** **COVENANT FOR MAINTENANCE ASSESSMENTS**

1. **CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS:** Except for annual assessments described in paragraph 3 below, no special assessments shall be assessed against or attach to any Lot owned by Declarant or any builder of the residential structure thereon who does not occupy such structure as his principal residence within Willow Creek PUD-78. The Declarant and each builder of the residential structure on any Lot within Willow Creek Estates who does not occupy such structure as its principal residence shall not pay the annual assessment described in Paragraph 3 below. All other Owners of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association their share of:
  - (a) annual assessments or charges provided for herein, and
  - (b) special assessments for capital improvements, reserves and/or such expenses as may be determined by the Board of Directors, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

If permitted to become delinquent, an annual or special assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a lien upon the Lot against which each such assessment is made whether a lien is actually filed of record or not. Each such assessment, together with such interest, costs and reasonable attorneys' fees incurred in collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

2. **PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, and welfare of the residents in Willow Creek PUD-78 and enhancing property values in any subdivision within Willow Creek PUD-78 including, but not limited to the improvement and maintenance of the Common Area and improvements thereon, including (without limitation) ad valorem taxes, drainageways and easements, driveways, parking areas, fences and walls, and landscaped areas.
3. **ANNUAL ASSESSMENTS:** The annual assessment on any Lot owned by any Owner of a Lot in Willow Creek Estates, commencement of which is provided for in Article V, Section 5, shall be in an amount to adequately maintain and support all Common Areas of interest within Willow Creek PUD-78 including (without limitation) all Reserve Areas designed on

the Plat, all as determined by Board of Directors of the Association in accordance with its Bylaws. Annual and special assessments shall be established at a uniform rate applying such factors as the Board of Directors shall determine appropriate, such as the operating costs of the Association, maintenance of the Common Areas, cost of living increases, enhancement of property values and other equitable factors. Annual assessments paid by the Owners of Lots in Willow Creek Estates shall be used exclusively for the maintenance and repair of the Common Areas within Willow Creek PUD-78, and for such operating costs of the Association which are related to the operation of the Common Areas and the general operations of the Association.

4. **SPECIAL ASSESSMENT:** In addition to the assessments authorized above, the Association may declare and levy a special assessment, without Members consent or approval, for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Area or entryways, including the necessary fixtures and personal property related thereto, and for establishing reserves and payment for any expenses deemed necessary and appropriate by the Board of Directors in its sole discretion; provided, however, special assessments against Lots in Willow Creek PUD-78 after the Turnover Date shall require the affirmative vote of one-half (1/2) of the Owners of such Lots who are Class A Members of the Association who are in attendance (in person or by proxy) at a special meeting of the Members of the Association, duly called and noticed; provided, however, the Declarant and any builder of the residential structure thereon who does not occupy such structure as its principal residence, who own Lots within Willow Creek PUD-78 shall not be subject to any Special Assessment.
5. **DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES:** The annual assessment provided for herein shall commence on the date of conveyance of title to that Lot to the Owner of such Lot. Thereafter, the form and means of written notice of the annual assessment shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether annual and/or special assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of those certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.
6. **EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION:** Any assessment which is not paid on or before the due date, as prescribed by the Board of Directors of the Association in writing, shall be delinquent and shall constitute a lien on the Lot against which said assessment is made. If the assessment is not paid on or before the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. The Association may take action against the Owner delinquent in the payment of assessments owed to the Association. Such action may include, but is not limited to, demand letters; collection letters from an attorney; actions to enforce a lien filed against the Owner's property; and other actions designated to obtain payment for financial obligation owed by an Owner. In taking these actions, whether one or more, the Association shall be entitled to collect the costs it has incurred in pursuing efforts

to obtain payment from a delinquent Owner including, but not limited to, reasonable attorney's fees, whether related to the sending of collection letters, filing of collection lawsuit, or otherwise, court costs, interest and such other expenses as the Association reasonably incurs in pursuing its efforts to collect delinquent assessments from an Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Notwithstanding any provision herein to the contrary, this paragraph 6 shall not apply to the Declarant.

