

pertaining to the original violation, or any concurrent or subsequent violation, by any existing or subsequent Owner. No custom or practice at variance with the terms of this Declaration or any of the Governing Documents will constitute a waiver of the right to later demand strict and exact compliance with terms and conditions of this Declaration or any of the Governing Documents. However, this Section is subject to any protections a subsequent Owner may have by virtue of a Compliance Certificate, as provided in Part Two of this Declaration.

ARTICLE XXXXII
REMEDIES

Section 42.01: Right to Abate. The Developer and/or the Association may, but are not obligated to, after reasonable notice to the affected Owner, enter upon any Lot for the purpose of abating, removing and/or correcting any violation, or attempted or anticipated violation, of any of the provisions of this Declaration or any of the other Governing Documents. Except in the case of emergencies, any such action by the Association must be approved in advance by a resolution of the Board. All costs, expenses or charges incurred by the Association in abating, removing and/or correcting any violation will be at the expense of the affected Owner, and may be assessed against the Owner and the Lot as a Compliance Assessment, or collected directly as monetary damages under this Article. No other Person, including without limitation any Owner or Neighborhood Society, will have a right to pursue any form of "self-help" remedies under any circumstances.

Section 42.02: Suspension of Voting Rights and Privileges. The Association may, after reasonable notice, temporarily suspend an Owner's voting rights and other privileges for any violation of this Declaration or any of the other Governing Documents. Suspension of voting rights and other privileges in the Association will automatically and concurrently suspend the voting rights and other privileges of the affected Owner in the Neighborhood Society in which that Owner is a Member. Upon receiving such notice, the affected Owner may request, in writing, a hearing before the Board of the Association at which the affected Owner may show cause why the suspended voting rights and other privileges should be restored. If not restored sooner, all voting rights and other privileges of the affected Owner will automatically be restored when the violation for which the rights and other privileges were suspended is cured to the satisfaction of the Board.

Section 42.03: Compliance Assessments. The Association will have the right to levy a Compliance Assessment against any Owner to reimburse the Association and/or

Developer for those costs and expenses properly chargeable to the Owner under the terms of this Declaration or any of the other Governing Documents.

Section 42.04: Foreclosure of Assessment Lien. The Association will have the right to foreclose on the lien of any Assessment that is delinquent under the terms of this Declaration. Such foreclosure will be in the same manner as the foreclosure of mortgages or other types of liens on real property according to Applicable Law.

Section 42.05: Monetary Damages. The Developer, Association, any Neighborhood Society, or any Owner will have the right to seek money damages for any violation of this Declaration or any of the other Governing Documents if they have suffered a compensable loss under Applicable Law, or if a Court determines that it will not grant injunctive, declaratory or other equitable relief for such violation on the basis that there exists an adequate remedy at law, or that it would be otherwise inadequate to grant such injunctive, declaratory or other equitable relief. Claims for money damages may be pursued in lieu of, or in combination with, remedies for injunctive, declaratory or other equitable relief.

Section 42.06: Injunctive or Declaratory Relief. The Developer, Association, any Neighborhood Society, or any Owner will have the right to seek injunctive, declaratory or other equitable relief for any violation of this Declaration or any of the other Governing Documents if there exists no adequate remedy at law. For purposes of this Declaration, in any action by the Developer or the Association for injunctive relief there will be a conclusive presumption that any actual, anticipated or attempted violation of this Declaration or any of the other Governing Documents cannot be adequately remedied by an action at law or by recovery of monetary damages. No affected Owner may assert that such injunctive, declaratory or other equitable relief should not be granted on the basis that any violation is minor or insignificant, or that it would be an economic waste, impracticable, or create a disparate hardship to abate, remove and/or correct such violation.

Section 42.07: Injunction of Sale or Transfer. The Developer and/or the Association will have the right to enjoin the sale, gift, conveyance or other transfer of any interest in a Lot in which the Owner of the Lot, or the Lot itself, is in violation of this Declaration or any of the other Governing Documents. The injunction will remain effective only until such time as the violation is abated, removed and/or corrected to the reasonable satisfaction of the Developer or the Board of the Association.

