

CORRECTED AMENDMENT OF RESTRICTIONS

DEEDS 19-

7946156

THE STATE OF TEXAS            |  
  |       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF MONTGOMERY        |

THAT LCB Equities, Ltd., Arco Developments, Ltd., and Triona Investments, Ltd., all British Columbia Canada Corporations, acting herein by and through its duly authorized officers, herein referred to as "Developer", are owners of that certain subdivision known as Shadow Bay, Section One, according to the plat filed in Volume 11, Page 50 of the plat records of Montgomery County, Texas and,

WHEREAS, the said property is subject to those restrictions of record located in Volume 834, Page 166 of the deed records of Montgomery County, Texas wherein it is provided that those Restrictions may be amended under certain conditions and,

WHEREAS, by virtue of a Warranty Deed recorded in Volume 1106, Page 448 of the deed records of Montgomery County, Texas the Developer meets the conditions required to amend the above described Restrictions as owner of Ninety Percent (90%) of the lots in Shadow Bay, Section One.

NOW THEREFORE, the Developer, on the date hereinafter set forth, has amended the above described Restrictions in their entirety, and does hereby terminate and declare the above described Restrictions null and void and of no further force or effect and does hereby adopt, establish, promulgate and impress the following Reservations, Restrictions and Covenants which shall be and are hereby made applicable to Shadow Bay, Section One, hereinafter referred to as the "subdivision":

I.

GENERAL PROVISIONS

Applicability       1.01 Each Contract, Deed or Deed of Trust which may hereafter be executed with respect to any property in the subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed, or Deed of Trust, and whether or not referred to in any such instrument.

Dedication        1.02 The streets and roads shown on said recorded plat are dedicated to the use of the public. The utility easements shown thereon are dedicated subject to the reservations hereinafter set forth.

1.03 For the purpose of these Restrictions and for the purpose of interpreting the provisions contained upon the plat of the subdivision, the "Front Line" of each lot shall be the common boundary of such lot with a street, and in the case of a corner lot (with a common boundary on two streets or on one street and a culdesac) the boundary which is shorter. The boundary of the lot opposite the front lot line shall be the "Rear Lot Line" and all other lot lines shall be "Side Lot Lines".

Reservations     1.04 a. The utility easements dedicated on the recorded plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Montgomery County, Texas, as well as for the benefit of the Developer and the property owners in the subdivision to allow for the construction, repair, maintenance, and operation of a system or systems of electric light and power, telephone

ORIGINAL DIM

lines, gas, water, sanitary sewer, storm sewers and any other utility or service which the Developer may find necessary or proper.

b. The title conveyed to any property in the subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Developer or public utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to the Developer, its successors or assigns.

c. The right to sell or lease such lines, utilities, appurtenances, or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Developer.

d. The Developer reserves the right to make changes in and additions to such utility easements for the purpose of more efficiently serving the subdivision or any property therein; any such change or addition to be effected by appropriate instrument recorded in the office of the County Clerk of Montgomery County, Texas.

e. When necessary or convenient for the installation of any utility system or systems, the Developer or any utility company making such installation in utility easements dedicated on the above mentioned plat or dedicated herein or hereafter created in the subdivision, may, without liability to the owner of the land encumbered by such utility easements, remove all or any trees and other vegetation within the utility easements. When necessary or desirable for the maintenance of such utility system or systems, the Developer or utility company may trim trees and shrubbery or roots thereof which overhang or enroach into such easements, without liability to the owner of such shrubbery or trees.

f. Any utility easement shown on the recorded plat may be used as a drainage easement for the construction of drainage facilities but any such use shall not unreasonably interfere with the use of such easement for utilities.

**Duration** 1.05 The provisions hereof, including the Reservations, Restrictions and Covenants herein set forth, shall run with the land and shall be binding upon the Developer, its successors and assigns, and all persons or parties claiming under it or them for a period of thirty five (35) years from the date hereof, at which time all of such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period of thirty five (35) years or ten (10) years, the then owners of a majority of the lots in the subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such period be the aforesaid thirty five (35) year period or any successive ten (10) year period thereafter.

**Enforcement** 1.06 In the event of any violation or attempted violation of any of the provisions hereof, including any of the Reservations, Restrictions or Covenants herein contained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a

prequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. It shall be lawful for the Developer or for any person or persons owning property in the subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of such provision.

