

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

**SECOND AMENDMENT TO
AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

THIS SECOND AMENDMENT TO AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Amendment") is made and entered into as of the 30th day of April, 2009 by **DANIEL SENIOR LIVING OF INVERNESS II, LLC**, an Alabama limited liability company ("Developer"), and **LAKE HEATHER HOMEOWNERS' ASSOCIATION, INC.**, an Alabama nonprofit corporation (the "Association").

R E C I T A L S:

Developer and the Association have heretofore entered into an Agreement and Declaration of Restrictive Covenants dated effective as of May 1, 2008 (the "Agreement") which has been recorded in Instrument 20080501000179670 in the Office of the Judge of Probate of Shelby County, Alabama.

Developer and the Association desire to amend the Agreement in the matter hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and the Association do hereby agree as follows:

1. Paragraph 6 of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

"6. A landscaped buffer (inclusive of landscaping and irrigation) shall be installed by and at the expense of Developer substantially in compliance with the plan provided by Lappas & Havener (the "Lake Heather Drive Buffer"). The Secondary Emergency Access, as described in paragraph 2 above, shall also be constructed by Developer within the Lake Heather Drive Buffer. Subject to the provisions of paragraph 7 below, the landscaping and irrigation within the Lake Heather Drive Buffer shall be maintained to the same standards as the other common area landscaping within the Property by and at the expense of the Developer or the owners' association established for the Property after turnover by the Developer as provided for in Paragraph 26 of this Agreement. The Lake Heather Drive Buffer shall be restricted to the forgoing uses only. No additional improvements or uses shall be allowed on or within the Lake Heather Drive Buffer except as authorized by this paragraph 6.

(a) If Developer fails to maintain the Lake Heather Drive Buffer to the same standards as the other common area landscaping within the Property, the Association shall have the right, upon 30 days prior written notice to the

Developer, to enter upon the Lake Heather Drive Buffer and cause all such maintenance work to be completed, in which event the Developer will, on demand, reimburse the Association for all reasonable costs and expenses incurred in connection therewith, together with interest thereon at the rate of 12% per annum.

(b) All costs and expenses paid or incurred by the Association in enforcing the terms and provisions of this paragraph 6 regarding the irrigation, landscaping and maintenance of the Lake Heather Drive Buffer shall also, including, without limitation reasonable attorneys' fees and expenses, will be due and payable on demand by the Developer.

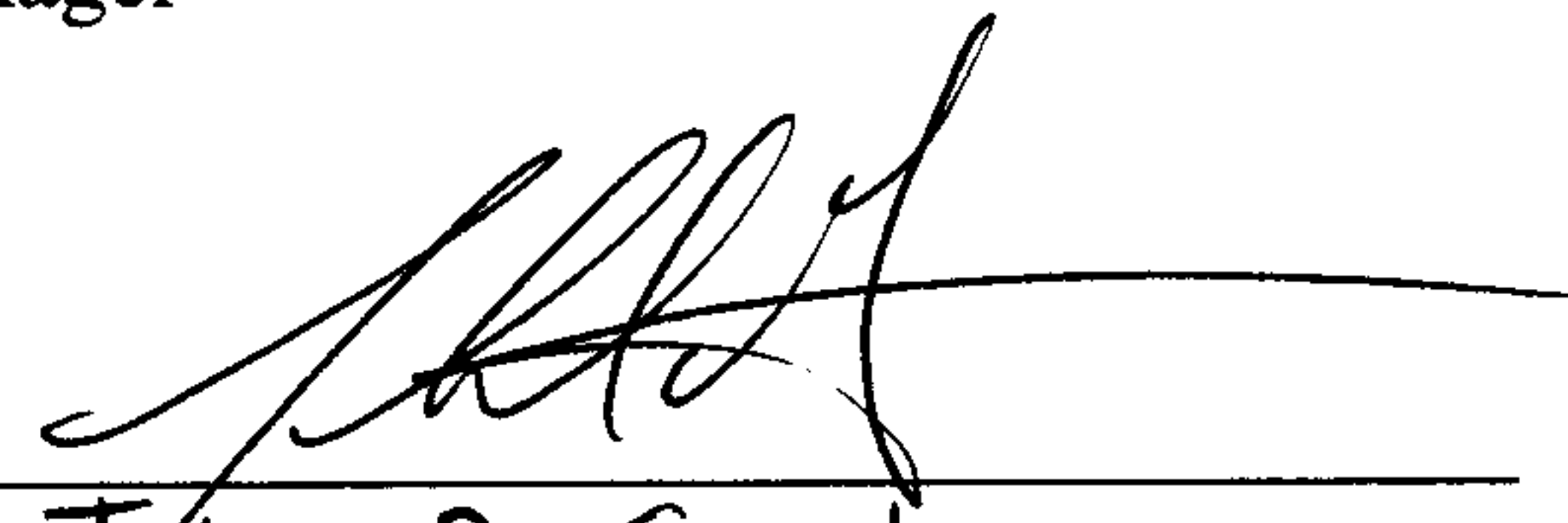
(c) To the extent that any landscaping, irrigation or maintenance of the Lake Heather Drive Buffer is precluded by the actions of the State or local government (e.g., a drought order), the Association shall not have any rights to enforce the provisions of this paragraph."

2. **Full Force and Effect.** Except as expressly modified and amended herein, all of the terms and provisions of the Agreement shall remain in full force and effect and are hereby ratified, confirmed and approved by Developer and the Association.

IN WITNESS WHEREOF Developer and the Association have executed this Amendment as of the day and year first above written.

DANIEL SENIOR LIVING OF INVERNESS II,
LLC

By: Daniel Management Corporation, Its
Manager

By: 
Name: John D. Gunderson
Its: Senior Vice President

STATE OF ALABAMA)
COUNTY OF Jefferson)

20090511000177260 3/4 \$20.00
Shelby Cnty Judge of Probate, AL
05/11/2009 03:42:18 PM FILED/CERT

I, the undersigned, a notary public in and for said county in said state, hereby certify that John D. Gunderson, whose name as Senior Vice President of DANIEL MANAGAGEMENT CORPORATION, an Alabama corporation, as Manager of DANIEL SENIOR LIVING OF INVERNESS II, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation in its capacity as Manager of the aforesaid limited liability company.

Given under my hand and official seal this 1st day of April, 2009.

Chris C. Tortorelli

Notary Public

[NOTARIAL SEAL]

My commission expires: March 3, 2012

LAKE HEATHER HOMEOWNERS'
ASSOCIATION, INC.

By: Terry Pondor

Name: TERRY PONDOR

Its: PRESIDENT

STATE OF ALABAMA)
COUNTY OF Shelby)

20090511000177260 4/4 \$20.00
Shelby Cnty Judge of Probate, AL
05/11/2009 03:42:18 PM FILED/CERT

I, the undersigned, a notary public in and for said county in said state, hereby certify that Terry Ponder, whose name as _____ of Lake Heather Homeowners' Association, Inc. an Alabama not-for-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 30th day of April, 2009.



Notary Public

[NOTARIAL SEAL]

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Nov 4, 2010
ELECTED BY THE NOTARY PUBLIC MEETING

This instrument prepared by:
Stephen R. Monk
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203-2104