

STATE OF ALABAMA )

COUNTY OF JEFFERSON )

DECLARATION OF PROTECTIVE  
COVENANTS AND AGREEMENTS  
OF BENT RIVER ESTATES

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, KADCO, INC., ("The Developer"), an Alabama corporation has heretofore acquired fee simple title of certain real property situated in Jefferson County, Alabama and Shelby County, Alabama, and has subdivided such property into fifty-six (56) lots ("Lots") as described in the map and survey of Bent River Estates as recorded in Map Book 176<sup>177</sup>, page 15<sup>51</sup>, in the Probate Office of Jefferson County, Alabama and as Instrument #\_\_\_\_\_, in the Probate Office of Shelby County, Alabama, (hereinafter referred to as "The Property"); and

WHEREAS, the Developer desires to develop the property into a residential subdivision to be known as Bent River Estates subject to the protective covenants, agreements and easements set forth in this Declaration of Protective Covenants and Agreements for the subdivision (hereinafter referred to as "The Declaration");

NOW, THEREFORE, the Developer does, upon recording hereof, declare and make the property and each of the Lots included in the subdivision of the property subject to the covenants, conditions, restrictions, uses, limitations, and affirmative obligations set forth in this Declaration, all of which are declared to be in furtherance of a plan for the improvement of the Property in a desirable and uniform manner suitable in architectural design, and all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the property or any part thereof, and shall be for the benefit of each owner of property or interest therein, and shall inure to the benefit of and be binding upon each successor in interest to the owners thereof.

Inst # 1994-11503  
ARTICLE I

LAND USE AND BUILDING TYPE  
04/07/1994-11503  
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SHELBY COUNTY JUDGE OF PROBATE  
007 MCD 23.50

Kadco, Inc.  
1945 Hooder Court  
Hooder, AL 35226

Inst # 1994-11503

PHASE I  
MB 17  
PG 135  
PHASE II  
MB 18  
PG 30  
PHASE III  
MB 18  
PG 51

1. Land Use and Building Type. The property will be used for residential purposes only, and not trade or business purposes including all types of home industry will be permitted. No building or structure other than a one family dwelling house shall be erected within the Property except as otherwise permitted herein.

## ARTICLE II

### BUILDING AND MAINTENANCE REQUIREMENTS

1. Design Criteria. The objective of Bent River Estates shall be to present a traditional architectural environment for the Property.

2. Temporary Structures. No trailer, tent, shack, barn, servant house, garage or other outbuilding shall be erected on any lot within the Property.

3. Fences and Hedges. No fences or walls shall be constructed unless first approved by the Architectural Committee ("Committee").

4. Utilities, Wiring and Antennae.

(A) To the extent of the interest of the owner of a lot within the Property, no external or outside antennae, including satellite dishes, of any kind shall be maintained.

(B) To the extent of the interest of the owner of each lot, such owners agree to connect utility service lines (including, but not limited to, gas, water, sewer, cable television and electricity) at a point designated by the Developer.

5. Easements. Easements to each lot for the installation and maintenance of utilities and drainage facilities, and for ingress and egress are reserved as shown on the recorded plat of the Property in Map Book <sup>176</sup>~~177~~, page <sup>15</sup>~~51~~, in the Probate Office of Jefferson County, Alabama and in Map Book <sup>17</sup>~~18~~ page <sup>135</sup>~~54~~, in the Probate Office of Shelby County, Alabama.

6. Mailboxes and Lamp Posts. All mailboxes, lamp posts, street lighting and posts must be constructed and located according to the Developer's specifications.

7. Failure to Maintain or Obtain Approval. If any structure or improvement shall be altered or shall fail to be properly

maintained upon any lot, or any new use commenced on any lot, otherwise than in accordance with plans and specifications approved by the Committee pursuant to the provisions of this Article II, such alteration or failure to maintain shall be deemed to have been undertaken in violation of this covenant, and without the approval required herein, and upon written notice from the Committee, any such structure or improvement so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed, altered, or repaired and any such use shall be terminated, so as to extinguish such violation. A vote by a majority of the members of the Committee shall be necessary to invoke the provisions of this section.

