

BYLAWS

GETTYSBURG AT BATTLE CREEK Property Owners' Association

Battle Creek Golf Community
Broken Arrow, Oklahoma

ARTICLE I. GENERAL

- 1.1 Office. The office of this corporation shall be located at 3312 North Battle Creek Drive, Broken Arrow OK 74012, or such other address as shall be determined by the Board.
- 1.2 Fiscal Year. The fiscal year of this corporation shall be the calendar year.

ARTICLE II. DEFINITIONS

- 2.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as they may from time to time be amended.
- 2.2 "Association" shall mean and refer to Gettysburg at Battle Creek Property Owners' Association, Inc., an Oklahoma non-profit corporation, its successors and assigns.
- 2.3 "Board" shall mean and refer to the Board of Directors of the Association.
- 2.4 "Bylaws" shall mean and refer to the Bylaws of the Association, as they may from time to time be amended.
- 2.5 "Common Areas" shall mean all real property in which the Association now or hereafter owns an interest for the common use and enjoyment of its Members, as described in Article IX of the Declaration.
- 2.6 "Compliance Expenditures" shall mean all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the Association (or Declarant prior to its transfer of the performance and enforcement of the responsibilities under the Declaration to the Association) in order to cause compliance by any Owner with the provisions hereof or any standards of the Architectural Control Committee in effect.
- 2.7 "Declarant" shall mean and refer to Gordon Williams Development, Inc., an Oklahoma corporation, and its successors, if the rights and obligations of Declarant hereunder should be assigned to and assumed by such successors.
- 2.8 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions concerning the Property, filed for record with the Register of Deeds of Tulsa

County, Oklahoma, including such amendments thereto as may from time to time be recorded.

- 2.9 "Lot" shall mean any parcel of the Property shown on the Plat and identified therein as a Lot or site, excluding that portion, if any, of such Lot which is shown on the Plat as being a portion of the Common Areas or entry development.
- 2.10 "Member" shall mean any person or entity holding membership in the Association, as provided in the Declaration and these Bylaws.
- 2.11 "Owner" shall mean the party or parties who own fee simple title to a Lot or own that estate or interest with respect to a Lot which is most nearly equivalent to fee simple title.
- 2.12 "Plat" shall mean the plat of Gettysburg at Battle Creek, Tulsa County, Oklahoma, now or hereafter recorded, as it may be modified or supplemented from time to time.
- 2.13 "Property" shall mean and refer to that certain real property located in Tulsa County, Oklahoma, described as such in the Declaration, as the same may be amended from time to time.
- 2.14 "Common Area including Streets" shall mean the real estate described in Exhibit B to the Declaration, together with improvements presently existing or hereafter constructed thereon, which real estate is owned by Developer.

ARTICLE III. MEMBERSHIP AND MEETINGS

- 3.1 **Membership; Voting Rights.** The Owner of a Lot shall automatically be the holder of a membership in the Association appurtenant to that Lot, and the Association membership for that Lot shall automatically pass with fee simple title to that Lot; provided, however, in the event any Owner shall have entered into a contract to sell his interest in a Lot during the time such contract is in force, if the contract vendee is in possession of the Lot, he shall be considered to be the Member rather than the Owner. There shall be one (1) vote for each Lot. If more than one person holds an interest in any Lot, all of such persons shall be Members; but, except as provided below, in no event shall more than one vote be cast with respect to any Lot. The vote for such Lot shall be exercised as the Owners of such Lot may determine among themselves, provided that if they are unable to so determine, none of such Members shall be entitled to vote. Notwithstanding the foregoing, Declarant shall be entitled to three (3) votes for each single Lot of which it is the Owner.
- 3.2 **Annual Members' Meeting.** The annual members' meeting shall be held at the office of the Association at 7:00p.m. on the first Tuesday in February of each year, beginning in 1999, for the purpose of electing directors and transacting any other business authorized by the Members.

- 3.3 **Special Members' Meetings.** Special Members' meetings shall be held whenever called by the President or by a majority of the Board and must be called by the President upon receipt of the written request from Members entitled to cast one-third (1/3) of the votes of the entire membership.
- 3.4 **Notice of Members' Meetings.** Notice of all Members' meetings, stating the time and the place where the meeting is to be held and the purpose or purposes for which the meeting is called, shall be given by the Secretary. Such notice shall be in writing to each Member at his address as it appears on the books of the Association and shall be mailed to him not less than ten (10) no more than sixty (60) days prior to the date of the meeting. The purpose of such meeting shall be given by affidavit of the Secretary and shall be sufficient proof thereof. Notice of any meeting may be waived in writing, either before or after said meeting.
- 3.5 **Quorum.** Except as otherwise required by Oklahoma corporate law, there shall be no quorum as to the minimum number of persons who must be in attendance before the Members may act upon any matter. The acts approved by a majority of votes cast at a meeting duly called hereunder shall constitute the acts of the entire Membership, except where approval of a greater number is required by applicable law.
- 3.6 **Proxy.** Votes may be cast at any Members' meeting, either in person or by proxy. Proxies may be made by any person entitled to vote, shall be valid for only the particular meeting designated therein, and must be filed with the secretary before the vote of a matter is undertaken by the Members in attendance.

ARTICLE IV. DIRECTORS, ELECTION, MEETINGS, FEES

- 4.1 **Number, Qualification.** The Board shall consist of one or more persons who need not be Members of the Association, the exact number to be fixed and determined by the Board, with full authority in the Board to vary said number at any time and from time to time.
- 4.2 **Nominating Committee; Nominations.** Nominations for election to the Board shall be made by the Nominating Committee, which shall consist of the Chairman of the Board, or if there be no such officer, the President, and two members of the Association who shall be appointed by the Board. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Members, to serve during such annual meeting and until the next annual meeting, or until its successors shall have been duly designated and qualified. Members of the Nominating Committee shall be announced at each annual meeting of the Members.
- 4.3 **Election, Vacancies and Removal.** The election, removal and replacement of directors shall be governed by the following:

- (A) Directors shall be elected by written ballot of the Members and by plurality of the votes cast at the annual meeting of the Members of the Association. Each Member of the Association shall be entitled to vote for as many nominees as there are vacancies to be filled. Notwithstanding the foregoing, Declarant shall have the right to appoint the directors until it either (i) no longer owns a Lot, or (ii) relinquishes its right to appoint Board members, whichever first occurs.
- (B) So long as Declarant retains the right to appoint Board members, it shall replace any vacancies occurring on the Board. After Declarant has relinquished or no longer has the right to designate members of the Board, then, except as to vacancies created by the removal of directors by Members, vacancies in the Board occurring between annual meetings of Members shall be filled by the remaining directors.
- (C) After Declarant has relinquished or no longer has the right to designate members of the Board, any director may be removed by concurrence of a majority of the Members of the Association present, in person or by proxy, at a special meeting of the Members called for that purpose. Any vacancy in the Board so created shall be filled at that same meeting according to the procedures established in the first two sentences of subparagraph A of this section.

