

When recorded return to:

Stardust Development, Inc.
6730 North Scottsdale Road
Scottsdale, Arizona 85253

Attn: Chris Heester

Presented for recording without liability
for acceptability or sufficiency by
FIRST AMERICAN TITLE.



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

97-0661842 09/24/97 11:22

LILIAN 1 OF 46

**CERTIFICATE OF AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND
EASEMENTS FOR ARROYO ROJO**

The undersigned, STARDUST DEVELOPMENT, INC., an Arizona corporation ("Stardust") and KEY CONSTRUCTION, INC., an Arizona corporation d/b/a TREND HOMES ("Declarant"), hereby certify that at a meeting duly called and held pursuant to the provisions of the Articles of Incorporation and Bylaws of the Arroyo Rojo Homeowners Association (the "Association"), the following amendments to that certain Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Arroyo Rojo recorded November 12, 1997, at Document No. 96-0799284, and re-recorded December 18, 1996 at Document No. 96-0880225 in the Official Records of Maricopa County, Arizona (the "Declaration"), in regard to the property described on Exhibit "A" attached hereto, were adopted by Owners having at least ninety percent (90%) of the votes then entitled to be cast (and in no event less than two-thirds (2/3) of the Owners):

1. Section 4.1(c) of the Declaration is hereby deleted in its entirety and the following substituted therefor:

(c) Landscaping. Within ninety (90) days after the City of Phoenix has issued a certificate of occupancy for the Dwelling Unit on a Lot, the Owner of such Lot shall complete the landscaping of all portions of the Lot that are disturbed by the construction of the Dwelling Unit that are Visible From Neighboring Property or visible from the Common Areas or the streets. All such landscaping shall be subject to prior approval by the Design Review Committee as set forth herein. It is strongly recommended that the Owner retain the services of a landscape architect who has special knowledge of plant material and watering systems suitable to the Sonoran desert region and the plant materials approved by the Design Review Committee. Landscaping shall be subject to the following general requirements: (i) turf or grass may be used in the front yard subject to approval by the Design Review Committee and must not exceed 50% coverage of the front and side yards; (ii) landscape design shall reinforce and compliment the architectural and site planning; (iii) landscape design will recognize and respect the natural beauty and ecosystem of the Property; (iv) only planting materials suitable to the Sonoran Desert region and included on the "approved-planting-materials" list created by the Design Review Committee may be used; (v) landscape design shall

promote continuity while creating interesting character for the community; (vi) no hedge more than three (3) feet in height shall be closer than the front yard setback as may be required by the City of Phoenix; and (vii) each Owner must submit a separate, detailed landscape plan for approval by the Design Review Committee. In the event an Owner fails to complete such landscaping within said ninety day period, the Board may by resolution make a finding to such effect and pursuant thereto give notice thereof to the Owner that unless landscaping is commenced within fourteen (14) days and thereafter diligently pursued to completion, the Board may cause such landscaping to be accomplished at said Owner's expense. If at the expiration of said fourteen (14) day period of time such landscaping has not been commenced and thereafter diligently pursued to completion, the Board shall be authorized and empowered to cause such landscaping to occur and the cost thereof shall be added to, and become a part of, the Assessment to which the offending Owner and the Owner's Lot is subject, and shall be secured by the Assessment Lien. Except as otherwise expressly provided in this Declaration, such landscaping and incidental work shall not be commenced without the prior written approval of the Design Review Committee and no material changes or deviations (as determined by the Design Review Committee) in or from any plans and specifications approved by the Design Review Committee shall be made without the prior written approval of the Design Review Committee.

2. If the consent of the FHA to this Amendment is required to continue FHA approval of the subdivision, this Amendment shall not become effective until approved by the FHA.

STARDUST DEVELOPMENT, INC., an Arizona corporation

By: *C. H. Nicks*
Its: *President*

KEY CONSTRUCTION, INC., an Arizona corporation d/b/a TREND HOMES

By: *Deed P. A.*
Its: *President*

EXHIBIT "A"

Arroyo Rojo:

Lots 1 through 362 and Tracts A through G, inclusive, Arroyo Rojo, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 424 of Maps, Page 13.