Section 42.08: Repurchase Option. The Developer and/or the Association will have a Repurchase Option on any Lot upon which no substantial Work on any Improvements

has commenced, and in which the Owner of the Lot, or the Lot itself, is in violation of this Declaration or any of the other Governing Documents. If the Developer or the Association exercise the Repurchase Option, the Owner of the Lot will be obligated to convey fee title to the Lot to the Developer or Association on demand, free and clear of all liens and encumbrances (except the encumbrance of this Declaration), upon payment to the Owner of an amount equal to Ninety Percent (90%) of the original purchase price the Owner paid for that Lot.

Section 42.09: Other Remedies. The remedies provided in this Declaration are exclusive.

Section 42.10: Limitation on Remedies. All remedies provided in this Article are subject to the limitations of liability provided in the last Article of this Part Eight. All remedies are further subject, where applicable, to the alternative dispute resolution provisions in the next Article of this Part Eight.

Section 42.11: No Waiver or Election of Remedies. The pursuit of any one or more remedies will not preclude pursuit of any other remedy or remedies provided in this Declaration, separately, concurrently or in any combination. Further, the pursuit of one or more remedies will not constitute an election of remedies excluding the election of other remedies, or any forfeiture or waiver of amounts payable under this Declaration or any of the other Governing Documents by the affected Owner, or of any damages or other sums accruing by reason of the affected Owner's failure to fully and completely comply with this Declaration and the other Governing Documents. No waiver or forbearance by the Developer, Association, any Neighborhood Society, or any Owner, of any right or remedy on one occasion will be construed as a waiver of that right or remedy on any subsequent occasion, or as a waiver of any other right or remedy then or in the future existing.

ARTICLE XXXXIII **ALTERNATIVE DISPUTE RESOLUTION**

Section 43.01: Purpose of Article. The Developer has included this Article to encourage the amicable resolution of Claims among the Persons affected by and subject to this Declaration. The alternative dispute resolution provisions in this Article are intended to foster greater harmony throughout the Community by providing a system of settling Claims in a faster, more economical fashion than traditional court proceedings. It is the desire of the Developer that many Claims will be able to be resolved through alternative dispute resolution without the need for the parties to be represented by legal counsel, or to engage in the formal discovery procedures often

necessary in court proceedings. However, nothing in this Article will prohibit any Person from seeking the assistance of legal counsel if the Person believes that legal representation would be necessary or beneficial in protecting their legal rights.

Section 43.02: Procedures. The procedures described in this Article are intended to provide the general framework for alternative dispute resolution. The Board of Association will have the power to adopt, and from time to time amend, more specific procedures, guidelines or Rules and Regulations regarding alternative dispute resolution, consistent with the provisions of this Article. Further, the Board will have the power to delegate its administrative responsibilities (but not rule making authority) under this Article to any committee, officer, employee or agent selected by the Board for that purpose. Any Person with the right to assert a Claim under this Article will be entitled to receive a complete and current copy of all alternative dispute resolution procedures, guidelines or Rules and Regulations from the Association upon written request.

Section 43.03: Application to Selected Claims. Except as specifically exempted in this Section, all Claims arising out of or relating to the interpretation, application or enforcement of any of the Governing Documents, or the rights, obligations or duties of any Person affected by or subject to this Declaration, must be submitted, heard and decided under the alternative dispute resolution provisions in this Article. However, the following Claims are exempt from the provisions of this Article, and are not required to be submitted to alternative dispute resolution: (i) any Claims to which the Developer is a Claimant or Respondent; (ii) any Claims to which the Association, Board, or any Neighborhood Society or Council are a Claimant or Respondent; (iii) any Claim by the Developer or Association to enforce any provision of this Declaration or any of the other Governing Documents; (iv) any Claim to foreclose on the lien of any Assessment, as provided in this Declaration; (v) any Claims where the primary form of relief sought is a temporary restraining order, preliminary injunction, permanent injunction or any other form of equitable or declaratory relief; (iv) any Claim between Owners, or between Owners and any other Person(s) except the Developer, Association, Board, or any Neighborhood Society or its Council, which constitutes a cause of action independent of any of the Governing Documents; (v) any Claim in which an indispensable party is not subject to the provisions of this Article; or (vi) any Claim which must be instituted through a formal court proceeding as the only means of preserving the applicable statute of limitations on that Claim. If all parties who could otherwise assert an exemption to alternative dispute resolution under the preceding sentence of this Section