- 4.4 **Term.** Each director's term of service shall extend to the next annual meeting of the Members following his election and thereafter until a successor is duly elected and qualified or until he is removed in the manner elsewhere provided, however, so long as Declarant has the right (and has not relinquished such right) to designate the Board, it shall have the right to remove any director without cause.
- 4.5 **Organizational Meeting.** The organizational meeting of the newly elected Board shall be held within ten (10) days after their election, at such place and time as shall be fixed by those directors present at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.
- 4.6 **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of regular meetings shall be given to each director personally or by mail, telephone or telegraph at least three (3) days prior to the date set for such meetings.
- 4.7 **Special Meetings.** Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the directors. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.
- 4.8 **Waiver of Notice.** Any director may waive notice of a meeting, before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

- 4.9 **Quorum.** A quorum at directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except where approval by a greater number of directors is required by the Declaration, these Bylaws or applicable law.
- 4.10 **Adjourned Meeting.** If at any meeting of the directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.
- 4.11 **Joinder in Meeting by Approval of Minutes.** The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.
- 4.12 **Presiding Officer.** The presiding officer at all directors' meetings shall be the Chairman of the Board, if such an officer has been elected, and if no Chairman of the Board has been elected, then the President shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.
- 4.13 **Directors' Fees.** Directors' fees, if any, shall be determined by the Members of the Association.

ARTICLE V. DIRECTORS' POWERS AND DUTIES

- 5.1 **Exercise of Powers.** Except as otherwise provided in the Declaration, all of the powers and duties vested in the Association by the Declaration and these Bylaws shall be exercised exclusively by the board, its agents, contractors or employees, subject only to approval by members when such approval is specifically required. Such powers and duties of the directors shall include but shall not be limited to the following, subject, however, to the provisions of the Declaration, these Bylaws and applicable law:
- (A) To select and remove all of the officers, agents and employees of the Association, prescribe such powers and duties for them as may be consistent with law, the Articles, the Bylaws or the Declaration, and to fix their compensation.
 - (B) To conduct, manage and control the affairs and business of the Association and to make such rules and regulations (including fines) therefor not inconsistent with law, the Articles, the Bylaws or the Declaration as they deem best, including rules and regulations for the use and operation of the Common Areas and facilities owned or controlled by the Association.

- (C) To accept title and ownership of the Common Areas and facilities.
- (D) To change the principal office for the transaction of the business of the Association from one location to another within Tulsa County, Oklahoma, and to designate any place within Tulsa County, Oklahoma, for the holding of any membership meeting.
- (E) To make and collect assessments against Members and to use the proceeds of assessments in the exercise of its powers and duties, all as provided in Article VII hereof.
- (F) To contract and pay for fire, casualty, liability, fidelity and other insurance, adequately insuring the Association and Owners with respect to the Common Areas and the affairs of the Association, which may include bonding of the members of any management body.
- (G) To pay all charges for water, electricity, gas and other utility services for the Common Areas.
- (H) To maintain, repair, preserve, replace and operate the Common Areas.
- (I) To reconstruct improvements after casualty and to further improve the Common Areas.
- (J) To enter onto any Lot as may be necessary for the purpose of carrying out any of the powers or duties of the Board as herein set forth and as set forth in the Declaration, including such entry as may be necessary in connection with the construction, maintenance or emergency repair of the Common Areas at any reasonable hour and, except in the case of emergency, after reasonable notice.
- (K) To enforce the provisions of the Declaration, the Articles, Bylaws and the rules and regulations adopted by the board, and the provisions of any agreement to which the Association is a party.
- (L) To contract for the management of the Common Areas and to delegate to said management all powers and duties of the Association, except such as are specifically required by the Declaration, these Bylaws or applicable law to have approval of the Board or of the Members of the Association.
- (M) To borrow money and incur indebtedness for the purposes of the Association and to cause to be executed and delivered therefore, in the corporate name, promissory notes, bonds, debentures, mortgages, pledges, hypothecations or other evidences of debt and securities therefore; provided, however, the board shall not have the power to borrow money for the Association during any fiscal year in excess of the aggregate

sum of, nor to sell during any fiscal year property of the Association having an aggregate fair market value greater than ten percent (10%) of the budgeted gross expenses of the Association for the fiscal year in question, without the vote or written consent of the majority of Members who are voting, in person or by proxy, at a meeting duly called for that purpose.

- (N) To pay any taxes and governmental special assessments which are or could become a lien on the Common Areas or any portion thereof, except that the Association shall not be responsible for any taxes or assessment on any Lot.
- (O) To initiate and execute disciplinary proceedings against Members of the Association for violations of the provisions of the Articles and Bylaws, the Declaration and the rules and regulations adopted by the Board. Membership rights and privileges (including voting rights and use of Common Areas) may be suspended by the Board if a Member is found to be in violation of the provisions of the Articles, these Bylaws, the Declaration or the rules and regulations adopted by the Board. If the Board believes grounds may exist for any such suspension, the Board shall give to the Member believed to be in violation at least fifteen (15) days prior written notice of the intended suspension and the reasons therefor. Members shall be given an opportunity to be heard before the Board, either orally or in writing, not less than five (5) days before the effective date of suspension. The notice required hereby may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail, sent to the last address of the Member shown on the Association's records. Anything herein stated to the contrary, notwithstanding, the Board shall not have the power to suspend any Member's rights of access or utilities to his Lot.
- (P) To prepare budgets and financial statements for the Associations provided elsewhere herein.
- (Q) To prosecute or defend in the name of the Association any action affecting or relating to the Common Areas or other property owned by the Association and any action in which all or substantially all of the Owners have an interest.
- (R) To delegate any of its powers hereunder to others, including committees, officers and employees.
- (S) To perform such other duties as may be authorized by the Members.

ARTICLE VI. OFFICERS

- 6.1 **Executive Officers.** The executive officers of the Association shall be a President, a Secretary and a Treasurer. The Association may also have, at the discretion of the Board,

one or more Assistant Secretaries and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article. Officers other than the President need not be directors. One person may hold two or more offices.

