

**10.8 Order of Liability.** As between Declarant and Builder, Builder shall be primarily responsible for the liability to Claimants and other Persons for any Alleged Defect or other defects relating to Dwelling Units. The presumption shall be that any Alleged Defect was due to the actions or inactions of the Builder rather than the Declarant. In the event any Claimant brings any claim related to any construction or engineering defect as to a specific Lot or Dwelling Unit, the Builder or engineer shall indemnify and hold Declarant harmless as to that claim and shall reimburse Declarant for Declarant's total and complete cost of defense.

**10.9 Exclusions.** Neither the Declarant nor any Builder shall be liable for damages or any defects caused by (a) normal wear and tear, (b) use of property other than normal usage by Owners, Master Association Members or third parties, (c) alterations by the Owners other than Builders, or (d) reliance by Declarant or Builder on engineering or other reports.

**10.10 Rights Against Builder.** Nothing in this Declaration shall limit the right of the Master Association or the Owner of a Lot to pursue appropriate remedies against a Builder through the Arizona Registrar of Contractors.

## **ARTICLE 11** **MAINTENANCE**

**11.1 Master Common Areas and Public Rights-of-Way.** The Master Association, or its duly delegated representative, shall in the exercise of its discretion, maintain and otherwise manage, all Master Common Areas, including, but not limited to, landscaping, walkways, parks, paths, greenbelts, parking areas, drives and other facilities. The Master Association may also maintain any landscaping and other improvements not on Lots which are within the exterior boundaries of the Property within areas shown on a Plat for any Tract within the Property and which are intended for the general benefit of the Owners and Residents of the Property, except the Master Association shall not maintain areas which (a) [\_\_\_\_\_] *County/City of* [\_\_\_\_\_] / or other governmental entity is maintaining, or (b) are required to be maintained by the Owners of a Lot, either through a Subsidiary Association or otherwise. The Master Association shall, in the discretion of the Board:

- (i) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon Master Common Areas;
- (ii) Replace injured and diseased trees and other vegetation in any Master Common Area and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (iii) Place and maintain upon any Master Common Area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;