If fifteen (15) days after the notice of such a violation the owner of the Lot upon which such violations exists shall not have taken reasonable steps toward the removal or repair of the same, the Association shall have the right to enter upon such Lot and to take such steps as may be necessary to extinguish the violation and the cost thereof shall be a binding personal obligation of such owner as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided in this covenant shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the Lot in question unless a suit to enforce said lien shall have been filed in a court of record in Jefferson County and/or Shelby County prior to the recordation among the Land Records of Jefferson County and/or Shelby County of the deed (or mortgage) conveying the Lot in question to such purchaser) or subjecting the same to such mortgage).

### ARTICLE III

#### USE OF THE PROPERTY

1. Trees. No tree shall be moved from any Lot with the Property without the express written authorization of the Association.

2. Signs. No sign of any kind shall be displayed to the public view except signs of not more than five (5) square feet to advertise a home for sale.

3. Animals. No animals, birds, livestock or insects shall be



kept or maintained on any of the Property except that each owner of a Lot may maintain not more than two dogs and two cats as domestic pets, provided that such domestic pets are confined to the Lot of the owner of such pets.

4. Garbage and Refuse. No lumber, metals, or bulk materials shall be kept, stored, or allowed to accumulate on any Lot with the Property except building materials during the course of construction of any approved structure or improvement. No refuse or trash shall be kept, stored or allowed to accumulate except between scheduled pick-ups and in accordance with the provisions hereof. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, such trash or refuse may be placed in sanitary containers. Such sanitary containers may be placed in the open on any day that a pick-up is to be made, at such place on the Lot as to provide access to the persons making such pick-up. All other times such containers shall be stored in such a manner so that they cannot be seen from adjacent surrounding property.

5. Outside Burning. Burning of trash, refuse or other materials on any Lot within the Property shall be prohibited.

6. Pipes. No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or maintained above the surface of the ground of any Lot with the Property, except for hoses and movable irrigation parts.

7. Oil and Mining. No Lot within the Property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

8. Nuisance. No obnoxious, offensive or illegal activity shall be carried on upon any Lot within the Property nor shall anything be done on any Lot within the Property which may become an annoyance or nuisance to other Lots with the Property.

9. Storage of Boats and Trailers. Storage of boats, boat trailers, house trailers, campers, recreational vehicles or similar equipment or vehicles in the open on any Lot shall be prohibited.

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10. AirConditioner Units. No window or thru-the-walls A/C

units will be permitted.

11. Clothes Lines. No clothes lines of any kind will be permitted.

12. Maintenance of Common Areas. There are certain areas within the Subdivision which are hereby designated common areas. These include the following.

- (a) Sprinkler System
- (b) Electrical Wiring for Lights
- (c) Wall enclosing Subdivision
- (d) Landscaping outside the wall

These areas will be maintained by the owners of the Lots within the Subdivision. There will be a fee collected from each Lot owner to provide for this maintenance. The Developer will set and collect this fee until such time as the Developer turns over control of the Subdivision to the Lot owners, at which time they shall make arrangements to handle collection and disbursement of these fees. The said Owners may elect to form an Owners Association at that time.

#### ARTICLE IV

##### GENERAL

1. Effects of violation or Mortgage Liens. No violation of any of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to this Declaration as fully as any other owner of any portion of the Property.

2. No Reverter. No restriction herein is intended to be, or shall be construed as a condition subsequent or as creating a possibility of reverter.

3. Duration and Amendment. The restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by the Developer, the Committee, and the Owner of any Lot included in the Property, their respective legal representatives, heirs successors and assigns for a period of twenty-five (25) years after which time said restrictions shall be automatically extended for successive periods

of ten (10) years. This Declaration may not be amended in any respect except by the execution of an instrument signed by not less than 51% of the Lot owners, which instrument shall be filed for record among the Land Records of Jefferson County, Alabama and/or Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

4. Enforcement. In the event of a violation or breach of any of these restrictions or any amendments thereto by any owner of a Lot, or employee, agent, or lessee of such owner, the owner(s) of Lot(s), Developer, their successors and assigns or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party or asset any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

Any party to a proceeding who succeeds in enforcing a restriction or enjoining the violation or a restriction against a Lot owner may be awarded a reasonable attorney's fee against such Lot owner.