7. **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon any Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments or installments thereof which have become due and payable prior to the sale of such Lot pursuant to a foreclosure of such mortgage or transfer or conveyance in lieu of such foreclosure. Such sale pursuant to such foreclosure or such transfer or conveyance in lieu of such foreclosure shall not relieve such Lot from liability for any assessments or installments thereof thereafter becoming due or from the lien of any such subsequent assessments or installments.
8. **EXEMPT PROPERTY:** The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties or interests therein dedicated to and acceptable by a local governmental body or public authority or conveyed to a public utility; provided, however, in the event of the dedication of an easement to a local governmental body, public authority, or public utility, the underlying servient estate shall not be exempt from assessment; (b) the Common Area; and (c) any Lot owned by Declarant or any builder of the residential structure thereon who does not occupy such structure as his principal residence within Willow Creek Estates; provided, that, once such Lot has transferred to an Owner who is not the Declarant or such builder, such Lot shall be subject to the assessments provided for herein.

## **ARTICLE VI** **USES OF LAND**

1. **LOT USE:** All Lots of Willow Creek Estates shall be used for single-family residential purposes subject to the terms, conditions and provisions of PUD-78 and uses permitted by right or special exception in RS-3 Zoning District. No Lot shall be used for any business, commercial or manufacturing purpose, and no business or building of any kind whatsoever shall be erected or maintained thereon, except single-family residences. Provided, an Owner may utilize a "home office" for business purposes as long as business visitors, guests, and customers do not visit the Owner's Lot, and commercial vehicles do not regularly deliver supplies or materials and such business activities are conducted in a manner which does not interfere with the peaceful use and enjoyment of surrounding Owners. Provided, however, the Declarant may permit a model home or similar sales office to be implemented and maintained (including a temporary parking lot) by a builder for a fixed time period, at the Declarant's sole discretion. No Lot may be subdivided to accommodate two or more separate owners or dwellings. No structure shall be placed, altered, erected or permitted to

remain on any Lot, which exceeds two (2) stories in height. No dwelling not meeting a specific building code identified by the Declarant may be moved onto a Lot. No structure of a temporary character may be used as a residence. No mobile home shall be moved into or be present in Willow Creek Estates, except that the Declarant or its designee(s) may use a mobile home as a temporary sales office.

2. **RESERVE AREA:** "Reserve Area", as reflected on the recorded plat of Willow Creek Estates, shall be used as Common Area only. The Common Area has been granted by Declarant as a perpetual easement for the purposes of pedestrian access, open area, roadways, park area and related amenities, and for permitting the flow, conveyance, and discharge of storm water runoff from the Lots within Willow Creek Estates and subdivisions within Willow Creek PUD-78. Drainage facilities constructed in said Common Area shall be in accordance with standards prescribed by the City of Bixby and plans and specifications approved by the City Engineer of the City of Bixby. Said drainageway area and facilities shall be maintained by the Association in accordance with standards prescribed by the City of Bixby. In the event the Association should fail to adequately and properly maintain said drainage way area and facilities, the City of Bixby may enter upon said area, perform said maintenance, and the cost of performing said maintenance shall be assessed in the same manner as special assessments against all Members of the Association. Except for Declarant and any builder of a residential structure within Willow Creek Estates who does not use such structure as its principal residence, access by any lot owner within Willow Creek PUD-78 to a particular Common Area of Willow Creek PUD-78 shall be subject not only to membership in the Association, but also to payment of any annual and/or special assessment described in Article V hereof.
3. **NUISANCE:** No noxious or offensive activity of any kind shall be carried on upon any Lot or the Common Area, nor shall anything be done thereon which may be or may become a nuisance or annoyance to the neighborhood. No exterior speaker, horn, whistle, bell, or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or placed on a Lot. Activities expressly prohibited on Lots are those which may be offensive by reason of odor, fumes, dust, smoke, noise, vision, vibration, or pollution, or which are hazardous by reason of excessive danger, fire, or explosion.
4. **ANIMALS:** No animals, livestock, or poultry of any kind shall be kept on any Lot except for a total of three (3) household, domestic pets and the suckling young of said animals; provided, however, that no more than two (2) adult dogs shall be maintained on any Lot. Excessive barking by any dog shall, in the sole opinion of the Declarant or the majority of the Board of Directors of the Association, be deemed a nuisance and immediately subject the dog to impound and the Owner thereof to a fine levied by the Association in an amount determined by the Association in accordance with its established rules and regulations (not to exceed \$100.00 per day), and/or to such other actions as the Association may determine appropriate. The amount of such fine, if not paid by its due date, shall become a lien upon the Owner's Lot and subject to enforcement and foreclosure as set forth in Article V hereof. Animals shall not be kept, bred or maintained for any commercial purposes. Whenever in the opinion of the Declarant or Board of Directors or authorized committee of the

