

repairs and/or replacement, Declarant or Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. A Claimant shall not pursue any legal remedies until the Claimant has permitted the Declarant or Builder, as applicable, to exercise its rights under this *Section 10.1.2*.

10.2 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on Declarant or any Builder to inspect, test, repair, or replace any item or Alleged Defect for which such Declarant or Builder is not otherwise obligated under applicable law or any warranty provided by Declarant or Builder in connection with the sale of Lots, Dwelling Units and/or other Improvements constructed on the Property. The right reserved to Declarant and Builder to enter, inspect, test, repair and/or replace an Alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to Declarant or any Builder except by a written and Recorded document executed by Declarant or any such Builder, as applicable.

10.3 Legal Actions. All legal actions initiated by a Claimant shall be brought in accordance with and subject to *Section 10.4* of this Declaration. If a Claimant initiates any legal action, cause of action, regulatory action, proceeding, mediation, or arbitration against Declarant or Builder alleging (a) damages for Alleged Defect Costs, (b) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (c) for any consequential damages resulting from such Alleged Defect; any judgment or award in connection therewith shall first be used to correct and/or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. If the Master Association as a Claimant recovers any funds from Declarant or any Builder (or any other Person) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid into the Master Association's Capital Reserve Fund. If the Master Association is a Claimant, the Master Association must provide a written notice mailed to all Members prior to initiation of any legal action, regulatory action, cause of action, proceeding, reference, mediation or arbitration against Declarant or any Builder(s) which notice shall include at a minimum (i) a description of the Alleged Defect; (ii) a description of the attempts of the Declarant or any Builder(s) to correct such Alleged Defect; (iii) a certification from an architect or engineer licensed in the State of Arizona that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such architect or engineer; (iv) the estimated cost to cure the Alleged Defect; (v) the name and professional background of the attorney retained by the Master Association to pursue the claim against the Declarant or the Builder(s) in question and a description of the relationship between such attorney and member(s) of the Board or the Master Association's management company, (if any); (vi) a description of the fee arrangement between such attorney and the Master Association; (vii) the estimated attorneys' fees, and expert fees and costs necessary to pursue the claim against the Declarant or Builder(s) in question, and the source of the funds which will be used to pay such fees and expenses; (viii) the estimated time necessary to conclude the action against the Declarant or Builder(s); (ix) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Master Association and its Members; and (x) notice of a special meeting of the Members to conduct an affirmative vote of the majority of all its Members entitled to vote, at a duly called meeting of the Master Association, all in accordance