Partial Invalidity 1.07 In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provisions hereof which was not hereby held invalid; and such other provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

Effect of Violations on Mortgagees 1.08 No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any Mortgage or Deed of Trust presently or hereafter placed of record or otherwise affect the rights of the Mortgagee under any such Mortgage, holder of any such lien or beneficiary of any such Deed of Trust; and any such Mortgage, lien or Deed of Trust, may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained, including said Reservations, Restrictions and Covenants.

## II.

### ARCHITECTURAL CONTROL

Basic Rule 2.01 a. No building, mobile, or modular home or other improvements of any character shall be erected or placed, or the erection or placing thereof be commenced, or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction or erection, on any property in the subdivision until the obtaining of the necessary approval of the Architectural Control Authority (as hereinafter provided) of the construction plans and specifications and of the plat showing the location of such building or other improvements. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design with existing and proposed structures and location with respect to topography and finished grade elevation.

b. Each application made to the Architectural Control Authority shall be accompanied by two sets of plans and specifications for all proposed construction or placing to be done on such lot or building site, including plot plans showing the location of improvements on the lot or building site and dimensions of all proposed lots or building sites, driveways and all other matters relevant to architectural approval.

c. The Architectural Control Authority (whether Developer or Architectural Control Committee) shall have the power and authority to create, alter or amend building set-back lines, utility easement lines, and requirements as to design of buildings, structures, and materials to be used in the improvements thereof for any lot or lots within the subdivision provided that such authority shall be exercised for the purpose of making the lot or lots so affected useful for the purpose for which they are designed or for the purpose

of harmonizing and making esthetically attractive the subdivision, as such matters may be determined in the good faith judgment of the Authority.

Architectural

Control Authority 2.02 a. The authority to grant or withhold architectural control approval as referred to above is vested in the Architectural Control Authority (herein sometimes referred to as the "Authority") which Authority shall be the Developer; except, however, that such authority of the Developer shall cease and terminate upon election of the Shadow Bay Architectural Control Committee, in which event such authority shall be vested in and exercised by the Shadow Bay Architectural Control Committee (as provided in b. below).

b. At such time as Ninety percent (90%) of all of the lots or building sites in the subdivision shall have been sold by Developer, the Developer shall cease to be the Authority and the Shadow Bay Property Owners Association shall elect a committee of three (3) members to be known as the Shadow Bay Architectural Control Committee. Provisions and conditions for the election of the Committee shall be as specified in the By-Laws of the Shadow Bay Property Owners Association.

III.

SUBDIVISION, DEFINITIONS AND DESIGNATION OF LOTS

Subdivision 3.01 With the exception of Reserve "F" and the Unrestricted Reserves "B", "D", and "E", any lot or Reserve or Unrestricted Reserve shown on the recorded plat of Shadow Bay, Section may but subdivided but in no case may a subdivision of a Reserve, Unrestricted Reserve, or a Lot or Lots result in a building site having less than 3,500 square feet in area.

Definitions 3.02 Where used herein, the term "lot" may refer, in addition to a lot as shown on the recorded plat, to any subdivided portion of a Reserve, Unrestricted Reserve, or Lot as said parcel may be so described by metes and bounds and sold.

Designation 3.03 Mobile Home Lots - All lots, or portions thereof as subdivided, in Blocks 1,2,3,4,5,6,7,8 and 9 and in Unrestricted Reserve "H" shall be restricted to mobile homes manufactured after 1971 having a minimum width of twelve feet (12 ft.) and a minimum length of fifty feet (50 ft.).

Modular/Conventional Lots - All lots, or portions thereof as subdivided, in Blocks 10 and 11 and in Unrestricted Reserves "A" and "C" shall be restricted to modular homes manufactured after 1971 having a minimum of 980 square feet of floor space, exclusive of porches and garages or a conventionally constructed or erected home having a minimum of 1,000 square feet of floor space, exclusive of porches and garage. Developer herein reserves the right to waive this designation as it relates to Unrestricted Reserve "C" only.

IV.

GENERAL RESTRICTIONS

4.01 All lots in the subdivision shall be used only for residential purposes except as in 3.03 above. No lot shall be used for any commercial, business or professional purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood.

4.02 The location, size, exterior materials of all residential and appurtenant structures on the building site shall be as approved by the Architectural Control Authority (whether Developer or Architectural Control Committee).

4.03 No structure of a temporary nature, travel trailer, camper, vehicle, tent, shack, garage or other out-building shall be used on any lot at any time as a residence.

