

**Note to recording office regarding amount of Privilege Tax: Privilege tax has been paid on \$13,672,000.00 previously advanced; the new advance amount is \$4,990,605.00; therefore, tax is owed on \$4,990,605.00.**

THIS INSTRUMENT WAS PREPARED BY  
AND AFTER RECORDING RETURN TO:

*ml*  
Jennifer L. Powell  
Balch & Bingham LLP  
1901 6th Avenue North  
Suite 2700  
Birmingham, Alabama 35203

10.50

20080403000427950 1/3  
Bk: LR200861 Pg:17776  
Jefferson County, Alabama  
I certify this instrument filed on:  
04/03/2008 11:19:13 AM MTG  
Judge of Probate- Alan L. King

STATE OF ALABAMA )

COUNTY OF JEFFERSON )

20080229000273940 1/3  
Bk: LR200803 Pg:6257  
Jefferson County, Alabama  
I certify this instrument filed on:  
02/29/2008 02:47:09 PM MTG  
Judge of Probate- Alan L. King

### AMENDMENT TO MORTGAGE

This Amendment to Mortgage dated as of the 27th day of February, 2008, is executed by D. Bruce Irwin, also known as D. Bruce Irwin, M.D., also known as Donald Bruce Irwin, a married man (the "Borrower"), as mortgagor, in favor of Compass Bank, an Alabama banking corporation (the "Lender"), as mortgagee.

### Recitals

**WHEREAS**, Borrower is indebted to Lender as evidenced by a Term Promissory Note dated July 6, 2004 in the amount of \$11,872,000.00 (the "Note"), and secured by a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement granted to the Lender dated as of July 6, 2004, recorded on July 8, 2004 in Instrument Number 200409/4474 in the Office of the Judge of Probate of Jefferson County, Alabama, Birmingham Division, recorded on July 8, 2004 under Instrument Number 200462/2691 in the Office of the Judge of Probate of Jefferson County, Alabama, Bessemer Division, recorded on July 8, 2004 under Instrument Number 20040708000378460 in the Office of the Judge of Probate of Shelby County, , recorded on July 9, 2004 in RLPY 2915, Page 806 in the Office of the Judge of Probate of Montgomery County, recorded on July 12, 2004 in Instrument Number 822682 in the Office of the Judge of Probate of Baldwin County and recorded on July 14, 2004 under Instrument Number 20040714000225230 in the Office of the Judge of Probate of Madison County (the "Mortgage").

**WHEREAS**, the Mortgage secured an original principal amount of \$13,672,000.00 (such amount being comprised of two loans, represented by the Note and that certain Term Promissory Note dated July 6, 2004 executed by American Family Care, Inc. in the amount of \$1,800,000.00) and all other indebtedness recited in the Mortgage.

**WHEREAS**, Borrower repaid the loan evidenced by the Note down to \$9,573,395, and now desires an additional advance in the amount of \$4,990,605.000, so that the total amount secured by the Mortgage upon the execution of this Amendment to Mortgage is \$16,364,000.00; and

WHEREAS, Borrower and Lender desire to amend the terms of the Mortgage as set forth herein.

**Agreement**

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the Borrower agrees with Lender as follows:

1. All other provisions of the Mortgage shall remain in full force and effect, except for the following:

(i) the first "WHEREAS" clause on the first page is hereby deleted and the following clause is inserted in its place:

"WHEREAS, Borrower is justly indebted to Bank on a loan (the "Loan") in the principal sum of FOURTEEN MILLION FIVE HUNDRED SIXTY-FOUR THOUSAND AND NO/100 DOLLARS (\$14,564,000.00), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated as of the 6th day of July, 2004, as amended by that certain Loan Modification Agreement and Amendment to Loan Documents between Borrower and Lender dated the 27th day of February, 2008, and payable to Bank with interest thereon ("Note") on demand or as otherwise provided in the Note; and"

2. The Mortgage, as amended herein, is hereby restated, republished and affirmed by Mortgagor in its entirety, including, without limitation, each and every representation, warranty, covenant and agreement made by Mortgagor therein.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to Mortgage to be executed on the date of the acknowledgment of their signatures below.


**BORROWER:**

D. Bruce Irwin, MD.  
D. BRUCE IRWIN

**LENDER:**

**COMPASS BANK**

By: Joel Nolen  
Its Senior Vice President

  
20080409000143740 2/3 \$18.00  
Shelby Cnty Judge of Probate, AL  
04/09/2008 12:40:50PM FILED/CERT



STATE OF ALABAMA

COUNTY OF Jefferson

I, Pamela G. Lee, a Notary Public in and for said County in said State, hereby certify that D. Bruce Irwin, whose name 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 the instrument, he executed the same voluntarily on the date the same bears date.

Given under my hand and official seal of office this 27<sup>th</sup> day of February, 2008.

Pamela G. Lee  
Notary Public

[NOTARY SEAL]

My commission expires: 12-21-08

20080403000427950 3/3  
Bk: LR200861 Pg:17776  
Jefferson County, Alabama  
04/03/2008 11:19:13 AM MTG  
Fee - \$10.50

STATE OF ALABAMA

Total of Fees and Taxes-\$10.50  
CIBESS

COUNTY OF JEFFERSON

I, Pamela G. Lee, a Notary Public in and for said County in said State, hereby certify that J. David Nabors, whose name as Senior Vice President of **COMPASS BANK**, an Alabama banking 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 the instrument, he, as such Senior Vice President and with full authority executed the same voluntarily for and as the act of said banking corporation.

Given under my hand and official seal of office this 27<sup>th</sup> day of February, 2008.

Pamela G. Lee  
Notary Public

[NOTARY SEAL]

My commission expire 12-21-08

STATE OF ALABAMA - JEFFERSON COUNTY  
I hereby certify that no mortgage tax or deed tax  
has been collected on this instrument.

Alan L. King Judge of Probate

"NO TAX COLLECTED"

20080229000273940 3/3  
Bk: LR200803 Pg:6257  
Jefferson County, Alabama  
02/29/2008 02:47:09 PM MTG  
Fee - \$9.50  
Mortgage Tax -\$7486.05  
Total of Fees and Taxes-\$7495.55  
TINSLEY