Association, an animal is deemed offensive to surrounding property Owners and/or a nuisance to the public, the Owner of such animal shall remedy such excessive noise or nuisance within forty-eight (48) hours from the date notice (oral or written) is delivered to such Owner by the Declarant or the Association. All animals must be fenced in or kept on a leash. Animal shelters, subject to the rules and regulations of the Association, shall be screened from view from any street unless built in conformity to the requirement for outbuildings herein. No exotic animals shall be permitted on any Lot or the Common Areas; provided, however, domestic pets shall be permitted within the Common Areas subject to the rules and regulations of the Association. Unleashed animals shall not be permitted to roam on the Common Area, any park areas or reserve areas, and at the option of the Declarant or the Association, steps may be taken to control any animals not under the immediate control of their owners, including the right to impound such animals and to charge fees for their return.

5. **MAINTENANCE:** All Lots and improvement thereon, including but not limited to, the residential structure, out building, if any, fences, if any, landscaping and other improvements shall be kept at all times in a neat, attractive, healthful and sanitary condition. All Lots shall be kept free from rubbish, litter and noxious weeds. All structures, landscaping and improvements placed upon any Lot shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement in favor of Declarant and/or its designees for access to make reasonable grading and repair work, as well as to allow for the free flow of storm water across portions of such Lot; such entry shall be made only at reasonable times and with as little inconvenience as possible to the Owner of the Lot being entered, and with advance notice to such Owner. Such easement shall not permit entry into any residence or garage, and any damage caused to the Lot or adjoining property entered by virtue of use of such easement shall be repaired at the sole expense of the Owner whose property was the object of the repair work. All yard equipment shall be screened from view of neighboring lots, streets, or other property. Maintenance of residential structures and Lots shall also comply with rules and regulations published by the Association, including, but not limited to architectural control requirements; provided, however, the Declarant reserves control over all architectural requirements relating to the construction of all improvements until such time as the Lot or Common Area containing such structure is transferred to an Owner occupant or the Association, respectively. Upon such transfer to an Owner occupant or the Association, as the case may be, no building, residence, fence, wall or other structural or landscaping improvement shall be commenced, erected or maintained upon any of the Lots within Willow Creek Estates, nor shall any exterior addition to or change or alteration therein, or change in the exterior appearance thereof, or major change in landscaping be made, until such matter is approved in writing by the Association's Board of Directors.
6. **WIND GENERATORS; SOLAR COLLECTORS:** No wind generators or solar collectors shall be installed on the Common Area or any other reserve. Further, no wind generators or solar collectors shall be installed on any Lot or residence thereon without the prior written approval of the Declarant or the Association in advance of its installation.
7. **CLOTHES LINES:** The drying of clothes on any Lot in public view is prohibited.

8. **STORAGE:** No outside storage or keeping of building materials, tractors, mowers, equipment, implements or salvage on any Lot shall be permitted; provided, however, building materials may be stored on a Lot for a period of thirty (30) days prior to the start of construction and construction shall be completed within nine (9) months after the pouring of the footing.
9. **WASTE:** No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes. All waste shall be kept in sanitary containers and all equipment for storage or disposal of such material and all Lots shall be kept in a clean, neat and orderly manner which shall be kept on such Lot and stored from public view, until such day as may be designated for collection of such containers or material. All Lots and all easements thereon shall be kept clean, neat and mowed to the street by the Owner of said Lot. All residential waste containers must be removed from the curbside and screened from roadway view within twelve (12) hours after refuse collection vehicles empty the containers.
10. **COMPLIANCE WITH LAWS:** Each Owner shall comply with all laws, statutes, ordinances, rules and regulations of Federal, state or municipal governments or authorities, including the municipal codes of the City of Bixby, and requirements applicable to use, zoning, occupancy of the Lot and premises and maintenance of improvement thereon. Furthermore, the Plat of Willow Creek Estates and all construction and activity relative thereto shall be subject to and in conformity with PUD-78 and any supplements or addendums thereto.