- 6.2 **Election.** The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article, shall be chosen annually by the Board and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve or his successor shall be elected and qualified.
- 6.3 **Subordinate Officers.** The Board may appoint such other officers as the business of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the board may from time to time determine.
- 6.4 **Removal and Resignation.** Any officer may be removed, either with or without cause, by a majority of the directors at the time in office at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board. Any officer may resign at any time by giving written notice to the Board or the President, or to the Secretary of the Association. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein. Unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.
- 6.5 **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.
- 6.6 **President.** The president shall be chosen from among the directors and shall be the Chief Executive Officer of the Association. He shall have all the powers and duties which are usually vested in the office of president, including but not limited to the power to appoint committees from among the members from time to time, as he may in his discretion, determine appropriate to assist in the conduct of the affairs of the Association.
- 6.7 **Secretary.** The Secretary shall keep the minutes of all proceedings of the directors and of the Members. He shall attend to the giving and serving of all notices to the Members and directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the directors or by the President.
- 6.8 **Treasurer.** The Treasurer shall have custody of all property of the Association, including the funds, securities and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and he shall perform all other duties incident to the office of treasurer. It shall be required that the treasurer be bonded by a qualified

bonding company with the Association being responsible for acquiring the appropriate bonding.

- 6.9 Compensation. The compensation, if any, of all officers, employees and/or contractors of the Association shall be fixed by the directors. Nothing herein shall preclude the Board from employing a director as an employee of the Association.

ARTICLE VII. FISCAL MANAGEMENT

- 7.1 Budget. The Board shall, on or before the annual meeting of each year, adopt a budget for the ensuing calendar year, which shall include the estimated funds required to defray all common expenses.
- 7.2 Accounts. The funds and expenditures of the Association shall be credited and charged to accounts under such classifications as the Board shall deem appropriate.
- 7.3 Annual Assessment.
- (A) The annual assessment (in addition to sums assessed pursuant to Section 4 and 5 hereof) for the calendar year beginning January 1, 1999, shall be eighty-five Dollars (\$ 85.00) per Lot. The Board may increase the annual assessment for any subsequent calendar year but such increase shall not be in excess of ten percent (10%) compounded above the maximum permitted annual assessment for the previous year, except as provided in 3(B) below.
- (B) The annual assessment for any year commencing after December 31, 2000, may be increased to the amount greater than any permitted by 3(A) above only by an affirmative vote of the majority of the Members who are voting, in person or by proxy, at a meeting duly called for such purpose.
- 7.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Section 3 of this Article VII, the Board may levy in any assessment year a special assessment for each lot applicable to that year only for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the Members who are voting, in person or by proxy, at a meeting duly called for such purpose.
- 7.5 Seeding and Mowing Assessment. In addition to the sums assessed pursuant to Sections 3 and 4 of this Article VII, there shall be assessed against each Lot a fee in the amount of _____ Dollars (\$ _____) per year for seeding and mowing such Lot periodically, commencing as to each lot from the earlier of (a) the date of the sale thereof by Declarant or (b) the date Declarant or the Association seeds such Lot, to the date of commencement of

construction of a Residence thereon. The amount of the seeding and mowing assessment may be increased by the Board from time to time due to actual or projected increases in the cost of providing the seeding and mowing services.

- 7.6 **Assessments; When due.** The Board shall establish the due date for all assessments and may permit assessments to be paid either annually, semi-annually or monthly and shall have the right to require payment of the same in advance.
- 7.7 **Lien Rights.** As provided in the Declaration, the Association shall have a lien against each Lot to secure payment of any assessment, fine, Compliance Expenditure or other amount due and owing the Association in compliance with these Bylaws, and in the event of default by any Owner, the Lot of such Owner may be foreclosed by the Association in the same manner as set forth in the Declaration.

Any amounts which are not paid when due shall be delinquent. Thereafter, such amounts shall bear interest at the rate equal to two percent (2%) per annum over the prime interest rate charged from time to time by Bank of Oklahoma, Tulsa, Oklahoma, adjusted on each day on which there occurs a change in said prime interest rate (provided that the interest rate shall never exceed the maximum allowed by law) in addition to all costs and expenses of collecting the unpaid amount, including but not limited to reasonable attorneys' fees.

- 7.8 **Successor's Liability for Assessments.** The Association's lien for delinquent assessment of damages, costs, fines, expenses, Compliance Expenditures, attorneys' fees and all other charges allowed hereunder against the Lot shall pass to an Owner's successor-in-title, regardless of whether said obligations were expressly assumed by them, except with respect to the sale or transfer of any Lot which is subject to any mortgage pursuant to decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, which sale or transfer shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. Upon acquisition of title to a Lot, an Owner shall be bound to the terms hereof.
- 7.9 **No Offsets.** All assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reductions thereof shall be permitted for any reason, including without limitation any claim of non-use of the Common Areas or any claim that Declarant, the Association, the Board or the Architectural Control Committee is not or has not been properly exercising its duties and powers under the Declaration, Articles or Bylaws.

ARTICLE VIII. INDEMNIFICATION AND INSURANCE

- 8.1 **General.** The Association shall indemnify any person who was or is a party or who was or is threatened to be made a party of any threatened, pending or completed action, suit or

proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, advisory director, officer or employee of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

- 8.2 **Derivative Action.** The Association shall indemnify any person who was or is a party or who was or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, advisory director, officer or employee of the Association or of any entity a majority of the voting stock of which is owned by the Association, or is or was serving at the request of the Association as a director, advisory director, officer or employee of another association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.
- 8.3 **Costs Indemnified.** To the extent that any person who is or was a director, advisory director, officer or employee of the Association or of any entity a majority of the voting stock of which is owned by the Association, or who is or was serving at the request of the Association as a director, advisory director, officer or employee of another association or corporation, partnership, joint venture, trust or other enterprise has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under this Article and shall be made by the Association only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because the applicable standard of conduct set forth therein has been met. Such

determination shall be made (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the Members of the Association.