consent in writing, any Claim may be submitted and decided under the alternative dispute resolution procedures provided in this Article.

Section 43.04: Who is Bound by This Article. If any Claim properly determinable under this Article is asserted by any Owner against any other Owner(s) or Occupant(s), then all Owners and/or Occupants who are parties to that Claim will automatically be bound by and subject to the alternative dispute resolution provisions in this Article upon initiation of the Claim in the manner provided in the next Section. The Developer, Association or Board, or any Neighborhood Society or Council, may only be made parties to a Claim through, and will only be subject to, the alternative dispute resolution provisions in this Article with their prior written consent, which consent may be granted or refused in their sole and absolute discretion. Failure of the Developer, Association or Board, or any Neighborhood Society or Council, to affirmatively consent in writing to be made a party to a Claim through alternative dispute resolution within Thirty (30) days after receipt of a Notice of Claim will automatically be deemed to be a refusal, and not a grant, of its consent. If the Developer, Association or Board, or any Neighborhood Society or Council, agrees to participate as a party in an alternative dispute resolution proceeding, then it will be bound by and subject to all terms and conditions provided in this Article to the same extent as all other parties in the proceeding. Nothing in this Article prohibits the Developer, Association or Board, or any Neighborhood Society or Council, from initiating any Claim as the Claimant, and voluntarily submitting the Claim, under the alternative dispute resolution provisions of this Article, either before or during any court proceeding.

Section 43.05: Initiation of Claim. Any Person who is subject to the provisions of this Article must initiate any Claim that is required or permitted to be resolved through alternative dispute resolution by sending a Notice of Claim to the Respondent, and a copy to the Association. The Notice of Claim must be delivered to and received by the Respondent and the Association within whichever of the following time periods is longer: (i) Ninety (90) days after the occurrence of the event which gave rise to the Claim; or (ii) Ninety (90) days after the date on which the Claimant first discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the event which gave rise to the Claim. Failure of the Claimant to properly initiate a Claim in the manner and within the time limits stated in this Section will constitute a waiver of the Claim, will forever bar that Claimant from asserting that Claim against the Respondent, and will release the Respondent from any and all liability to the Claimant with respect to that Claim.

Section 43.06: Private Negotiation. Upon receipt of a Notice of Claim, all parties agree to make every reasonable effort to meet in person and attempt in good faith to resolve the Claim through private negotiations. Either the Claimant or any Respondent may, but will not be obligated to, request the Board to appoint a disinterested individual to serve only as a facilitator for the purpose of assisting in resolving the dispute by private negotiations. The private facilitator may charge a reasonable fee to the parties based upon fee guidelines established by the Board. If the Claim is not resolved through private negotiations to the satisfaction of all parties within Thirty (30) days after the Respondent's receipt of the Notice of Claim, the Claimant may in writing request the Board to submit the Claim to mediation under the next Section of this Article. Failure of the Claimant to properly request mediation within Fifteen (15) days after expiration of the applicable negotiation period, or failure of the Claimant to appear for the mediation, will constitute a waiver of the Claim, will forever bar that Claimant from asserting that Claim against the Respondent, and will release the Respondent from any and all liability to the Claimant with respect to that Claim. Negotiation under this Section is a precondition to Mediation under the following Section.