## **ARTICLE VII** **ARCHITECTURE, SIZE, MATERIALS,** **PLANS AND SPECIFICATIONS**

1. **PLANS AND SPECIFICATIONS:** A complete set of plans and construction specifications including materials for any structure proposed to be erected must first be submitted to the Declarant and written approval thereof obtained from the Declarant or its agent prior to the commencement of any construction upon each and all of the Lots in Willow Creek Estates. Construction specifications shall provide for minimum pad elevations approved by the City of Bixby, Department of Engineering. In addition, unless waived by the Declarant in writing, based on hardship, economic considerations or other reasons which will not interfere with the harmony of design or diminish property values in the neighborhood, the following standards shall apply to all dwellings in Willow Creek Estates:
  - (a). **Dwelling Size.** All dwellings shall have a minimum living space of at least 1,500 square feet. Square footage shall be computed for living space, exclusive of porches, patios, and garages. In the event of a dwelling having more than one (1) story, there shall be a minimum of Eighteen hundred (1800) square feet of floor space with a minimum of Fifteen hundred (1,500) square feet on the first story, exclusive of open porches, garage, and patios.

(b). Masonry/Paint. All dwellings shall have at least fifty per cent (50.0%) of the exterior walls thereof comprised of brick, stone or masonry siding; provided, however, that the area of all windows, covered porches and doors located in the exterior walls shall be excluded in the determination of the area of said exterior walls. In particular cases, the Declarant reserves the right to permit Dryvit brand or similar exterior construction material in lieu of brick or stone. All exterior colors (including, without limitation, masonry, paint, wood, garage doors, etc.) of the residential structure and any other structure on the Lot must be earth tone colors and subtle in nature. No non-natural hue colors or color schemes shall be permitted on the exterior of any structure on the Lot.

(c). Garages. All dwellings shall have attached garages suitable for accommodating a minimum of two (2) standard size automobile(s). All garages shall be accessed by an overhead garage door. Carports shall not be permitted.

(d). Patio Roof. All patio roofs shall be an integral part of the residence such that they are contained within the roofline and shall be constructed with the same design, shingle color and materials as the residence.

(e). Driveways. All driveways into a Lot from any street shall be constructed of concrete and shall not be less than sixteen (16) feet in width.

(f). Mailboxes. All mailboxes shall be of a uniform structure and color and shall be constructed in accordance with a written plan/diagram and specifications to be approved by Declarant prior to construction.

(g). Roof Materials. Roof materials shall be Heritage II or comparable composition shingles of equal or better quality, and shall be of such color scheme approved by the Declarant prior to installation.

(h). Sodding; Landscaping. Each Lot shall have a sodding and landscape package approved by Declarant and shall be installed upon completion of the construction of any residence.

(i). Heating and Air Conditioning Requirements. All residences in Willow Creek Estates shall be constructed with central heat and air systems. No portable, window or wall-type heating or air conditioning units shall be permitted.

2. **NO WARRANTY AS TO PLANS**: Notwithstanding anything herein to the contrary, the Declarant shall not be liable for any approval, disapproval or failure to approve any plans or specifications hereunder, and its approval of building plans shall not constitute a warranty of or responsibility for building methods, materials, procedures, structural design, grading, drainage, restrictive covenant compliance or code compliance. The approval, disapproval or failure to approve of any building plans shall not be deemed a waiver of any restrictions, unless the Declarant is herein authorized to grant the waiver and the Declarant did, in fact,

grant the waiver. It is the responsibility of each Lot Owner, and not the Declarant, to insure that such Owner's grantor and/or builder has caused the subject Lot, and all improvements thereto, to be in full compliance with all relevant codes, covenants and restrictions imposed upon Willow Creek Estates.