- 8.4 **Time of Indemnification.** Expenses incurred in defending civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, advisory director, officer or employee to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association pursuant to this Article VIII.
- 8.5 **Nonexclusive Rights.** The indemnification provided by this Article VIII shall not be deemed exclusive of any other right to which those seeking indemnification may be entitled from the Association or any other entity under any statute, other bylaw, agreement, provision of the Articles, the vote of the Members or otherwise, and shall continue as to a person who has ceased to be a Member, and shall inure to the benefit of the heirs, executors and administrators of such Member. However, any amount actually received as the proceeds of any such other indemnification shall be deducted from the amount, if any, which he may be entitled to receive pursuant to this Article VIII.
- 8.6 **Insurance.** By action of the Board, notwithstanding any interest of any members in the action, to the full extent permitted by statute the Association may purchase and maintain insurance, in such amounts and against such risks as the board deems appropriate, on behalf of any person who is or was a director, advisory director, officer, employee or agent of the Association, or of any entity a majority of the voting stock of which is owned by the Association, or who is or was serving at the request of the Association as director, advisory director, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power or would be required to indemnify him against such liability under the provisions of this Article VIII, or of the Articles or the laws of the State of Oklahoma.

ARTICLE IX. MISCELLANEOUS PROVISIONS

- 9.1 **Definitions.** The definitions set forth in Article II hereof shall apply to any additional Property acquired by the Association pursuant to Article X of the Declaration.
- 9.2 **Amendments.** The power to make, adopt, alter, amend or repeal these Bylaws is vested concurrently in the Board and the Members, but the authority of the Board with respect to the Bylaws shall at all times remain subject to the superior authority of the Members. Any amendment of these Bylaws by the membership shall be effective when approved by an affirmative vote of the majority of the Members who are voting, in person or by proxy, at a

meeting duly called for such purpose. In no event shall any amendment be in conflict with the terms of the Declaration or applicable law.

9.3 Resolution of Conflicts. In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. These Bylaws are subject to any rights of the Declarant as provided in the Declaration.

9.4 Number and Gender. All of the terms and words used in these Bylaws, regardless of the number and gender in which they are used, shall be deemed and construed to include any number (singular and plural) and any other gender (masculine, feminine or neuter), as the context or sense of these Bylaws or any paragraph or clause hereof may require, the same as if the words had been fully and properly written in the number and gender.

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of Gettysburg at Battle Creek Property Owners' Association, an Oklahoma non-profit corporation; and
2. That the foregoing Bylaws, comprising of 14 pages, constitute the Bylaws of said corporation, duly adopted by action of the Board of Directors on February 17, 1999.

IN WITNESS WHEREOF, I have hereunto subscribed my name at Tulsa, Oklahoma, on this 16th day of June, 1999.



Corporation's Secretary

Warren
Harding

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF GETTYSBURG AT BATTLE CREEK

KNOW ALL MEN BY THESE PRESENTS:

Gordon-Williams Development, Inc., an Oklahoma corporation, hereinafter referred to as "Owner/Developer", is the Owner of the following described land in the City of Broken Arrow, County of Tulsa, State of Oklahoma, to-wit:

A Part of Section Thirty-Four (34), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit:

Commencing at the Northwest Corner of Said Section 34; Thence N 89°55'42" E along the Northerly line of Section 34 for 3575.19 feet; Thence S 00°04'18" E 50.00 feet to the Point of Beginning; Thence N 89°55'42" E 380.05 feet; Thence S 00°04'15" E 2591.96 feet; Thence S 89°59'41" W 1319.50 feet; Thence N 30°17'00" W 31.19 feet; Thence S 59°43'00" W 87.86 feet; Thence along a curve to the right, having a central angle of 14°32'16" and a radius of 597.00 feet, a distance of 151.48 feet; Thence S 74°15'16" W 20.46 feet; Thence S 31°56'41" W 36.97 feet; Thence N 08°34'52" W 0.00 feet; Thence along a curve to the left, having a central angle of 32°00'48" and a radius of 400.00 feet, a distance of 223.50 feet; Thence N 84°54'40" E 71.72 feet; Thence N 60°59'27" E 475.93 feet; Thence N 83°41'33" E 797.50 feet; Thence N 34°31'06" E 60.46 feet; Thence N 00°36'39" W 87.81 feet; Thence S 88°10'30" E 187.49 feet; Thence N 08°17'48" E 0.00 feet; Thence along a curve to the left, having a central angle of 08°09'10" and a radius of 425.00 feet, a distance of 60.48 feet; Thence N 00°08'38" E 456.17 feet; Thence N 89°51'22" W 193.00 feet; Thence N 00°08'38" E 217.00 feet; Thence N 30°44'10" E 112.98 feet; Thence N 12°55'59" E 66.71 feet; Thence N 00°25'07" W 197.00 feet; Thence N 02°51'17" W 391.19 feet; Thence along a curve to the left, having a central angle of 50°57'41" and a radius of 95.00', a distance of 84.50 feet; Thence N 53°48'58" W 274.74'; Thence N 67°20'45" E 258.81 feet; Thence N 22°39'17" W 0.00 feet; Thence along a curve to the right, having a central angle of 22°34'59" and a radius of 600.00 feet, a distance of 236.49 feet to the Point of Beginning, Containing 1234460 square feet or 28.3 acres more or less.

and has caused the same to be surveyed, staked and platted into blocks, lots and streets and has designated the same as GETTYSBURG AT BATTLE CREEK, a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma.

SECTION I. STREETS, EASEMENTS AND UTILITIES

1.1 *Public Streets and General Utility Easements.* The Owner/Developer does hereby dedicate for the public use the streets, as designated on the accompanying plat, and does further dedicate for the public use the utility easements as designated on the accompanying plat, for the purposes of constructing, maintaining, operating, repairing, and/or removing any and all public utilities including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and transformers, gas lines, water lines, and cable television lines, together with all fittings, including the poles, wires, conduits pipes, valves, meters and equipment for each of such facilities and any other appurtenances thereto with the rights of ingress and egress to and upon said utilities, easements and rights-of-way for the uses and purposes aforesaid. No building, structure, or other above or below ground obstruction will be placed, erected, installed or permitted upon the easements or rights-of-way as shown; PROVIDED, HOWEVER, that the Owner/Developer hereby reserves the right to construct, maintain, operate, lay and relay water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and relaying over, across and along all of the utility easements, shown in said plat, for the purpose of furnishing water and/or sewer services to the area included in said plat. The Owner of each lot shall be responsible for the repair and replacement of any landscaping and paving located within the utility easements in the event it is necessary to repair any underground water or sewer mains, electric, natural gas, communication or telephone service.