WHEN RECORDED, RETURN TO:

Stardust Development, Inc.
5048 N. 35th Street, Suite 148
Phoenix, AZ 85018



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
96-0799284/A 11/12/96 04:52
BECKY

CONSENT AND APPROVAL OF LENDER

The Undersigned lender, which is the beneficiary under that certain Deed of Trust, dated September 19, 1996, recorded on September 27, 1996, at Document Number 96-0689705 of the records of the County Recorder of Maricopa County, Arizona (the "Deed of Trust"), as a first lien on the property described in the Deed of Trust, for and on behalf of itself and its successors and assigns, hereby acknowledges receipt of, consents to, and approves that certain Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Arroyo Rojo, dated October 17, 1996 (the "Declaration"), and agrees that its lien and all rights it may have with respect to the property described in the Deed of Trust are subject and subordinate to the Declaration; provided, however, that this consent and approval shall not constitute (1) a subordination of the lien of the Deed of Trust to any lien or charge created or arising pursuant to the terms of the foregoing Declaration, or (2) a waiver or relinquishment of any of the undersigned lender's rights or remedies under the terms and provisions of the Deed of Trust.

Dated Oct 31, 1996.

BANK ONE, ARIZONA, N. A., a
national banking association

By: Deborah L. Bliss

Its: Vice President

A

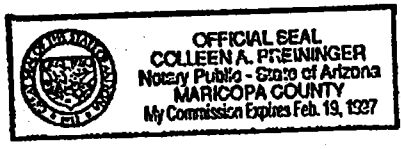
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this
31st day of October, 1996, by Bank One, Arizona, NA, a national banking
association, on behalf of the bank.

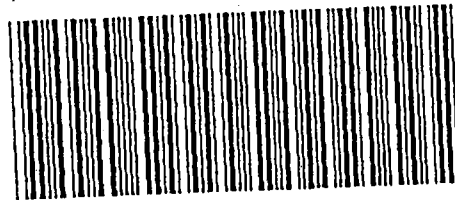
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Colleen Preninger
Notary Public

My Commission Expires:
2-19-97



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OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

96-0880225 12/18/96 03:52

LILIAN 13 OF 31

WHEN RECORDED MAIL TO:

Stardust Development, Inc.
Chris B. Heeter
5090 North 40th Street, Ste. 148
Phoenix, AZ 85018

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,

RESERVATIONS AND EASEMENTS

FOR

Presented for recording without liability
for acceptability or sufficiency by
FIRST AMERICAN TITLE.

ARROYO ROJO

The attached CC'R's which are recorded in instrument 96-0799284 on 11/12/96 are being re-recorded for the sole purpose of amending the legal description.

WHEN RECORDED, RETURN TO:

Stardust Development, Inc.
5090 North 40th Street, Suite 148
Phoenix, Arizona 85018
Attention: Chris Heeter



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

96-0799284 11/12/96 04:52

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
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First American Title Insurance Company

2525 CAMELBACK ROAD, SUITE 250 • PHOENIX, AZ 85016
PHONE: (602) 957-0511 • FAX: (602) 957-4385

COURTESY RECORDING INSTRUCTIONS

The undersigned hereby requests that First American Title Insurance Company at its convenience and as a courtesy to the requesting party, deliver for recording to the Maricopa County Recorder's Office the following documents:

1. Declaration by CC+R's for Arroyo Rojo.
2. _____
3. _____
4. _____

The undersigned understands and acknowledges that First American Title Insurance Company is acting in the capacity of messenger only, without consideration, and is not responsible for the correctness of the form, content or execution of any of the documents and that First American Title Insurance Company is hereby released of any liability in connection with the same. Further, the undersigned understands and acknowledges that First American Title Insurance Company assumes no responsibility or liability for any inconvenience or loss which might be sustained due to any delay in recordation of said documents.

The undersigned states that the real property affected by these documents is not involved in an open escrow, title insurance or other transaction pending with any office of First American Title Insurance Company.

