

## **MODIFICATION AGREEMENT**

**THIS MODIFICATION AGREEMENT** dated as of May 1, 2015 (this "**Agreement**"), is entered into by and among **BENTON PROPERTY HOLDINGS, LLC**, a Georgia limited liability company ("**Borrower 1**"), **PARK HERITAGE PROPERTY HOLDINGS, LLC**, a Georgia limited liability company ("**Borrower 2**"), and **VALLEY RIVER PROPERTY HOLDINGS, LLC**, a Georgia limited liability company ("**Borrower 3**") (collectively, the "**Borrowers**"), **ADCARE HEALTH SYSTEMS, INC.**, a Georgia corporation ("**AdCare**"), **BENTON NURSING, LLC**, **PARK HERITAGE NURSING, LLC**, and **VALLEY RIVER NURSING, LLC**, each a Georgia limited liability company (the "**Operators**") (AdCare and the Operators being sometimes referred to herein collectively as the "**Guarantors**") (the Borrower and the Guarantors being sometimes referred to herein collectively as the "**Borrower/Guarantor Parties**"), and **THE PRIVATEBANK AND TRUST COMPANY**, an Illinois banking corporation ("**Lender**").

### **RECITALS**

A. The Borrower/Guarantor Parties and Lender heretofore entered into the following documents (the "**Documents**"):

(i) Loan Agreement dated as of September 1, 2011 (the "**Loan Agreement**"), by and among the Borrowers and the Lender.

(ii) Promissory Note dated September 1, 2011, from the Borrowers to the Lender in the principal amount of \$11,800,000.

(iii) Environmental Indemnity Agreement dated as of September 1, 2011, by the Borrowers, AdCare and the Operators to and for the benefit of the Lender.

(iv) Guaranty of Payment and Performance dated as of September 1, 2011, by the Guarantors to and for the benefit of the Lender.

(v) Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of September 1, 2011, by Borrower 1 to and for the benefit of the Lender, recorded in the Official Records of Brenda DeShields, Circuit Clerk, Benton County, Arkansas, on September 23, 2011, at Book 2011, Page 127323.

(vi) Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of September 1, 2011, by Borrower 2 to and for the benefit of the Lender, recorded in the Official Records of Brenda DeShields, Circuit Clerk, Benton County, Arkansas, on September 23, 2011, at Book 2011

Page 127,459.

(vii) Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of September 1, 2011, by Borrower 3 to and for the benefit of the Lender, recorded in the Official Records of Sharon Brooks, County Clerk and Recorder, Sebastian County, Arkansas, on September 23, 2011, as Document No. 2011F-14089.

(viii) Absolute Assignment of Rents and Leases dated as of September 1, 2011, by Borrower 1 to and for the benefit of the Lender, recorded in the Official Records of Brenda DeShields, Circuit Clerk, Benton County, Arkansas, on September 23, 2011, at Book 2011, Page 127354.

(ix) Absolute Assignment of Rents and Leases dated as of September 1, 2011, by Borrower 2 to and for the benefit of the Lender, recorded in the Official Records of Brenda DeShields, Circuit Clerk, Benton County, Arkansas, on September 23, 2011, at Book 2011, Page 127490.

(x) Absolute Assignment of Rents and Leases dated as of September 1, 2011, by Borrower 3 to and for the benefit of the Lender, recorded in the Official Records of Sharon Brooks, County Clerk and Recorder, Sebastian County, Arkansas, on September 23, 2011, as Document No. 2011F-14090.

B. The Documents encumber the real estate described in **Exhibit A** attached hereto and the personal property located thereon.

C. The parties desire to make certain modifications and amendments to the Documents as more fully provided for herein, all as modifications, amendments and continuations of, but not as novations of, the Documents.

## **AGREEMENTS**

In consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **Section 1. Recitals Part of Agreement; Defined Terms; References to Documents.**

(a) The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

(b) All capitalized terms used and not otherwise defined in this Agreement shall

have the meanings set forth in the Loan Agreement.

**Section 2. Lender Consent to Sublease of Project 2 to New Operator 2.**

For purposes of this Agreement, the term “**New Operator 2**” has the same meaning as in the defined terms which are added to the Loan Agreement in Section 3(a) of this Agreement. The Lender hereby consents to the sublease by Operator 2 of its Project to New Operator 2, effective as of May 1, 2015, pursuant to a Sublease Agreement dated as of January 16, 2015, by and among Borrower 2, Operator 2 and New Operator 2, as amended by Amendments dated as of February 27, 2015, March 31, 2015, and April 30, 2015. In order to induce the Lender to grant such consent, the Borrowers and the Guarantors are entering into the agreements with the Lender which are provided for in this Agreement.