1.2 *Electric, Gas and Communication Service:*

- (A) Overhead lines for the supply of Electric service may be located along the South & East boundaries of the subdivision. Street light poles or standards shall be served by underground cable and elsewhere throughout Gettysburg at Battle Creek all supply lines shall be located underground in the easementways reserved for general utility services, shown on the attached plat. Service pedestals and transformers, as sources of supply at secondary voltages and communication pedestals, may also be located in said easementways.
- (B) Underground service cables and gas lines to all houses which may be located on all lots in Gettysburg at Battle Creek may be run from the nearest service pedestal, transformer or gas main to the point of usage determined by the location and construction of such house as may be located upon each said lot; provided that upon the installation of such a service cable or gas line to a particular house, the supplier of electric, communication or gas service shall thereafter be deemed to

have a definitive, permanent and effective right-of-way easement on said lot, covering a five foot (5') strip extending 2.5 feet on each side of such service cable or gas line, extending from the service pedestal, transformer or gas main to the service entrance on said house.

- (C) The supplier of electric, communication or gas service, through their proper agents and employees shall at all times have right of access to all such easementways shown on said plat, or provided for in this Deed of Dedication for the purpose of installing, maintaining, removing or replacing any portion of said underground electric, communication or gas facilities so installed by them.
- (D) The Owner of each lot shall be responsible for the protection of the underground electric, communication or gas facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric, communication or gas facilities. The companies will be responsible for ordinary maintenance of underground electric, communication or gas facilities, but the Owner will pay for damage or relocation of such facilities caused or necessitated by acts of the Owner or his agents or contractors.
- (E) The foregoing covenants concerning underground electric, communication and gas facilities shall be enforceable by the supplier of electric, communication and gas service, and the Owner of each lot agrees to be bound hereby.

1.3 *Water and Sewer Service:*

- (A) The Owner of each lot shall be responsible for the protection of the public water and sewer mains located on or in his lot.
- (B) Within the depicted utility easement area, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, all ground level apertures, to include: valve boxes, fire hydrants and manholes will be adjusted to the new grade by the owner or at the owner's expenses. Also, Within the depicted utility easement areas, the alteration of grade in excess of three feet (3') from the contours existing upon completion of the installation of a public water or sewer or any activity which may interfere with public water or sewer mains shall be prohibited.
- (C) The City of Broken Arrow or its successors will be responsible for ordinary maintenance of public water and sewer mains, but the Owner will pay for damage or relocation of such facilities caused or necessitated by acts of the Owner, his agents or contractors.

- (D) The City of Broken Arrow or its successors, through its proper agents and employees, shall at all times have right of access with their equipment to all such easementways shown on said plat, or provided for in this Deed of Dedication for the purpose of installing, maintaining, removing or replacing any portion of said underground water or sewer facilities.
- (E) The Owner of the lot shall be responsible for the repair of damage to landscaping and paving occasioned by necessary maintenance or repair of the public water or sewer facilities within the easement areas; provided, however, the City of Broken Arrow shall use reasonable care in the performance of such activities.
- (F) The foregoing covenants set forth in this Paragraph 1.3 shall be enforceable by the City of Broken Arrow or its successors, and the Owner of each lot agrees to be bound hereby.

1.4 *Limits of No Access.* The undersigned Owner/Developer hereby relinquishes right of vehicular ingress or egress from any portion of the property adjacent to East Omaha Street (East 51st Street South) within the bounds designated as "Limits of No Access" (LNA) as shown on the attached plat, which "Limits of No Access" may be modified, amended, or released by the concurring approval of the Department of Public Works and the Broken Arrow Planning Commission, or its successor, or as otherwise provided by the Statutes and Laws of the State of Oklahoma pertaining thereto.

The foregoing covenant concerning Limits of No Access shall be enforceable by the City of Broken Arrow, and the Owner of each lot agrees to be bound hereby.

1.5 *Landscape Easement.* The Owner herein establishes for the benefit of the Property Owners' Association a perpetual easement as depicted on the accompanying plat as "landscape easement", for the purposes of the erection and maintenance of decorative fencing and walls, and landscaping and irrigation system. Maintenance of such facilities shall be the obligation of the Property Owners' Association.

1.6 *Overland Drainage Easement:*

- (A) The Overland Drainage Easement situated on Lots _____, Block _____, is hereby dedicated to the public as a perpetual easement for surface drainage purposes. ("Overland Drainage Easement").
- (B) The Right of Surface Drainage granted hereunder shall be exercised and used upon the property covered by the Overland Drainage Easement in a reasonable manner consistent with all applicable rules, regulations and ordinances.

- (C) The use of the Overland Drainage Easement shall not be restricted solely to stormwater and drainage purposes and may also be utilized for utility easement purposes. Provided, however, that no improvements or construction of utility facilities shall interfere with the use of the Overland Drainage Easement for storm sewer and drainage purposes.
- (D) No obstructions shall be permitted in said Overland Drainage Easements that will impede or obstruct the flow of surface water runoff.
- (E) The lot Owner on which the easement is situated has the right to use the easement premises in any manner that will not prevent or interfere with the exercise by City of the rights granted under this agreement. No drainage from pool areas, swimming pool, hot tub, etc. will be allowed onto the golf course property.
- (F) The covenants set for this Section _____ shall be enforceable and inure to the benefit of the City of Broken Arrow and Owner, its successors and assigns.

SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, Gettysburg at Battle Creek was submitted as a Planned Unit Development (Designated as PUD No. 94 Battle Creek) as provided in the revised ordinances of the City of Broken Arrow, Oklahoma (Broken Arrow Zoning Code), as the same existed on July 10, 1989, which PUD No. 94 was approved by the City of Broken Arrow Planning Commission on July 10, 1989, and by the City Council of the City of Broken Arrow, Oklahoma on November 16, 1995 .

WHEREAS, the Planned Unit Development provisions of the City of Broken Arrow Zoning Code require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma, sufficient to assure the implementation and continued compliance with the approved Planned Unit Development; and

WHEREAS, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Broken Arrow, Oklahoma;

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

2.1 *Use of Land:*

- (A) The development of Gettysburg at Battle Creek shall be subject to the planned unit development provisions of the City of Broken Arrow Zoning Code, as the same existed on July 10, 1989, or as subsequently amended.

