



Received Date: _____
Tracking #: _____

TREE TRIMMING AND REMOVAL WAIVER AND RELEASE AGREEMENT

This Waiver and Release Agreement (“Agreement”), effective as of the last date of execution set forth below, is made and entered into by and between the Rancho San Clemente Community Association, a California non-profit mutual benefit corporation (“Association”) on the one hand, and

_____ (hereinafter collectively “Owner”), on the other hand. Owner is the owner of real property located within the Association which is described as _____, San Clemente, California (hereinafter “Subject Property”). The Association and Owner may be referred to herein from time to time individually as a “Party” or collectively as the “Parties”.

Owner has requested that the Association trim or remove a tree located on Association Property (as that term is defined in the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Rancho San Clemente), which tree is further described as located at _____ (“Subject Tree”). Although the Subject Tree is maintained by the Association as part of its regular maintenance in accordance with a schedule of maintenance prepared by the Association’s arborist, the Owner is requesting to have the Subject Tree trimmed or removed in between the Association’s scheduled cycle of phases. The Association is advised that the cost to perform such trimming or removal is estimated to be \$ _____.

In consideration of the Association agreeing to, and performing, the trimming or removal of the Subject Tree, Owner agrees to tender payment of the Association for the cost of such trimming in the amount of the Trimming or Removal Estimate. Owner also hereby fully releases, acquits, waives and discharges the Association, its representatives, directors, officers, members, successors, agents, attorneys and employees from any and all claims, damages, controversies, liabilities, demands, debts, encumbrances, losses, costs, expenses, attorney’s fees and causes of action of every nature, character and description, known or unknown, which Owner has, had, claims to have, or hereafter may acquire (collectively “Claims”), related to, or arising from, this Agreement, as well as the Association’s action or inaction relating to the Subject Tree, including any Claims relating to or arising from any alteration or damage to the site drainage, site soils conditions, and hardscape or landscaping upon the Subject Property or Association Property, and/or any other damage or injury to person or property, contents, fixtures, or other improvements upon the Subject Property. Owner also agrees that the methodology for the trimming of the Subject Tree (including, but not limited to, the extent of foliage removed), as well as the selection of the arborist and/or landscape contractor, shall be at the sole discretion of the Association as recommended by the arborist, and Owner expressly waives and releases any Claims in that regard.

Owner understands that §1542 of the *California Civil Code* provides that:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

Owner expressly waives any right he, she and/or or it may have under *Civil Code* §1542, as well as any other statute or common law principal of similar effect. Notwithstanding the above, the release/waiver language contained herein shall not operate to waive any of the terms and/or provisions of the