4.04 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as pets provided that they are not kept for commercial purposes and provided they do not constitute a nuisance or danger to other lot owners, their families or guests.

4.05 All lots shall be kept at all times in a sanitary, healthful and attractive condition, and at no time shall any lot be used for storage of material or equipment except for normal residential requirements or incident to construction of improvements thereon. Accumulation or the burning of any garbage, trash or rubbish is strictly prohibited.

4.06 No wall, fence, planter or hedge in excess of two (2) feet in height shall be erected or maintained nearer to the front lot line than the front building set-back line, nor on corner lots nearer to the side lot line than the building set-back line parallel to the side street.

In the event of default on the part of the owner or occupant of any lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, the Developer or Committee may, without liability to the owner or occupant in trespass or otherwise, enter upon said lot and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions.

4.07 No boat trailers, boats, travel trailers, campers, inoperative automobiles or vehicles of any kind are to be permanently or semi-permanently stored in the public street right of way or in driveways. Any such storage must be screened from public view, either within a garage or behind a fence which encloses the rear of the lot. Vehicles may not be parked in the street right of way for a period of time exceeding forty eight (48) hours.

4.08 No motor vehicles, motor bikes, motorcycles or motor scooters shall be permitted on any part of the subdivision other than the road or street pavement, driveways or parking lots.

4.09 The digging of dirt or removal of dirt from any lot is expressly prohibited except as necessary in conjunction with the construction or landscaping on such lot. No trees shall be cut or removed except to provide room for the construction or erection of improvements on the lot or to remove dead trees.

4.10 No lot or other portion of the subdivision shall be used or permitted for hunting or for the discharge of any firearm or any other device capable of killing or injuring.

4.11 No obstruction of any kind shall be permitted in any drainage ditch within the subdivision and no culvert shall be installed or permitted in any drainage ditch unless the size thereof and the grade shall have first been approved in writing by the Architectural Control Authority.

4.12 No mining, oil drilling, water well drilling, or the installation of septic tanks shall be permitted on any lot.

4.13 Each completed residential structure will be required to be hooked up to the central water and central sewage disposal systems. At no time shall the usage of a private water well or the usage of any type of device for disposal of sewage be permitted on any lot in the subdivision.

4.14 All modular and mobile homes placed on lots in the subdivision must be skirted with a rigid material as approved by the Architectural Control Authority and the front entry door must have a covered porch no less than thirty six square feet in area. No steel or concrete steps that lead solely to the front entry door will be permitted.

V.

MAINTENANCE FUND

5.01 Each lot (or residential building site) in the subdivision shall be and is hereby made subject to a monthly maintenance charge, except as otherwise hereinafter provided.

5.02 The maintenance charge referred to shall be used to create a fund to be known as the "Shadow Bay Maintenance Fund" and each such maintenance charge shall (except as otherwise hereinafter provided) be paid by the owner of each lot monthly, in advance, on or before the first day of the second month following the month in which the lot was purchased.

5.03 The maintenance charge shall initially be Five and No/100 Dollars (\$5.00) per month unless and until such charge is hereafter changed; the maintenance charge may be changed from time to time by the Developer (and subsequently by the Shadow Bay Property Owners Association) and shall be the amount determined by the Developer or the Association during the month preceeding the due date of said maintenance charge.

5.04 The maintenance charge shall not, without the consent of the Developer, apply to lots owned by the Developer.

5.05 The maintenance charges collected shall be paid into the Maintenance Fund to be held and used for the benefit, directly or indirectly, of the subdivision; and such Maintenance Fund may be expended for any purposes which, in the judgment of the Developer (and subsequently the Shadow Bay Property Owners Association) will tend to maintain the property values in the subdivision.

5.06 In order to secure the payment of the maintenance charge hereby levied, a vendor's lien shall be and is hereby reserved in the Deed or Contract for Deed from the Developer to the purchaser of each lot or portion thereof, which lien shall be enforceable through appropriate judicial proceedings by the Developer ( and subsequently the Shadow Bay Property Owners Association). Said lien shall be deemed subordinate to the lien or liens of any Institutional Lender which hereafter lends money for the purchase of any property in the subdivision, and/or for construction and/or permanent financing of improvements on any such property

5.07 These provisions as to the maintenance charge and Maintenance Fund shall continue in effect unless changed in the manner and at the time or time hereinabove provided for effecting changes in the restrictive covenants hereinabove set forth.