3. **SET-BACK LINES AND LOT DIMENSIONS:** No buildings, outbuildings, structures, or parts thereof shall be constructed or maintained on lots nearer to the property lines than the set-back lines provided herein or shown on the accompanying plat. Unless otherwise provided by easement or set-back lines shown on the accompanying plat, the minimum building set-back lines for dwellings or other outbuilding structures shall be:

Front Yard:	25 feet unless otherwise shown on Plat
Corner Lot Side Yards:	15 feet unless otherwise shown on Plat
Side Yards (except corner lot):	5 feet (each side)
Back yard:	20 feet

4. **FENCES:** No fence shall be erected, placed or altered on any Lot closer to any street than the front of the main structure without the prior written approval of the Declarant, and no fence on any Lot shall exceed six (6) feet in height without the prior written approval of the Declarant or, after a residential structure is built and occupied, the Association. No fences shall be constructed upon walkways or access easements, which would impair or hinder the intended use thereof.

(a) Any Lot Fencing or Walls shall not extend beyond that point nearest the street at each front corner of the residence on the Lot. Any Corner Lot side fence or wall adjacent to a street shall not be constructed any closer than within five (5.0") feet to the property line adjacent to said street.

(b) In the event a side or rear fence is constructed adjacent to a Reserve Area, the Owners of such Lots shall construct a woodrail with attached black coated chainlink fence along such side and/or rear yard(s) which abuts a Reserve. Any Privacy fence installed on the side yard of these lots shall have the last 8 feet of the fence taper to the height of the rail fence.

(c) The Declarant reserves the right and easement, in its sole discretion, to construct fence of its choosing along the property lines of the Subdivision, which fence shall be maintained by the Association. The Declarant, in its sole discretion, reserves the right and easement (but in no event shall be obligated) to construct a fence of its choosing within any Reserve shown on the Plat which shall be maintained by the Homeowner's Association.

(d) All other fences shall be a wood privacy, ornamental iron, or woodrail with attached black coated chainlink. No barbed wire, meshed or other metal (including, without limitation, chain link) fencing is allowed in any area of the Subdivision. No fence over six feet (6') tall is permitted unless approved by the Declarant in writing.

(e) All fencing shall be approved by the Declarant in writing prior to its construction; provided, however, upon the transfer of a Lot to an Owner occupant, the construction, repair or replacement of any fence and the materials used therefor upon such Lot shall be approved by the Association in writing prior to such construction, repair or replacement. All fence stain on any Lot shall be a single color of earth tone and subtle in nature. No non-natural hue colors or color schemes shall be permitted. All fences within Willow Creek Estates shall be neatly maintained by the Owner thereof. The Declarant reserves the right, but shall not be obligated, to enter upon such Lots in order to maintain, repair or stain such fencing in a manner which the Declarant, in its sole discretion, believes to be reasonable and appropriate, and the cost thereof shall be charged back to the Lot Owner as a lien and shall be governed by Article V hereof.

5. **OUTBUILDINGS:** All plans for tool sheds, hobby rooms, or other outbuildings shall be approved by the Developer, in writing prior to construction; shall have a maximum of 100 square feet and no taller than eight feet (8.0') in height; and shall conform to the basic architectural styling of the dwelling provided, that, Outbuildings shall not require masonry siding. All such outbuildings shall be shingled with the same color and type of shingle as the dwelling. No garage or outbuilding on any Lot shall be used as a residence or living quarters. Further, no detached structure or building for purely ornamental or other purposes shall be erected on any part of any Lot without the prior written consent of the Declarant. No building of any type shall be moved onto any Lot or Common Area without the Developer's (or the Association's, after the turnover date) prior, written consent.
6. **ANTENNAE:** No television, radio, or other antennae or reception devices, other than a digital dish not to exceed thirty-two inches (32") or smaller television satellite dish, shall be constructed or maintained on any Lot without the written approval of the Declarant. Satellite dishes permitted herein shall be installed and maintained on the backside of the residential structure and shall not be visible from streets in front of said structure.
7. **NOISE POLLUTION:** Each builder of residences on the Lots will cause adequate noise pollution control measures to be incorporated into the design and construction of the single-family residences as may be required by the City of Bixby, or any other governmental (state or federal) body or agency.
8. **ABOVE GROUND POOLS:** Above Ground Pools shall be allowed on any Lot within Willow Creek Estates provided it is screened with a six foot (6.0') wood privacy fence.