5. No Waiver. The failure of any party entitled to enforce any of these restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior to subsequent thereto; provided, however, that approval of plans pursuant to Article III shall be binding on any



and all parties as a conclusive determination that such plans are in conformity with these restrictions.

6. Developer's Exemption as to Article III, subparagraph 2. Signs.

Nothing contained herein shall be construed to prevent the erection or maintenance by Developer or its duly authorized agents of structures, improvements or signs necessary or convenient to the development, sale, operation or other disposition of the Lots.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

1. Establishment and Definitions. "Committee" shall refer to the Architectural Control Committee of Bent River Estates.

2. Membership. The Committee shall consist of three or more members who shall be designated by the Developer until such time as all Lots within the Subdivision are sold. At that time, the Committee shall be elected by the owners of the Lots with each Lot entitled to cast one vote by the owner or owners thereof.

KADCO, INC.

BY: 

Charles G. Kessler, Jr.  
Its President

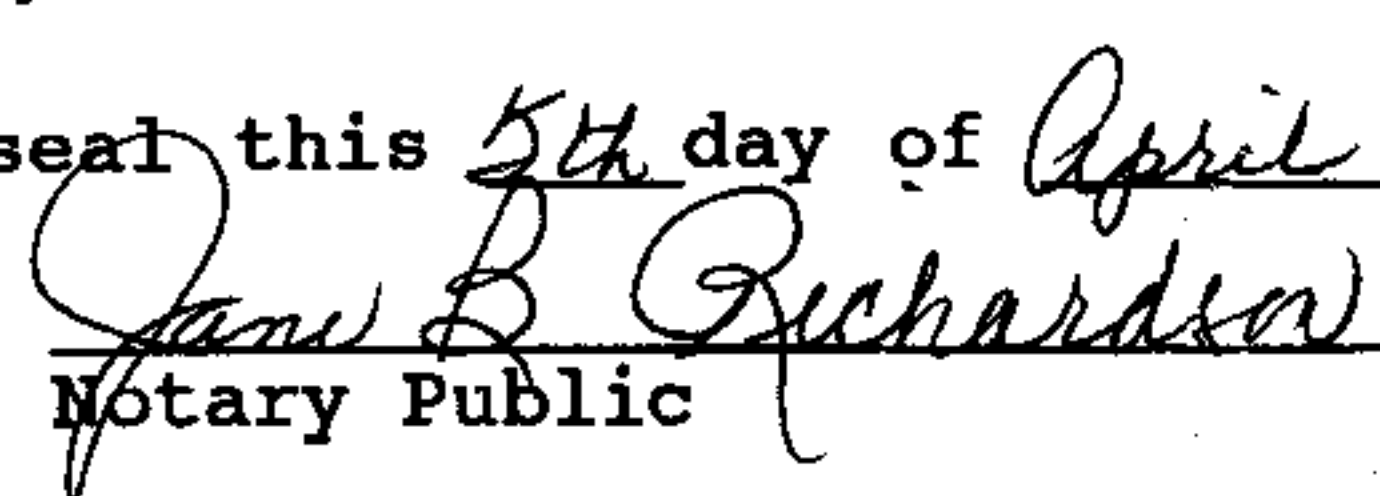
STATE OF ALABAMA)  
JEFFERSON COUNTY)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Charles G. Kessler, Jr. as the President of KADCO, INC., a corporation, and whose name is signed to the foregoing instrument and who is known to me, being informed of the contents of the conveyance, he executed the same voluntarily for and as the act of the Corporation with full authority to do so, on the day the same bears date.

Given under my hand and seal this 5th day of April, 1994.

My Commission Expires:

March 13, 1996

  
Notary Public

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