VI.

TRANSFER OF FUNCTIONS OF THE DEVELOPER

6.01 At such time as Developer has sold Ninety Percent (90%) of the lots in the subdivision, it shall transfer its functions herein as they relate to the Architectural Control Authority, the maintenance charge, the Maintenance Fund, and the appurtenant duties thereto by causing to be formed the "Shadow Bay Property Owners Association". Such formation shall be evidenced such documentation as is then prescribed by all governmental bodies having jurisdiction in such matters.

VII.

BINDING EFFECT

All of the provisions hereof shall be covenants running with the land thereby affected. The provisions hereof shall be binding upon and inure to the benefit of the owners of the land affected and the Developer and their respective heirs, executors, administrators, successors and assigns.

EXECUTED this 31 day of October, 1979.

LCB EQUITIES, LTD.

BY: [Signature]

MALCOLM BURKE, Pres.

ATTEST:

\_\_\_\_\_



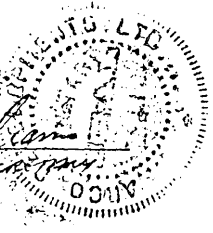
ARCO DEVELOPMENTS, LTD.

BY: [Signature]

W. F. WILLIAMS Secy/Treas.

ATTEST:

\_\_\_\_\_



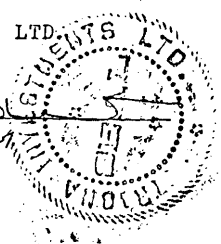
TRIONA INVESTMENTS, LTD.

BY: [Signature]

FRED WU, PRESIDENT

ATTEST:

\_\_\_\_\_



Province of British Columbia  
~~STATE OF TEXAS~~  
COUNTY OF Vancouver

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BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ and Malcolm Burke President and \_\_\_\_\_ Secretary of LCB Equities, Ltd., known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 31 day of October, 1979.

*no expiry*

*[Signature]*  
Notary Public in and for the Province of British Columbia

Province of British Columbia  
~~STATE OF TEXAS~~  
COUNTY OF Vancouver

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ and Clayton Frederick Williams President and \_\_\_\_\_ Secretary of Arco Developments, Ltd., known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 31 day of October, 1979.

*no expiry*

*[Signature]*  
Notary Public in and for the Province of British Columbia

Province of British Columbia  
~~STATE OF TEXAS~~  
COUNTY OF Vancouver

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ and Fred Alu President and \_\_\_\_\_ Secretary of Triona Investments, Ltd., known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 31 day of October, 1979.

*no expiry*

*[Signature]*  
Notary Public in and for the Province of British Columbia



STATE OF TEXAS  
COUNTY OF MONTGOMERY

KNOW ALL MEN BY THESE PRESENTS:

THAT, the undersigned, Canadian Commercial and Industrial Bank, as the lien holder against the aforesaid property, does hereby, in all respects, approve, adopt, ratify and confirm all of the above and foregoing Reservations, Restrictions, Covenants and other foregoing provisions and subordinate said lien and all other liens owned or held by it thereto and does hereby join in the execution thereof and agree that same shall in all respects be binding upon the undersigned and the successors and assigns of the undersigned in all respects and upon the land thereby affected, notwithstanding any foreclosure of said Deed of Trust or any other lien in favor of the undersigned.

EXECUTED this 6<sup>th</sup> day of November, 1979

CANADIAN COMMERCIAL AND INDUSTRIAL BANK  
By its duly authorized attorneys

BY: *Peter Jones*  
Peter Jones  
*William F. Dickson*  
William F. Dickson

PROVINCE OF BRITISH COLUMBIA  
~~THE STATE OF TEXAS~~  
CITY  
COUNTY OF VANCOUVER

BEFORE ME, the undersigned authority, on this day personally appeared Peter Jones and William Fraser Dickson, attorneys of Canadian Commercial and Industrial Bank, known to me to be the persons whose names <sup>are</sup> subscribed to the foregoing instrument and acknowledged to me that <sup>they</sup> executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6<sup>th</sup> day of November, 1979.

*Paul J. [Signature]*  
Notary Public in and for the  
Province of British Columbia  
BY COMMISSION

FILED FOR RECORD  
1979 DEC 17 PM 2:59  
ROY HARRIS, CLERK  
COUNTY CLERK OF MONTGOMERY COUNTY  
*Mare Rushing*