## **ARTICLE VIII** **PARKING, STORAGE AND EASEMENTS**

1. **VEHICLES, BOATS, RVS:** No commercial vehicle shall be kept, parked, stood or stored on any lot, except in a garage. No private vehicle, motorcycle, motor bike, camper, trailer, boat, all terrain vehicle (ATV) or recreational vehicle (RV) or similar vehicle or equipment,

whether or not operable (collectively referred to as "Vehicles") shall be kept, parked, stood or stored on any Lot, street or the Common Area, except in a garage or in an area where the Association has given its prior written approval thereof. Regular passenger vehicles, such as automobiles, passenger vans, and SUV's and commercial vehicles of  $\frac{3}{4}$  ton or less are permitted to be parked in the driveway overnight. Further, boats, trailers and RV's may be parked temporarily (for a period not to exceed 48 consecutive hours per week) on the driveway of a Lot for purposes of loading, unloading or washing. Vehicles shall not be kept, parked or stored on the Lot, except in a side yard, completely screened by privacy fencing from view of neighboring lots, streets and other property. Parking on the street is reserved for Owner's guests and visitors. Owner's Vehicles (or Vehicles under their dominion and control) shall not be parked or stored in any street, nor in any other manner which impairs or impedes sidewalk use or other public access. Owners shall keep their respective garages free from clutter and debris so that garages may be consistently used for the parking and/or storage of Vehicles. Repair of vehicles on the Lot is prohibited, but washing or polishing of vehicle on the driveway is allowed; provided, however vehicle repair may occur in the enclosed garage as long as the garage effectively screens the sight and sound of such activities from neighboring properties and from the street. Inoperable vehicles shall not be kept, parked, or stored on a Lot at any time. Notwithstanding any other provision herein, no commercial vehicles shall be parked or stored at any time on or in front of any Lot, street or Common Area without the Associations prior written consent.

2. **EASEMENTS:** The Declarant reserves for itself, for the Association and for the Owner of each Lot the right to locate, construct, erect and maintain, or cause to be located, constructed, erected and maintained, in and on the areas indicated on the plat as easements, sewer and other pipelines, conduits, poles and wires, and any other method of conducting or performing any quasi-public utility or function above or beneath the surface of the ground with the right of access at any time to the same for the purpose of repair and maintenance. The Owner of any Lot abutting the Common Area and who must, in order to avail himself of utilities, enter and/or cross the Common Area, shall have an easement to do so provided that said Owner shall use the most direct, feasible route in entering upon and crossing said Common Area and shall restore the surface of the Common Area so entered and/or crossed to its original condition at the expense of the said Owner and hold Declarant and Association harmless from any damage caused by such activity, provided, where necessary, for an adjacent Property Owner to enter property to maintain a fence, party wall or other improvement constructed on the boundary of the Owner's Lot, the procedures set forth in Article VI, paragraph 5 above shall apply.
4. **DRAINAGE.** Each Lot shall receive and drain in an unobstructed manner the storm and surface waters from lots and drainage areas of higher elevation and from public streets and easements. No Lot Owner shall construct or permit be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across their lot. The Declarant expressly reserves the right to enter upon each Lot for the purpose of resolving or curing drainage issues related to adjacent or nearby Lots.

## **ARTICLE IX** **RE-ARRANGING, RE-SUBDIVIDING OR RE-PLATTING**

No re-arranging, re-subdividing or re-platting of Willow Creek Estates may be done without the prior written consent of the Declarant until such time as it has sold all the Lots, after which consent of the Association shall be required for such action.

## **ARTICLE X** **SIGNS AND BILLBOARDS**

No signs or billboards are allowed on a Lot without the prior written approval of the Declarant; provided that one sign of not more than five (5) square feet advertising the sale or rent of said Lot, or signs of the same size limitation used for the purpose of campaigning for a result in any political election, shall be permitted. Notwithstanding the foregoing, the Declarant, or its designees, may display such signage as the Declarant, in its sole discretion, deems necessary for the promotion, sales and/or rental of property owned by the Declarant or its designees.

## **ARTICLE XI** **DECLARANT'S RESERVED RIGHTS**

1. **GENERAL:** In addition to any rights or powers reserved to Declarant or granted to Declarant under the provisions of the Willow Creek Estates Deed of Dedication or this Declaration, Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration to the contrary notwithstanding, the provisions set forth in this Article shall govern. If not sooner terminated as provided in this Article, the Declarant's Authority as set forth herein shall terminate and be of no further force and effect from and after such time as Declarant is no longer vested with or controls title to all Lots and/or other property within Willow Creek PUD-78, after which the provisions of this Article and the rights and powers of the Declarant shall vest in the Association; provided, however, nothing shall prohibit the Declarant from transferring any of Declarant's rights and/or authority to the Association prior to Declarant being divested of title to all Lots and other property within Willow Creek PUD-78, all as Declarant and the Association shall mutually agree by express written agreement.
  