Section 43.07: Mediation. Upon receipt of a written request for mediation, the Board will assign the Claim to the Mediation Panel. The Mediation Panel may charge a reasonable fee to the parties based upon fee guidelines established by the Board. The Mediation Panel will schedule the Claim for mediation at the earliest possible opportunity available on the schedule of the Mediation Panel and reasonably convenient to all parties, but no later than Thirty (30) days after the date of receipt of the request for mediation without the consent of all parties. The parties agree to follow the rules and procedures of the Mediation Panel, and to promptly prepare and present their position on the Claim in a clear and concise manner. The Mediation Panel will within a reasonable time after the mediation prepare and issue to the parties a written recommendation for resolution of the dispute. If any party desires to reject the recommendation of the Mediation Panel, that party must within Fifteen (15) days after receipt of the Mediation Panel's recommendation submit the matter for hearing and decision by arbitration in the manner described in the next Section of this Article. If no party properly submits the matter to arbitration within the required time, then the recommendation of the Mediation Panel will become the final and binding resolution of the Claim, and will be enforceable in the manner provided later in this Article. Mediation under this Section is a precondition to arbitration under the next Section.

Section 43.08: Arbitration. Any party who desires to reject the recommendation of the Mediation Panel and to submit the resolution of a Claim to arbitration must send a written request for arbitration to all other parties and to the American Arbitration Association within the time required in the preceding Section. The parties will then present their positions on the Claim for hearing and decision in accordance with the Rules of the American Arbitration Association. The arbitration will be heard by a single arbitrator, unless any party requests a panel of arbitrators. The decision of the arbitrator(s) will be final and binding on all parties, and will be enforceable in the manner provided in the next Section of this Article.

Section 43.09: Enforcement of Resolution of Claim. All Persons who are parties to any Claim properly submitted to alternative dispute resolution under this Article agree to be bound by the final resolution, decision or award of the Claim, as reached in the manner described in this Article. If any party to an alternative dispute resolution proceeding under this Article fails to abide by the resolution, decision or award within the time required (or if no time is specified, then within a reasonable time determined by the Board) then the other party may initiate formal court proceedings to obtain judgment on the resolution, decision or award, and to enforce the resolution, decision or award, without the need to again comply with the procedures described in this Article with respect to that Claim.

Section 43.10: Allocation of Costs. Each party to any alternative dispute resolution proceeding under this Article will be responsible for their own costs and expenses incurred in connection with the proceeding, including without limitation any fees of attorneys or other professionals. All costs, expenses or other charges of the Mediation Panel (if any) and any arbitrator or arbitration panel will be paid by the parties in equal shares. However, if: (i) a party properly proceeds to enforce the resolution, decision or award of any Claim under the preceding Section of this Article; or (ii) if the final decision or award of arbitration includes a specific finding (by clear and convincing evidence) that a Claim was frivolous, then the costs and expenses of the prevailing party will be fully recoverable from the non-complying party or the party asserting the frivolous Claim in the same manner, and to the same extent, permitted in court proceedings under the next Article of this Declaration. For purposes of this Declaration, a Claim or conduct of a party will be considered "frivolous" if: (i) it serves merely to harass or maliciously injure another party; (ii) was not warranted under existing law and could not be supported by a good faith argument for an extension, modification or reversal of existing law; (iii) could not be supported by a good faith argument for the

establishment of new law; or (iv) the allegations or other factual contentions had no evidentiary support.

Section 43.11: Venue for Alternative Dispute Resolution. Any alternative dispute resolution proceeding permitted and properly instituted under this Article must be brought by the Claimant, heard and decided only in Greene County, Ohio. The Developer, Association and Board, all Neighborhood Societies and Councils, and all Owners, Occupants, Users and every other Person claiming under or through any of them, consent to the venue provided in this Section, and will not will not request a different location for conducting any alternative dispute resolution proceedings with respect to any Claims governed by this Article.