**Section 3. Amendments to Loan Agreement Relating to Sublease of Project 2 and New Operator 2.**

(a) The following new defined terms are hereby added to Section 1.1 of the Loan Agreement:

**Facility 2:** The Facility located in Project 2 owned by Borrower 2, and leased by Borrower 2 to Operator 2, and subleased by Operator 2 to New Operator 2 under Sublease 2.

**New Operator 2:** Highlands of Rogers Dixieland, LLC, a Delaware limited liability company.

**Operations Transfer Agreement 2:** The Operations Transfer Agreement dated as of January 16, 2015, by and among Operator 2, New Operator 2 and Borrower 2.

**Sublease 2:** The Sublease Agreement dated as of January 16, 2015, by and among Borrower 2, Operator 2 and New Operator 2, as amended by Amendments dated as of February 27, 2015, March 31, 2015, and April 30, 2015, by which Operator 2 subleased its Project to New Operator 2 effective as of May 1, 2015.

(c) Paragraphs (q), (v), (w), (z) and (aa) in Section 2.1 of the Loan Agreement are hereby modified and amended in their entirety to read as follows effective as of May 1, 2015, with the existing paragraphs (q), (v), (w), (z) and (aa) in Section 2.1 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

(q) Subject to the provisions of Section 7.9(b) of this Agreement,

all governmental permits and licenses required by applicable law in order for each Borrower to own and lease its Project to the applicable Operator, for Operators 1 and 3 to operate their respective Facilities, for Operator 2 to sublease its Project to New Operator 2, and for New Operator 2 to operate its Facility, have been validly issued and are in full force.

(v) There are no leases or subleases for use or occupancy of any Project other than the applicable Lease and in the case of Project 2, Sublease 2, with the exception of agreements entered into with residents and occupants in the ordinary course of business of operating the Facility.

(w) Each of the Leases and Sublease 2 is in full force and effect; no Defaults or Events of Default on the part of applicable Borrower or Operator, respectively, have occurred and are continuing thereunder; the tenant and subtenant, respectively, thereunder have no right of set-off against payment of rent due thereunder; and enforcement of each of the Leases and Sublease 2 by the applicable Borrower and Operator, respectively, or by Lender pursuant to an exercise of Lender's rights under the applicable Assignment of Rents, would be subject to no defenses of any kind. All of the conditions precedent for both Operator 2 and New Operator 2 contained in Sublease 2, as amended, have either been satisfied or waived, and neither Operator 2 nor New Operator 2 has any remaining right to terminate Sublease 2, as amended, for failure of any condition precedent to be satisfied. Operations Transfer Agreement 2 is in full force and effect and no Defaults or Events of Default on the part of Operator 2 or New Operator 2 have occurred and are continuing thereunder.

(z) Subject to the provisions of Section 7.9(b) of this Agreement, each Facility has all necessary licenses, permits and certifications required by any applicable governmental authority to operate and maintain a skilled nursing facility therein with its current number of beds in service, and participates in the Medicare and Medicaid programs. Subject to the provisions of Section 7.9(b) of this Agreement, Operators and New Operator 2 have complied with all applicable requirements of the United States of America, the State of Arkansas and all applicable local governments, and of its agencies and instrumentalities, necessary to operate and maintain its Facility as such a facility. All utilities necessary for use, operation and occupancy of each Project and each Facility are available to such Project and such Facility. All requirements for unrestricted use of each Project and each Facility as a skilled nursing

facility under the rules and regulations of the State of Arkansas Department of Human Services and of any other department or agency of the State of Arkansas having jurisdiction over each Project and each Facility have been fulfilled. All building, zoning, safety, health, fire, water district, sewerage and environmental protection agency and any other permits or licenses which are required by any governmental authority for use, occupancy and operation of each Project and each Facility as a skilled nursing facility have been obtained and are in full force and effect. Neither any Borrower, any Operator, any Guarantor, New Operator 2, any Project nor any Facility is subject to any corporate integrity agreement, compliance agreement or other agreement governing the operation of any Project or any Facility or the operations of any Borrower, any Operator, any Guarantor or New Operator 2.