2. **PROMOTION OF WILLOW CREEK:** In connection with the promotion, sale or rental of any improvements upon any property in Willow Creek Estates: (a) Declarant shall have the right and power, within its sole discretion and for as long as Declarant owns any Lot within Willow Creek PUD-78, to construct such temporary or permanent improvements, or to do such acts or other things in, on or to such property as Declarant may determine to be necessary including, without limitation, the right to construct and maintain model homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as Declarant may deem advisable; and (b) Declarant and its respective guests, agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Common and reserve areas at any time without fee or charge.

3. **CONSTRUCTION ON PROPERTY WITHIN THE ADDITION:** Declarant is hereby granted the right and power to make such improvements to any property within Willow Creek Estates as Declarant deems to be necessary or appropriate. The Declarant may permit builders and other contractors access to and upon the Common Area as Declarant may wish and subject to such limitation and condition as Declarant may require. Declarant and its respective agents and contractors shall have the right of ingress, egress and parking on the Common Area and the right to store construction equipment and materials on the Common Area without the payment of any fee or charge whatsoever.
4. **OTHER RIGHTS:** Declarant shall have the right and power to execute all documents and do all other acts and things affecting Willow Creek Estates which Declarant determines are necessary or desirable in connection with the rights of Declarant under this Declaration, including, but not limited to, the right to designate another entity of the Declarant's choice including, without limitation, the Association, to assume or exercise the rights herein reserved to the Declarant.

## **ARTICLE XII** **MISCELLANEOUS**

1. **ENFORCEMENT:** The Declarant, Association, or any Owner, whether acting jointly or severally, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration; provided, however, the Declarant and the Association shall not be obligated to enforce any condition, covenant, restriction, reservation, lien or charge through legal proceedings or otherwise. Failure by the Declarant, Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
2. **REMEDIES:** If any person shall violate or attempt to violate any of the covenants, conditions or restrictions herein, the Declarant, Association and any Owner shall have standing to prosecute any proceedings at law or in equity against the person violating the same to prevent the violation or to recover damages for such violation. In any action brought to enforce any provision hereof against any Owner or third party, the prevailing party shall be entitled to an award of reasonable attorneys' fees, expenses and costs.
3. **VARIANCE:** The Declarant, in its sole and reasonable discretion, shall have the right to grant approvals required by these covenants, conditions and restrictions, and to waive or vary these covenants, conditions and restrictions based upon conditions peculiar to an Owner's particular Lot or circumstances. Until such time as the Declarant has sold all of its Lots in Willow Creek PUD-78, the Association shall have the right to grant such approval, waiver or variance upon the prior written consent of the Declarant. Provided, however, any variance granted by the Declarant or the Association shall be in the interest of the Owner requesting such variance, consistent and in harmony with the construction and architectural guidelines and restrictions within Willow Creek Estates, shall not interfere with the peaceful use and

enjoyment of their property by adjoining Lot Owners, and shall not decrease the property values in the neighborhood. Notwithstanding anything herein to the contrary, the Declarant shall have no liability for variances which do not conform to the standards set forth herein, in law or in equity.