- (B) All lots shall be known and described as residential lots and shall be limited to use for detached single-family residences and customary accessory uses.
 - (C) The number of dwellings within the subdivision shall not exceed ninety-one (91).
- 2.2 **Fronting and Access Limitation:** Any dwelling erected on any of the lots herein shall front or present a good frontage on the streets, and for this purpose as applied to inside lots, it shall mean that the dwelling shall front on the street adjoining, and on any corner lot the dwelling shall front towards the greatest building setback line and shall present a good frontage on both streets adjoining.
- 2.3 **Yards and Setbacks:**
- (A) **Street Setback:** No building shall be erected or maintained nearer to a street (public or private) than the building setback lines depicted on the plat unless subsequently modified by the City of Broken Arrow Planning Commission.
 - (B) **Side Yard:** Each lot which fronts onto the golf course shall maintain side yards which are not less than five feet (5') in width on one side, and five feet (5') in width on the other side. All other lots shall be required to have one side yard not less than five feet (5') in width with the other side yard being not less than ten feet (10') in width. Side yards abutting a street shall not be less than fifteen feet (15') unless the garage entry is located on such side where it then shall be not less than twenty feet (20').
 - (C) **Rear Yard:** Each lot shall maintain a rear yard of at least twenty-five feet (25'); provided, however, the customary accessory structures may be located in the required rear yard, but no building shall be erected nearer than ten feet (10') to rear lot line nor encroach upon any utility easement. For the exact rear yard setback, consult the final plat.
- 2.4 **Building Height:** The maximum structure height shall be thirty-five feet (35').
- 2.5 **Minimum Lot Size:** No lot shall be lot-split or subdivided into any lot having an area of less than 7,500 square feet; provided, however, that a lot may be divided into a parcel having less than 7,500 square feet if such parcel be held in common ownership with an adjoining parcel and the resulting area of the two parcels is not less than 7,500 square feet, with the City of Broken Arrow Planning Commission approval.

SECTION III. PRIVATE BUILDING AND USE RESTRICTIONS

WHEREAS, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns.

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land, and shall be binding upon the Owner/Developer, its successors and assigns:

3.1 *Architectural Control Committee - Plan Review:*

- (A) No building, fence or wall shall be erected, placed or altered on any lot in this subdivision until the building plans and specifications, drainage and grading plans, exterior color scheme and material thereof, and plot plan, which plot plan shows the location and facing of such building have been approved in writing by a majority of an Architectural Control Committee ("Committee") composed of Buford Williams, Helen Williams, Bland Pittman, Gordon-Williams Development, Inc., or their duly authorized representative(s) or successors. In the event of the death or resignation of any member of the above named committee, the remaining member(s) shall have full authority to approve or disapprove such plans, specifications, color schemes, materials and plot plan, or to designate a representative(s) with the like authority, and said remaining member(s) shall have authority to fill any vacancy or vacancies created by the death or resignation of any of the aforesaid members, and said newly appointed member shall have the same authority hereunder as their predecessors, as above set forth. In the event the Architectural Control Committee fails to approve or disapprove any such plans, specifications, color scheme, materials and plot plans submitted to it as herein required within thirty (30) days after such submission, or in the event no suit to enjoin the erection of such building or the making of such alteration has been commenced prior to the completion thereof, such approval shall not be required and this covenant shall be deemed to have been fully complied with.
- (B) The Architectural Control Committee's purpose is to promote good design and compatibility within the subdivision and in its review of plans or determination of any waiver as hereinafter authorized, may take into consideration the nature and character of the proposed building or structure, the materials of which it is to be built, the availability of alternative materials, the site upon which it is proposed to be erected and the harmony thereof with the surrounding area. The Architectural Control Committee shall not be liable for any approved, disapproved or failure to approve hereunder, and its approval of building plans shall not constitute a warranty or responsibility for building methods, materials, procedures, structural design, grading or drainage, or code violations. The approval, disapproval or failure to approve of any building plans shall not be deemed a waiver of any restriction, unless the Architectural Control Committee is hereinafter authorized to

grant the particular waiver. Nothing herein contained shall in any way be deemed to prevent any of the Owners of property in this subdivision for maintaining any legal action relating to improvement within this subdivision which they would otherwise be entitled to maintain.

- (C) The powers and duties of the Committee or its designated representative shall cease on the first day of January, 2000, or when ninety percent (90%) of the lots have been closed, whichever occurs first. Thereafter, the powers and duties of the Committee shall be exercised by the Property Owners' Association hereafter provided for.

3.2 *Floor Area of Dwellings:*

- (A) Single-story. A single-story dwelling shall have at least 1,500 square feet of finished heated living area.
- (B) Two-story and Story-and-a-Half. If a dwelling has two levels or stories immediately above and below each other measured vertically and all such levels or stories are above the finished exterior grade of such dwelling, then such dwelling shall have a total of the various levels or stories of at least 1,700 square feet of finished heated living area.
- (C) Computation of Living Area. The computation of living area shall not include any basement or attic area used for storage. All living area measurements shall be taken horizontally at the top plat level to the face of the outside wall. Required living area must average at least seven feet six inches (7'6") in height, except that in the computation of second or upper story living area, the height shall be seven feet six inches (7'6") for at least one-half of the required living area, and any area of less than five feet (5') in height shall be excluded.
- (D) Waiver. The Architectural Control Committee may waive, in the particular instance, the floor area requirements set out in Paragraphs A and B of this section.

3.3 *Garage.* Each dwelling shall have an enclosed garage for at least two automobiles.

3.4 *Building Material Requirements:*

- (A) Stem Walls. All exposed foundation or stem walls shall be of brick or stone or stucco. No concrete blocks, poured concrete or any other foundation will be exposed. No stem walls will be exposed.
- (B) Roofing. The roof of the dwelling erected on any lot shall be slate, tile (Heritage II) or equal, and shall be weathered wood tone in color. A minimum of 10/12

pitch for roof systems on single-story and 8/12 for two-story dwellings shall be used.

- (C) **Exterior Walls.** The first story exterior walls of the dwelling erected on any lot shall be of at least seventy-five percent (75%) masonry; provided, however, that the area of all windows and doors located in said exterior walls and the area adjacent to patios and under porches shall be excluded in the determination of the area of exterior walls, and further provided that where a part of the exterior wall is extended above the interior room ceiling line due to the construction of a gable-type roof, then that portion of the wall extending above the interior room ceiling height may be constructed of wood material and shall be excluded from the determination of the area of the exterior walls (exclusive of fireplace chosen).
- (D) **Windows.** All dwellings with windows other than wood will be either anodized or electrostatically painted. Metal window frames will be in color harmony with the exterior color and texture of the residence. No unpainted aluminum will be permitted for window framing. Wood frames will be painted, sealed or stained.
- (E) **Siding.** No steel, aluminum, or plastic siding shall be permitted on any building.
- (F) **Chimneys.** All chimneys visible from the street shall be brick, stone or stucco. Chimney caps shall be rectangular and shall be a dark earth tone.
- (G) **Mail Boxes.** All mail boxes visible from the street shall be cast aluminum or cast iron and shall be "filigree" design (Alma).
- (H) **Waiver.** The Architectural Control Committee may waive, in a particular instance, the building material requirements set out in this Subsection; PROVIDED, such waiver to be effective must be in writing, dated and signed by a majority of such Committee.