(aa) Each Borrower and Operator and New Operator 2 is in compliance in all material respects with all laws, orders, regulations and ordinances of all federal, foreign, state and local governmental authorities binding upon or affecting the business, operation or assets of Borrowers, Operators or New Operator 2. Neither any Borrower, any Operator nor New Operator 2: (i) has had a civil monetary penalty assessed against it under the Social Security Act (the “**SSA**”) Section 1128(a) ), other than nominal amounts for violations which were not of a material nature, (ii) has been excluded from participation under the Medicare program or under a State health care program as defined in the SSA Section 1128(h) (“**State Health Care Program**”), or (iii) has been convicted (as that term is defined in 42 C.F.R. Section 1001.2) of any of the following categories of offenses as described in the SSA Section 1127(a) and (b)(l), (2), (3): (A) criminal offenses relating to the delivery of an item or service under Medicare or any State Health Care Program; (B) criminal offenses under federal or state law relating to patient neglect or abuse in connection with the delivery of a health care item or service; (C) criminal offenses under federal or state law relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any federal, state or local government agency; (D) federal or state laws relating to the interference with or obstruction of any investigations into any criminal offense described in (A) through (C) above; or (E) criminal offenses under federal or state law relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance. Without

limiting the generality of the foregoing, neither any Borrower, any Operator nor New Operator 2 is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Medicare or Medicaid Provider Agreement or other agreement or instrument to which such Borrower or Operator or New Operator 2 is a party, which default has resulted in, or if not remedied within any applicable grace period could result in, the revocation, termination, cancellation or suspension of the Medicare or Medicaid Certification of such Borrower or Operator or New Operator 2.

(d) Section 7.2 of the Loan Agreement is hereby modified and amended in its entirety to read as follows effective as of May 1, 2015, with the existing Section 7.2 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

7.2 Except for security interests granted to Lender, Borrowers agree that all of the personal property, fixtures, attachments, furnishings and equipment delivered in connection with the construction, equipping or operation of the Projects will be kept free and clear of all chattel mortgages, vendor's liens, and all other liens, claims, encumbrances and security interests whatsoever, and that Borrowers will be the absolute owners of said personal property, fixtures, attachments and equipment, subject to the rights of Operators under the Leases and the rights of New Operator 2 under Sublease 2. Borrowers, on request, shall furnish Lender with satisfactory evidence of such ownership, and of the terms of purchase and payment therefor.

(e) Sections 7.7 and 7.8 of the Loan Agreement are hereby modified and amended by changing the references therein to "Operators" to be references to "Operators and New Operator 2" effective as of May 1, 2015, with the existing Sections 7.7 and 7.8 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015.

(f) Section 7.9 of the Loan Agreement is hereby modified and amended in its entirety to read as follows effective as of May 1, 2015, with the existing Section 7.9 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

7.9 **Licensure; Notices of Agency Actions**. The following are conditions of this Agreement and the Loan:

(a) Subject to the provisions of paragraph (b) of this Section, Operators 1 and 3 and New Operator 2 shall be fully qualified by all necessary permits, licenses, certifications,

accreditations and qualifications and shall be in compliance with all annual filing requirements of all regulatory authorities.

(b) The State of Arkansas licenses for the operation of Facilities 1 and 3 and the Medicare and Medicaid certifications for Facilities 1 and 3 are held and shall continue to be held by Operators 1 and 3, respectively. The State of Arkansas license for the operation of Facility 2 is held by New Operator 2 in its own name. The Medicare and Medicaid certifications for Facility 2 are currently held by the Operator 2. It is a condition of this Agreement and the Loan that by July 1, 2015, New Operator 2 shall have obtained Medicare and Medicaid certifications for Facility 2 in its own name. Pending the receipt of such Medicare and Medicaid certifications by New Operator 2, (i) Operator 2 shall retain the existing Medicare and Medicaid certifications for Facility 2, and (ii) New Operator 2 shall operate Facility 2 under the Medicare and Medicaid certifications of Operator 2 under Operations Transfer Agreement 2. Upon the issuance of the Medicare and Medicaid certifications for Facility 2 to New Operator 2, the arrangements described above under Operations Transfer Agreement 2 shall terminate and New Operator 2 shall thereafter operate Facility 2 under its own Medicare and Medicaid certifications.

(c) Each Borrower and Operator and New Operator 2 shall within five days after receipt, furnish to Lender copies of all adverse notices from any licensing, certifying, regulatory, reimbursing or other agency which has jurisdiction over its Project or Facility or over any license, permit or approval under which its Project or Facility operates, and if any Borrower or Operator or New Operator 2 becomes aware that any such notice is to be forthcoming before receipt thereof, it shall promptly inform Lender thereof.