ARTICLE XXXXIV **COURT PROCEEDINGS**

Section 44.01: When Permitted. Although the Developer has included the alternative dispute resolution provisions in this Declaration, the Developer acknowledges that formal court proceedings are sometimes necessary. It is the desire of the Developer that all Persons affected by this Declaration will only pursue formal court proceedings as a last resort to resolving Claims, but that is not a requirement of this Declaration. Therefore, any Claim that is not required under the terms of this Declaration to be resolved under the alternative dispute resolution provisions in the preceding Article may be instituted and pursued through formal court proceedings in the manner provided by Applicable Law, but subject to the remaining Sections of this Article.

Section 44.02: Consensus of Association for Litigation. Except as provided in this Section, the Association will not commence any court proceedings against any Owner or Occupant without the prior approval of at least Sixty-Seven Percent (67%) of the Voting Members. Further, the Association will not commence any court proceedings against the Developer without the prior approval of at least Seventy-Five Percent (75%) of the Voting Members. A Voting Member who has a direct personal interest in the Claim at issue must abstain from voting on that issue. In that situation, the next most senior officer of the Neighborhood Society represented by the abstaining Voting Member will vote on behalf of that Neighborhood Society as its Voting Member. The requirements in this Section do not apply to the following situations: (i) the imposition or collection of Assessments; (ii) the foreclosure of liens for Assessments; (iii) actions brought by the Association for injunctive relief or declaratory relief; or (iv) counterclaims, cross-claims or third-party claims brought by the Association in any court proceedings instituted against it.

Section 44.03: Consent to Jurisdiction and Venue. Any court proceedings relating to this Declaration or any of the other Governing Documents may be filed only in the Common Pleas Court of Greene County, Ohio, or in the Federal District Court for the Southern District of Ohio, Western Division at Dayton, if the federal Court has proper subject matter jurisdiction. If any court proceeding is filed in any other Court, the case must promptly be removed to one of the Courts in which it should have originally been filed under this Section. The Developer, Association and Board, all Neighborhood Societies and Councils, and all Owners, Occupants, Users and every other Person claiming under or through any of them, consent to the personal jurisdiction of and venue in those Courts. None of them will contest the personal jurisdiction of those Courts over them or the venue of those Courts with respect to any Claims governed by this Declaration.

Section 44.04: Recovery of Costs and Expenses in Litigation. Unless otherwise specifically prohibited by Applicable Law, in addition to all other damages and/or legal or equitable remedies to which a party may be entitled in a court proceeding under this Article, the prevailing party in that court proceeding will also be entitled to recover from the party or parties against whom the judgment or award is rendered all costs and expenses incurred by the prevailing party as a direct result of the court proceeding. This includes, without limitation: (i) reasonable fees and reimbursable expenses of attorneys, accountants or other professionals who provided services to the prevailing party in connection with the court proceeding; (ii) court reporter fees and expenses; (iii) court costs; and (iv) interest on any monetary judgement or award, computed at the maximum statutory rate for judgments from the date the Claim first arose. If the judgment or award is rendered against more than one party, then the recoverable costs and expenses under this Article will be the joint and several obligation of all of those parties, unless the Court orders a specific allocation of the recoverable costs and expenses. If the Claim is settled prior to the Court rendering final judgment or award, the costs and expenses described in this Section will only be recoverable if, and to the extent, specifically included in the final settlement agreement between the litigating parties.

ARTICLE XXXXV
LIMITATION OF LIABILITY

Section 45.01: Limitation of Liability for Seeking Remedy. No Owner, the Developer or any Related Entity, Association or Board, any Neighborhood Society or Council, the DRB, any other committee, subcommittee or board of the Association or a

Neighborhood Society, any trustees, officers, members, employees, or agents in their personal capacities, or any of their respective successors or assigns, will be liable to any Person for seeking any remedies pursuant to this Declaration. This includes, without limitation, any liability for: (i) interference with existing or prospective business relationships or opportunities; (ii) interference with existing or prospective contractual relationships or opportunities; (iii) emotional distress; (iv) slander of title; and (v) abuse of process and/or malicious prosecution. However, if a Court determines, by clear and convincing evidence, that pursuit of a remedy or the assertion of a Claim was frivolous conduct (under the standard described in the Article of this Declaration entitled "Alternative Dispute Resolution"), the limitation of liability provided in this Section will not apply.