3.5 **Commercial Structures.** No building or structure shall be placed, erected or used for business, professional, trade or commercial purposes on any portion of any lot.

3.6 **Noxious Activity.** No noxious or offensive trade or activity shall be carried on upon any lot, nor shall any trash or other refuse be thrown, placed or dumped upon any vacant lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

3.7 **Signs Prohibited.** The construction or maintenance of advertising signs, or other advertising structures on any lot is prohibited, except as follows:

- (A) Signs advertising the sale or rental of a property are permitted, provided they do not exceed nine (9) square feet in display surface area.
- (B) During the development period of Gettysburg at Battle Creek, signs advertising the subdivision or the initial offering of a lot may be located at the entrances to Gettysburg at Battle Creek.
- (C) Permanent signs identifying the subdivision may be located at the entrances to Gettysburg at Battle Creek.

3.8 *Existing Building.* No existing building of any sort may be moved onto or placed on any lot.

3.9 *Temporary Structures and Outbuildings:*

- (A) No trailer, tent, garage, barn, outbuilding, nor any structure of a temporary nature shall be at any time used for human habitation, temporarily or permanently.
- (B) Except for buildings existing at the time of filing of this plat, any building which is detached from the principal dwelling structure shall be limited to buildings customarily accessory to a single-family dwelling, shall be of a similar architectural design as the principal dwelling, and shall not be erected until the specifications and design thereof are approved by the Architectural Control Committee as provided within Subsection 3.2 of Section III.

3.10 *Vehicle Storage and Parking.* No inoperative vehicle shall be stored on any lot except within an enclosed garage. No motor home, boat trailer, travel trailer or similar recreational vehicle shall be located, parked or stored within a side, front or rear yard, and if not located within an enclosed garage, shall be screened sufficiently to prevent any view thereof from any golf hole, street or neighboring lot within Gettysburg at Battle Creek.

3.11 *Antennas; Trailers and Campers.* No facilities, including poles and wires, for the transmission or generation of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any lot, and no external or outside antennas or satellite dishes of any kind shall be allowed. No activity shall be conducted on any lot which interferes with television or radio reception on any other lot. No boats, boat trailers, house trailers, campers, motor homes, panel trucks, camper trailers, recreational vehicles or similar items shall be stored or parked in the open on any lots, streets or the Common Areas.

3.12 *Interior Fences or Walls.* Interior fences situated along the sides and real lot lines shall comply with the following:

- (A) No such fence shall exceed four feet (4') in height. No fence shall be erected or maintained nearer to the streets within the subdivision than the building setback lines depicted on the plat, except for decorative fences set forth in paragraph (B) immediately below. Except as set forth in paragraphs (B) and (C) immediately below, all four foot (4') fences occurring on the lot or property lines will be constructed of four foot (4') green chain link with treated wood posts and rails.
- (B) Decorative fences or walls shall be permitted on that portion of any lot in front of the building setback line. "Decorative fencing or walls" shall not exceed three feet (3') in height and shall be of the same decor, materials, (i.e., wrought iron, etc.) and styling as used in the architecture and construction of the dwelling situated on the lot. NOTE: Screening fences and baffles may be erected up to six feet (6') in height but must be an extension of the house structure and not located on the lot line.
- (C) Notwithstanding the foregoing or anything contained herein to the contrary, perimeter fencing shall be required along and parallel to the common boundary of all lots within this subdivision and that certain land owned and operated by the Broken Arrow Public Golf Authority as the "Battle Creek Golf Course" which perimeter fencing shall meet the following specifications:
- (1) Perimeter fencing shall be required upon all lots sharing a common boundary with the land owned and operated by the Broken Arrow Public Golf Authority as the "Battle Creek Golf Course", which perimeter fencing shall be constructed along and parallel to said common boundary.
 - (2) Said perimeter fencing shall be four feet (4') in height.
 - (3) Said perimeter fencing shall be limited to galvanized chain link construction, and the fencing materials shall be limited to hot-dipped galvanized, residential grade fencing material, which shall be green in color. Perimeter fencing shall be uniform in height, design and material, and no gates or other openings shall be permitted in the perimeter fencing.
 - (4) With respect to all lots within the subdivision upon which perimeter fencing is located, any side yard fence located thereon shall be tapered in height to four feet (4') within thirty feet (30') of the perimeter fencing and be of same specifications.
- (D) No fence or wall shall be erected on any lot until the plans, specifications and design thereof have been approved by the Architectural Control Committee as provided in this Section Architectural Control Committee may waive in a

particular instance the requirements or limitations set forth in paragraphs 3.12 (A) and 3.12 (B) of this section.

- 3.13 *Landscaping Requirements.* Each lot Owner shall completely sod the yard from the front of the house to the street curb after completion of construction of the house.

Each lot Owner shall plant two (2) trees of two and one-half inch (2-1/2") caliper or larger in the front yard.

Each lot Owner shall plant the equivalent worth of \$1,000.00 in landscaping materials (trees, shrubs, bushes, ground cover, etc.) exclusive of sodding and the two trees required above. A landscaping plan shall be submitted to the Architectural Control Committee for approval prior to planting.

- 3.14 *Ball Flight License.* Owner/Developer hereby grants a license to the Broken Arrow Public Golf Authority, and to its successors, assigns and invitees, for the benefit of the land owned and operated by the Broken Arrow Public Golf Authority as "Battle Creek Golf Course", to permit persons lawfully utilizing said golf course to inadvertently, unintentionally or accidentally drive golf balls from said golf course onto the lands described herein (but without any right or authority to enter upon the lands described herein, or any part or portion thereof, to retrieve said golf balls, or otherwise). Owner/Developer and each lot Owner acknowledged that the inadvertent or unintentional driving of golf balls onto lands described herein from said golf course will not constitute a nuisance or acts of trespass and that the Broken Arrow Public Golf Authority will incur no liability to Owner/Developer or any lot Owner as a result thereof. Owner/Developer and each lot Owner acknowledges that the land described herein is and shall be "out-of-bounds" with respect to said golf course, and that "play" will not be permitted from or upon the lands described herein, onto the said golf course, or otherwise (i.e., the driving of golf balls from the land described herein onto the above lands owned and operated by the Broken Arrow Public Golf Authority is prohibited). The foregoing license shall be for the benefit of the Broken Arrow Public Golf Authority, its successors, assigns and invitees, provided however, the same shall be enforceable solely by the Broken Arrow Public Golf Authority.