(g) Section 7.13 of the Loan Agreement is hereby modified and amended in its entirety to read as follows effective as of May 1, 2015, with the existing Section 7.13 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

**7.13 Leasing, Operation and Management of Projects.**

(a) Each Project shall at all times be owned by the applicable Borrower, leased to the applicable Operator under the applicable Lease, and in the case of Borrower 2's Project, subleased by Operator 2 to New

Operator 2 under Sublease 2 (with the result that no Borrower shall operate a Facility). Each Borrower shall not agree or consent to or suffer or permit any modification, amendment, termination or assignment of, or sublease under, its Lease (other than Sublease 2), and shall not suffer or permit any Event of Default on the part of such Borrower to exist at any time under its Lease. It is a condition of this Agreement and the Loan that Operator 2 shall not agree or consent to or suffer or permit any modification, amendment, termination or assignment of, or sublease under, Sublease 2, and shall not suffer or permit any Event of Default on the part of Operator 2 to exist at any time under Sublease 2, including, without limitation, any amendment changing in the rent payable under Sublease 2. It is a condition of this Agreement and the Loan that Borrower 2, Operator 2 and New Operator 2 shall enter into an agreement in a form acceptable to Lender which shall require (i) New Operator 2 to pay all rental under Sublease 2 directly to an account of Borrower 2 at Lender, and (ii) Operator 2 to pay any rent under its Lease in addition to the amount of the rent payable under Sublease 2 directly to an account of Borrower 2 at Lender.

(b) Each Facility shall at all times be operated as skilled nursing facility under the management of the applicable Operator or in the case of Facility 2, New Operator 2.

(h) Paragraphs (b), (g) and (n) in Section 10.1 of the Loan Agreement are hereby modified and amended in their entirety to read as follows effective as of May 1, 2015, with the existing paragraphs (g) and (n) in Section 10.1 of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

(b) If there is any failure to perform, observe or satisfy any obligation, covenant, agreement, term, condition or provision contained in any of the following provisions of this Agreement: Section 7.9(a), 7.10, 7.11, 7.12, 7.13, 7.14, 7.14A, 7.15, 7.16, 7.17, 7.18, 7.19, 7.20 or 7.21;

(g) The occurrence of a material adverse change in the financial condition of any Borrower, Operator or Guarantor or New Operator 2;

(n) The occurrence of an Event of Default (i) on the part of any Borrower or Operator under any Lease, (ii) on the part of Operator 2 or New Operator 2 under Sublease 2, or (iii) on the part of Operator 2 or New Operator 2 under any Operations Transfer Agreement;



#### **Section 4. Changes in Financial Reporting Requirements.**

(a) Subparagraphs (i), (iii) and (vi) in Section 7.4(a) of the Loan Agreement are hereby modified and amended in their entirety to read as follows effective as of May 1, 2015, with the existing subparagraphs (i), (iii) and (vi) in Section 7.4(a) of the Loan Agreement to continue to be effective for periods prior to May 1, 2015:

(i) Without necessity of any request by Lender, the following with respect to Borrowers:

(A) As soon as available and in no event later than 45 days after the end of each fiscal quarter commencing with the fiscal quarter ending March 31, 2015, quarterly financial statements of each Borrower showing the results of operations of its Project and consisting of a balance sheet, statement of income and expense and a statement of cash flows, prepared in accordance with GAAP, and certified by an officer of such Borrower.

(B) As soon as available and in no event later than 120 days after the end of each fiscal year commencing with the fiscal year ending December 31, 2014, annual financial statements of each Borrower showing the results of operations of its Project and consisting of a balance sheet, statement of income and expense and a statement of cash flows, prepared in accordance with GAAP, and certified by an officer of such Borrower, and accompanied by an audit report of a firm of independent certified public accountants acceptable to Lender.

(iii) Without necessity of any request by Lender, as soon as available and in no event later than 120 days after the end of each fiscal year commencing with the fiscal year ending December 31, 2014, annual financial statements of each Operator showing the results of operations of its Facility and consisting of a balance sheet, statement of income and expense, statement of cash flows and statement of payor mix, prepared in accordance with GAAP, certified by an officer of such Operator, and accompanied by an audit report of a firm of independent certified public accountants acceptable to Lender.

