

with the Bylaws of the Master Association. Notwithstanding any other provision in this Declaration, the Master Association shall have the power and authority to make claims related to Alleged Defects in the Master Common Areas. In no event shall the Master Association have the power or authority to assert any claim related to any Alleged Defect which Alleged Defect relates solely to a Lot or Lots owned by the Members.

10.4 Alternative Dispute Resolution. Any dispute or claim between or among (a) Declarant or any Builder (or its respective brokers, agents, consultants, contractors, subcontractors, or employees) on the one hand, and any Owner(s) who is not the Declarant or a Builder or the Master Association, on the other hand; or (b) any Owner and another Owner arising out of this Declaration; or (c) the Master Association and any Owner regarding any controversy or claim between the parties, including any claim based on contract, tort, or statute, arising out of or relating to (i) the rights or duties of the parties under this Declaration; (ii) the design or construction of any Improvements; (iii) or an Alleged Defect, but excluding disputes relating to the payment of any type of Assessment or enforcement of this Declaration against an Owner (collectively a "Dispute"), shall be subject first to negotiation, then mediation, and then binding arbitration as set forth in this **Section 10.4**.

10.4.1 Negotiation. Each party to a Dispute shall make every reasonable effort to meet in Person and confer for the purpose of resolving a Dispute by good faith negotiation. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the dispute by negotiation, if in its discretion the Board believes its efforts will be beneficial to the parties and to the welfare of the community. Each party to the Dispute shall bear his/her/its own attorneys' fees and costs in connection with such negotiation.

10.4.2 Mediation. If the parties cannot resolve their Dispute pursuant to the procedures described in **Subsection 10.4.1** above within such time period as may be agreed upon by such parties (the "Termination of Negotiations"), the party instituting the Dispute (the "Disputing Party") shall have thirty (30) days after the Termination of Negotiations within which to submit the Dispute to mediation pursuant to the mediation procedures adopted by the American Arbitration Association ("AAA") or any successor thereto or to any other independent entity providing similar services upon which the parties to the Dispute may mutually agree. No Person shall serve as a mediator in any Dispute in which such Person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. If the Disputing Party does not submit the Dispute to mediation within thirty (30) days after Termination of Negotiations, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to Persons not a party to the forgoing proceedings.