PLEASE RECORD THE DOCUMENT(S) ON 12-11-96. IF YOU ARE UNABLE TO MEET OUR REQUEST PLEASE CALL THIS OFFICE IMMEDIATELY.

Dated: 12-11-96

Rina Rose
Signature of Requesting Party

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WHEN RECORDED, RETURN TO:

Stardust Development, Inc.
5090 North 40th Street, Suite 148
Phoenix, Arizona 85018
Attention: Chris Heeter



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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATIONS AND EASEMENTS
FOR
ARROYO ROJO**

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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS AND EASEMENTS
FOR
ARROYO ROJO

THIS DECLARATION of Covenants, Conditions, Restrictions, Reservations and Easements for Arroyo Rojo (the "Declaration") is made as of the 17th day of October, 1996, by STARDUST DEVELOPMENT, INC., an Arizona corporation ("Stardust"), and KEY CONSTRUCTION, INC., an Arizona corporation d/b/a TREND HOMES ("Declarant").

RECITALS

A. Stardust is the owner of certain real property situated in the County of Maricopa, State of Arizona described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property" or "Arroyo Rojo").

B. Declarant has an optionee's interest in the Property.

C. Declarant and Stardust desire that part or all of the Property be developed in two or more phases as an integrated development for single family residential use with such common area as may from time to time be designated pursuant hereto.

D. Declarant and Stardust desire that a nonprofit corporation (the "Association") be formed for the purpose of acquiring, constructing, operating, managing and maintaining any Common Areas on the Property, establishing, levying, collecting and dispersing the assessments and other charges imposed hereunder, and administering and enforcing this Declaration and enforcing the use and other restrictions imposed on various parts of the Property.

E. Declarant and Stardust desire that the Property be subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements (the "Covenants") hereinafter set forth in order to establish a general scheme for the development, sale, use and enjoyment of the Property for the purpose of enhancing and protecting the value, desirability and quality of life within the Property.

NOW, THEREFORE, Declarant, with the joinder of Stardust, hereby declares as follows:

ARTICLE 1

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

(a) "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

(b) "Assessable Property" shall mean any Lot included within the Property, except such part or parts thereof as may from time to time constitute Exempt Property.

(c) "Assessment" shall mean a Regular Assessment, Special Assessment, Capital Reserve Assessment, Maintenance Charge, plan review fee or any other fee or charge levied pursuant hereto.

(d) "Assessment Lien" shall mean the lien created and imposed by Article 7.

(e) "Association" shall mean the Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, its successors and assigns. Declarant hereby reserves the exclusive right to cause such Association to be incorporated. It is the present intent of the Declarant that the Association shall be referred to as the "Arroyo Rojo Homeowners Association." Declarant, however, shall be entitled to name the Association as it deems appropriate.

(f) "Board" shall mean the Board of Directors of the Association.

(g) "Bylaws" shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

(h) "Capital Reserve Assessment" shall mean any Assessment levied and assessed pursuant to Section 7.3.1 hereof.

(i) "Common Area" and "Common Areas" shall mean all real property and the improvements or amenities thereon, owned, controlled or operated by the Association (including without limitation areas used for landscaping, drainage, flood control, open areas and the like), or other rights running to the benefit of the Association and intended for the use and enjoyment

of the Owners and/or Residents of the Property, or with respect to which the Association has administrative, maintenance or other similar responsibilities.

(j) "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

(k) "Declarant" shall mean and refer to the above recited Declarant or any person or entity to whom any part or all of Declarant's rights reserved to the Declarant hereunder are assigned. The Declarant's rights shall only be assigned by a written, Recorded instrument expressly assigning those rights, and, for so long as Stardust owns a Lot, any proposed assignment must be approved in writing by Stardust, or its successors and assigns. Stardust shall have the right, but not the obligation, to execute and Record such an instrument.

(l) "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Reservations and Easements, as amended or supplemented from time to time.

(m) "Deed" shall mean a Deed or other instrument conveying the fee simple title in a Lot.