SECTION IV. PROPERTY OWNERS' ASSOCIATION

- 4.1 *Formation of Association.* The Owner/Developers have formed or shall cause to be formed the Gettysburg at Battle Creek Property Owners' Association, Inc. (hereinafter referred to as the 'Association'), a non-profit entity established pursuant to the General Corporation Act of the State of Oklahoma and formed for the general purposes of maintaining the common areas and enhancing the value, desirability and attractiveness of Gettysburg at Battle Creek.

- 3.15. ***Occupancy.*** No residential structure on any lot shall at any time be used or occupied by more than one single family, whether owner or tenant.
- 3.16. ***Machinery.*** No machinery, whether operable or inoperable, shall be stored or operated on any lot except such machinery as is usually employed in the maintenance of the private residence, yard or garden located on the lot.
- 3.17. ***Business or Commercial Activity Prohibited.*** No lot or residence located thereon shall be used at anytime for the carrying on of any business or commercial activity that visibly alters the landscape of the community or results in an inordinate amount of traffic flow and parking in the community.
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- 4.2 **Membership.** Every person or entity who is a record Owner of the fee interest of a lot shall be a member of the Association, and membership shall be appurtenant to and may not be separated from the ownership of a lot. The acceptance of a deed to a lot shall constitute acceptance of membership to the Association as of the date of incorporation, or as of the date of recording of the deed, whichever occurs last.
- 4.3 **Covenant for Assessments.** The Owners and each subsequent owner of a lot, by acceptance of a deed thereof, is deemed to covenant and agree to pay to the Association an annual assessment as established by the Board of Directors, not to exceed \$85.00 per year per lot owned; provided, however, the Board of Directors may increase each year subsequent to the initial assessment year, the maximum assessment by the percentage increase, if any, of the Consumer Price Index occurring over the twelve (12) months ending sixty (60) days prior to the current assessment period or five percent (5%), whichever is greater. "Consumer Price Index" shall mean the Index published by the U. S. Department of Labor for the area including Broken Arrow, Oklahoma. Annual assessments exceeding the amount above set forth shall require the assent of seventy-five percent (75%) of the lot Owners within the subdivision. Annual assessments together with ten percent (10%) interest, costs and reasonable attorneys' fees shall be a continuing lien on the lot and the personal obligation of the Ownership of the lot at the time of the assessment. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage.
- 4.4 **Certain Rights of the Association.** Without limitation of such other powers and rights as the Association may have, the Association shall be deemed a beneficiary, to the same extent as a lot Owner, of the various covenants within this document contained, and shall have the right to enforce said covenants and agreements.
- 4.5 **Additional Areas.** The Owner may acquire additional property adjacent to Gettysburg at Battle Creek. Consequently, he, his successors and assigns reserve the right to develop and add additional land in this area to this development and the Property Owners' Association. The lot Owners of the combined areas shall be considered as one entity for the mutual enjoyment and responsibilities of the total area.
- 4.6 **Bonding.** It shall be required that the Secretary/Treasurer of the Property Owners' Association of Gettysburg at Battle Creek be bonded. The Association will be responsible for obtaining and paying for said appropriate bonding.

SECTION V. ENFORCEMENT, DURATION, AMENDMENT AND SEVERABILITY

- 5.1 **Enforcement.** The restrictions herein set forth are covenants to run with the land and shall be binding upon the Owner/Developers, their successors and assigns and all parties claiming under them. Within the provisions of Subsection 1.1, Public Street and General Utility Easements; Subsection 1.2, Electrical, Gas and Communication Service; Subsection 1.5, Water and Sewer Service; Subsection 1.4, Limits of No Access, and Subsection 1.6. The covenants within Section III shall inure to the benefit of Owners of

residential lots within the subdivision, and the Property Owners' Association provided for in Section IV.. If the Owner/Developer or Owners of lots within Gettysburg at Battle Creek, or their successors or assigns shall violate any of the covenants within Section III, it shall be lawful for any person or persons owning any lot situated within the subdivision or the Property Owners' Association to maintain any action in law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent him or them from so doing or to compel compliance with the covenants or to recover damages for such violations.

- 5.2 *Duration.* These restrictions shall remain in full force and effect until January 1, 2017 and shall automatically be continued thereafter for successive periods of ten (10) years each unless terminated or amended as hereinafter provided.
- 5.3 *Amendment or Termination.* The covenant contained within Section I and II may be amended, modified, changed or canceled only by a written instrument signed and acknowledged by the Owners of more than seventy-five percent (75%) of the lots within the subdivision, approved by the City of Broken Arrow and the provisions of such instrument shall be binding from and after the date it is properly recorded. The covenants of Section III and IV herein established may be amended, modified, changed or canceled only by a written instrument signed and acknowledged by the Owners of more than seventy-five percent (75%) of the residential lots within the subdivision, and the provisions of such instrument shall be binding from and after the date it is properly recorded.
- 5.4 *Severability.* Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any Court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, which shall remain in full force and effect.

WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

GORDON-WILLIAMS DEVELOPMENT, INC.
an Oklahoma corporation

By: _____
Helen Williams, President

ATTEST:

Secretary

STATE OF _____)

COUNTY OF _____)

) ss:

BE IT REMEMBERED, that on this _____ day of _____, 19____
____, before me, a notary public in and for the county and state aforesaid, personally appeared ____
_____ known to me to be the _____
of _____, a _____ corporation, and the
same person executed the above and foregoing Declaration as his free and voluntary act and deed,
as such officer, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

Notary Public

My commission expires:

CERTIFICATE OF SURVEY

I, William E. Lewis, a Registered Land Surveyor in the State of Oklahoma, hereby certify that I have carefully and accurately surveyed, subdivided and platted the tract of land herein described above, and that said Plat designated herein as GETTYSBURG at BATTLE CREEK, an Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, is a true and accurate representation of said survey.

William E. Lewis, Registered Professional Land Surveyor
Oklahoma No. 728