4. **CORRECTION ASSESSMENT:** In the event that the Owner of any Lot shall violate any covenant herein, the Board of Directors of the Association or the Declarant shall have the right, upon five (5) days advance notice to the Owner of the Lot where the covenant violation(s) exists, and provided such violation is not corrected within the time period provided for in the notice, to enter upon said Lot and to remedy the violation(s). The cost for curing the violation(s) shall thereupon be assessed against the Lot and shall be a lien on such Lot, which may be enforced and foreclosed as contained in Article V herein.
5. **FLOOD CONTROL AND EASEMENTS:** The flood control and drainage easements which may be granted by Declarant in Willow Creek Estates are for drainage purposes. It shall be the responsibility of the Owners of the Lots on which such easements are located to maintain such easement for drainage purposes until such time as the governing body exercising jurisdiction elects to assume responsibility for maintenance and improvement of drainage, provided, further, that no obstruction(e.g., no barbecue pits, swimming pools, etc.) trash or other debris shall be placed on or within said easements, nor shall any fill, change of grade, creation of channel, or other work be carried on without permission of the City of Bixby, Department of Engineering. No grading, scraping, excavation or other re-arranging or puncturing of the surface of any Lot shall be commenced which will or may tend to interfere with, encroach upon or alter, disturb or damage any surface or subsurface utility line, pipe, wire or easement, or which will or may tend to disturb the minimum or maximum subsurface depth requirement of any utility line, pipe, wire or easement. No obstruction shall be placed on any Lot which would direct storm water onto another Owner's Lot or onto any Common Area.
6. **NO WAIVER:** The failure of the Declarant, Association, Owner or any grantor, or any successor in title, to enforce any given restriction or covenant, or condition at any time, shall not be deemed to be a waiver or relinquishment of any right or remedy, nor a modification of these restrictions and protective covenants.
7. **SEVERABILITY:** Invalidation of any one of these covenants, restrictions or conditions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
8. **DISCLAIMER OF WARRANTY:** Except as expressly provided in writing, Declarant makes no warranty, express or implied, regarding Willow Creek Estates, including (without limitation) any Common Area or improvement therein, the sufficiency of utilities, the stormwater management design, the workmanship, design or materials used in every improvement, including without limitation any express or implied warranty of merchantability, habitability, liability, fitness or suitability for any particular purpose or use or any warranty of quality.

9. **BINDING EFFECT; AMENDMENT:** The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall be binding upon all parties and all persons claiming under them, and shall inure to the benefit of and be enforceable by the Declarant, Association and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Until such time as the Class B Membership is converted into the Class A Membership, the covenants and restrictions of this Declaration may be amended, in whole or in part, modified, added to or changed at any time by the Declarant in its sole discretion. Thereafter, the covenants and restrictions of this Declaration may be amended, in whole or in part, modified, added to or changed at any time by an instrument signed by the Owners of not less than fifty-one percent (51%) of the Lots. Any amendment must be properly recorded. Notwithstanding the foregoing or anything else herein to the contrary, the Declarant reserves the right to grant variances therefrom in particular cases and further provided that they may be amended as follows:

(a). **SPECIAL AMENDMENT:** This Declaration may be amended unilaterally by Declarant at any time (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (iii) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; (iv) to correct errors and make clarifications or additions in this Declaration; or (v) to modify or add to the provisions of this Declaration to adequately cover situations and circumstances which Declarant believes, in its reasonable judgment, have not been adequately covered and would not have a material and adverse effect on the marketability of Lots. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to any such amendment on behalf of each Owner. Each deed, mortgage, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power to Declarant to make, execute and record such amendments. The right and power of the Declarant to make such amendments hereunder shall terminate at such time as Declarant has sold all of its Lots in Willow Creek PUD-78.

(b). **GENERAL AMENDMENTS:** Upon the conversion of all Class B membership into Class A membership, (i) the provisions of this paragraph 9 may be amended only by an instrument executed by all of the Owners; and (ii) any provision relating to the rights of Declarant may be amended only with the written consent of Declarant. No amendment shall be effective until properly recorded. "Owners" shall not be deemed to include mortgagees or other persons holding liens on any lot and

such mortgagees and other lienholders shall not be required to join in any amendment to this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has hereunto set its hand and seal this 24th day of August, 2015.

Willow Creek Development, L.L.C.,  
An Oklahoma limited liability company

By: Kourtis Property Management, Inc.  
An Oklahoma corporation  
Its Manager

By: Pete Kourtis, President

STATE OF OKLAHOMA )  
                          )  
                          ) ss.  
COUNTY OF TULSA     )

Before me, the undersigned, Notary Public, in and for said County and State, on this 24th day of August, 2015, personally appeared Pete Kourtis, to me known to be the identical person who executed the foregoing Declaration of Covenants, Conditions and Restrictions as President of Kourtis Property Management, Inc., an Oklahoma corporation, as Manager of Willow Creek Development, L.L.C., an Oklahoma limited liability company, and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year above written.

My Commission Expires: 9-23-2016

Commission No.: 08009318