(n) "Design Review Committee" shall mean the committee of the Association to be created pursuant to Article 11 hereof.

(o) "Design Review Guidelines" shall mean those guidelines established by the Declarant and Stardust pursuant to Section 11.1 hereof and as otherwise established by Declarant and Stardust, acting together, or the Design Review Committee from time to time.

(p) "Designated Builder" shall mean (i) Declarant, so long as it owns a Lot, and (ii) an Owner regularly engaged in the business of building single-family detached residences, who owns Lots and constructs or intends to construct Dwelling Units on the Lots it owns and has been specifically designated as a Designated Builder hereunder pursuant to a written recorded instrument executed by Declarant and, for so long as it owns a Lot, Stardust.

(q) "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a Single Family.

(r) "Exempt Property" shall mean the following parts of the Property:

(i) All land and improvements owned by or dedicated to and accepted by the United States of America, the State of Arizona, Maricopa County, the City of Phoenix or any other political subdivision, for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective; and

(ii) All Common Areas, for as long as the Association is the owner thereof.

(s) "Lot" shall mean any area of real property within the Property designated as a Lot on the Plat Recorded by Declarant; as used herein, "Lot" shall include the improvements on a Lot.

(t) "Maintenance Charges" shall mean any and all costs assessed pursuant to Article 10 hereof.

(u) "Member" shall mean any person holding a Membership in the Association pursuant to this Declaration.

(v) "Membership" shall mean a Membership in the Association and the rights granted to the Owners, Stardust and Declarant pursuant to Article 6 hereof to participate in the Association.

(w) "Occupant" shall mean any person temporarily occupying any Dwelling Unit with the permission of the Declarant, Stardust or Owner thereof.

(x) "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot, but excluding the Declarant, Stardust and those who hold such title merely as security for the performance of an obligation. In the case of a Lot, the fee simple title to which is vested of Record in a seller under a valid and outstanding Agreement or Contract of Sale, as defined in A.R.S. §33-741, legal title shall be deemed to be in the purchaser under such Agreement or Contract of Sale. In the case of a Lot, the fee simple title to which is vested of Record in a trustee pursuant to A.R.S. §33-801, et seq., legal title shall be deemed to be in the Trustor. An Owner shall include any person who holds record title to a Lot in joint ownership with any other person or holds an undivided fee interest in any Lot. The rights and obligations of Declarant and Stardust as Owners of a Lot shall be separately set out herein.

(y) "Plat" shall mean and refer to the plat of survey of Arroyo Rojo, as recorded in Book ___ of Maps, at Page ___, Office of the County Recorder of Maricopa County, Arizona.

(z) "Property" and "Arroyo Rojo" shall mean the real property located in Maricopa County, Arizona described in Exhibit "A" attached hereto and incorporated herein.

(aa) "Recording" or "Recordation" shall mean placing an instrument of public record in the Office of the County Recorder of Maricopa County, Arizona, and "Recorded" shall mean having been so placed of public record.

(bb) "Regular Assessment" shall mean the charge levied and assessed each year against each Membership pursuant to Section 7.2 hereof.

(cc) "Resident" shall mean:

(i) Each Occupant actually residing on any part of the Assessable Property; and

(ii) Members of the immediate family of each Owner or Occupant actually living in the same household with such Owner or Occupant.

Subject to such rules and regulations as the Association may hereafter specify, the term "Resident" also shall include the guests or invitees of any such Owner or Occupant to the extent necessary to enforce the provisions hereof.

(dd) "Single Family" shall mean a group of one (1) or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Dwelling Unit.

(ee) "Special Assessment" shall mean any Assessment levied and assessed pursuant to Section 7.5 hereof.

(ff) "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is, or would be, visible to a person six (6) feet tall, standing on the same plane as the object being viewed at a distance of two hundred (200) feet or less from the nearest boundary of the Property being viewed.

ARTICLE 2

PROPERTY SUBJECT TO THE DECLARATION

Section 2.1 General Declaration Creating Arroyo Rojo. Declarant intends that the Property be developed generally in accordance with the Plat and that the Lots thereof be sold and