Section 45.02: Limitation of Liability of Developer. Unless otherwise specifically provided in this Declaration or Applicable Law, neither the Developer, its Related Entities, nor any of its owners, partners, shareholders, directors, officers, employees, agents, representatives or consultants in their personal capacities, nor any of their respective successors or assigns, will be liable to the Association or Board, any Neighborhood Society or Council, the DRB, any other committee, subcommittee or board of the Association or a Neighborhood Society, any trustees, officers, members, employees, or agents in their personal or official capacities, or any of their respective successors or assigns, or any Owner, Occupant, User or any other Person claiming under or through any of them, for any Claim arising out of, in connection with, or as a direct or indirect result of any decision, mistake of fact or judgment, or any other act or omission of the Developer, unless the same is a direct and proximate result of wilful or criminal misconduct on the part of the Developer. The provisions of this Section must be interpreted in their broadest sense, and will include without limitation any Claim of whatever nature or description actually or allegedly due, in whole or in part: (i) in connection with any personal injury to or death of any Persons, or loss, damage or destruction of any real property or tangible or intangible personal property wherever located and however caused; or (ii) under or outside of a theory of contract or tort law; (iii) by reason of any act or omission by or on behalf of the Developer in any capacity that were performed, or delegated for performance, according to the provisions of this Declaration or any of the other Governing Documents; or (iv) in connection with the planning, construction, development, creation, organization, operation, management, Work or other activities of any portion or aspect of the Community.

Section 45.03: Limitation of Liability of Association and Related Parties. Unless otherwise specifically provided in this Declaration, any of the other Governing Documents, or Applicable Law, neither the Association or Board, any Neighborhood Society or Council, the DRB, any other committee, subcommittee or board of the Association or a Neighborhood Society, any trustees, officers, officers, members, employees, or agents in their personal capacities, or any of their respective successors or assigns, will be liable to any or any Owner, Occupant, User or any other Person claiming under or through any of them, for any Claim arising out of, in connection with, or as a direct or indirect result of any decision, mistake of fact or judgment, or any other act or omission by or through them, unless the same is a direct and proximate result of wilful or criminal misconduct.

PART NINE - TRANSITION OF CONTROL

This Master Declaration reserves various rights to the Developer in order to facilitate the smooth and orderly development of the Community and to accommodate changes in the Master Plan which inevitably occur as a community the size of Stonehill Village grows and matures.

ARTICLE XXXXVI

DEVELOPER'S RESERVATION OF RIGHTS

Section 46.01: Purpose. The Purpose of this Part of the Declaration is to describe the rights, powers and authority that the Developer has specifically retained concerning its development, management, use and ownership of Property during the Development Period. The rights, powers and authority described in this Part are in addition to, and do not serve as a restriction or limitation of, any other rights, powers or authority reserved by or granted to the Developer in any other Part of this Declaration, or in any of the other Governing Documents. By acceptance of a deed to a Lot, each Owner unconditionally acknowledges and agrees that all rights, powers and authority of the Developer described in this Declaration and all of the other Governing Documents are material, reasonable and necessary for proper development of the Community.

Section 46.02: Exclusive Control Over Associations. During the Development Period, the Developer will have the complete and exclusive right and power to control the formation, organization, management, operation, decisions and all other aspects of the Association and all Neighborhood Societies. The rights and powers reserved by the Developer in this Section will be without any limitations, and will continue throughout the entire Development Period without exception. All rights and powers granted to the

Members, Association and all Neighborhood Societies under this Declaration or any of the Governing Documents will be subject and subordinate to the rights of the Developer during the Development Period.

Section 46.03: Exclusive Control Over Boards and Councils. During the Development Period, the Developer will also have the complete and exclusive right and power to control the formation, organization, management, operation, decisions and all other aspects of the Board of the Association, the Councils of all Neighborhood Societies, the DRB, and all officers, committees, subcommittees, panels, boards, employees, volunteers and agents of the Association and all Neighborhood Societies. The rights and powers reserved by the Developer in this Section will also be without any limitations, and will continue throughout the entire Development Period without exception. All rights and powers granted to the Board, Councils, the DRB, and all officers, committees, subcommittees, panels, boards, employees, volunteers and agents of the Association and all Neighborhood Societies under this Declaration will be subject and subordinate to the rights of the Developer during the Development Period. Without limiting the Developer's rights under this Section, the following are specific requirements which must be followed in order to preserve the Developer's rights and powers:

- A. Appointment of Trustees and Others. The Developer will have the right to appoint, approve, and/or remove any and all of the officers, members of the Board, the Councils, the DRB, and all committees, subcommittees, panels and boards, and all employees, volunteers and agents of the Association and all Neighborhood Societies.
- B. Notice of Meetings. The Developer must receive timely notice of all meetings of the Association, Neighborhood Societies, Board, Councils, DRB, and all other committees, subcommittees, panels and boards of the Association and all Neighborhood Societies.
- C. Right to Participate. The Developer, either by itself or through any other Person designated by the Developer, will have the right to attend and participate in all meetings of the Association, Neighborhood Societies, Board, Councils, DRB, and all other committees, subcommittees, panels and boards of the Association and all Neighborhood Societies.
- D. Right to Disapprove Actions. The Developer will have the right to approve, disapprove, or modify all actions, decisions, recommendations, Rules and Regulations, policies programs and other activities of the

Association, Neighborhood Societies, Board, Councils, DRB, and all other committees, subcommittees, panels and boards of the Association and all Neighborhood Societies. If the Developer does not exercise its right to disapprove or modify such matters by written notice to the acting body within Ten (10) days after the matter is initially decided or implemented, then the Developer will be deemed to have waived this right as to that particular matter.

Section 46.04: Right to Use for Sales Purposes. During the Development Period, the Developer further reserves the right to exercise all rights and powers to conduct any activities relating to the marketing, advertising, sale, lease, identification, description or any other form of promotion concerning any Lot, Neighborhood or the Community. The Developer may exercise this right in conjunction with, or separate and apart from, the Developer's Marketing Easements reserved in Part Two of this Declaration. The Developer may in writing assign to any Builder(s) a concurrent right to exercise any portion of the Developer's sales and marketing rights under this Section, subject to the Builder's compliance with all requirements under the DRS regarding such matters.

Section 46.05: Signs and Marketing. During the Development Period, the Developer will further have the right to display any signs, flags, banners, billboards, and/or other marketing devices the Developer desires upon its Lots and/or within the Common Areas, irrespective of size, color, shape, content or materials used. This right may also be exercised in conjunction with, or separate and apart from, the Developer's Marketing Easements reserved in Part Two of this Declaration. The Developer may, in writing, assign to any Builder(s) a concurrent right to exercise any portion of the Developer's rights under this Section, subject to the Builder's compliance with all requirements under the DRS regarding such matters. The Developer and any authorized Builder will have the right to remove all signs, flags, banners, billboards, and/or other marketing devices whether or not they have become fixtures, and agree to cause such removal within Thirty (30) days after the sale of the Lot or Lots to which they apply.

Section 46.06: Exercise of the Developer's Rights and/or Discretion. To the extent that the Developer is empowered in this Declaration or any of the other Governing Documents to undertake any action, to make any decision or determination, or to exercise any other right, privilege, or power, such action, decision and/or exercise will be at the sole, complete and absolute discretion of the Developer, without the need for any review, approval, consent or authorization by any other Person whatsoever.