(vi) Without necessity of any request by Lender, with each financial statement of each Borrower, each Operator, New Operator 2 and AdCare required to be furnished hereunder, a duly completed compliance certificate, dated the date of such financial statements and certified as true

and correct by appropriate officers of each Borrower, each Operator, New Operator 2 and AdCare, containing a computation of each of the financial covenants set forth in Sections 7.14, 7.14A, 7.15, 7.16 and 7.17 hereof which is required to be tested for or during the period covered by such financial statement, and stating that Borrowers have not become aware of any Default or Event of Default under this Agreement or any of the other Loan Documents that has occurred and is continuing or, if there is any such Default or Event of Default describing it and the steps, if any, being taken to cure it.

(b) The following new subparagraphs (vii) and (viii) are hereby added to 7.4(a) of the Loan Agreement:

(vii) Without necessity of any request by Lender, as soon as available and in no event later than 45 days after the end of each fiscal quarter commencing with the fiscal quarter ending June 30, 2015, financial statements of New Operator 2 showing the results of operations of Facility 2 and consisting of a balance sheet, statement of income and expense, statement of cash flows and statement of payor mix, prepared in accordance with GAAP, and certified by an officer of New Operator 2.

(viii) Without necessity of any request by Lender, as soon as available and in no event later than 120 days after the end of each fiscal year commencing with the fiscal year ending December 31, 2015, annual financial statements of New Operator 2 showing the results of operations of Facility 2 and consisting of a balance sheet, statement of income and expense, statement of cash flows and statement of payor mix, prepared in accordance with GAAP, certified by an officer of New Operator 2, and accompanied by an audit report of a firm of independent certified public accountants acceptable to Lender.

**Section 5. Borrower Debt Service Coverage Ratio.** The present Section 7.14 of the Loan Agreement shall continue to apply with respect to the fiscal years ended December 31, 2011, 2012, 2013 and 2014, and to all fiscal years ending after December 31, 2014.

**Section 6. New Borrower Fixed Charge Coverage Ratio.** A new Section 7.14A is hereby added to the Loan Agreement, to be effective for the fiscal quarter ending June 30, 2015, and each subsequent fiscal quarter:

7.14A **Minimum Fixed Charge Coverage Ratio of Borrowers.** It is a condition of this Agreement and the Loan that as of the end of each

fiscal quarter commencing with the fiscal quarter ending June 30, 2015, that the ratio of --

(i) the amount of the combined EBITDA for Borrowers for the 12-month period ending on the last day of such quarter, to

(ii) the sum of the combined amounts of the following for Borrowers for the 12-month period ending on the last day of such quarter: (A) principal and interest required to be paid on the Loan, plus (B) Distributions, other than any amounts which were treated as an expense for accounting purposes,

shall be not less than 1.05 to 1.00.

**Section 7. Elimination of Minimum Fixed Charge Coverage Ratio of Operators Covenant.** From and after the date of this Agreement, the requirement contained in Section 7.15 of the Loan Agreement shall no longer be in effect.

**Section 8. New Defined Term EBITDAR/Management Fee Adjusted.** The following new defined term "EBITDAR/Management Fee Adjusted" is hereby added to Section 1.1 of the Loan Agreement:

**EBITDAR/Management Fee Adjusted:** With respect to Operators 1 and 3 and New Operator 2, for any period, an amount equal to EBITDAR for such Operator or New Operator 2 for such period, except that notwithstanding the definition of the term Net Income in this Section 1.1, the Net Income for such Operator or New Operator 2 used in calculating EBITDAR/Management Fee Adjusted for such Operator or New Operator 2 for any period, shall be computed by taking into account management fees equal to the greater of such Operator's or New Operator 2's actual management fees for such period or imputed management fees equal to 5% of such Operator's or New Operator 2's gross income for such period as determined in accordance with GAAP.

**Section 9. Change in Minimum EBITDAR of Operators to Minimum EBITDAR/Management Fee Adjusted of New Operators.** Section 7.16 of the Loan Agreement is hereby modified and amended in its entirety to read as follows effective for the fiscal quarter ending June 30, 2015, and subsequent fiscal quarters, with the existing Section 7.16 of the Loan Agreement to continue to be effective for periods ended and ending prior to the fiscal quarter ending June 30, 2015:

7.16 **Minimum EBITDAR/Management Fee Adjusted of Operators 1 and 3 New Operator 2.** It is a condition of this Agreement

and the Loan that for each fiscal quarter commencing with the fiscal quarter ending June 30, 2015, the combined EBITDAR/Management Fee Adjusted for Operators 1 and 3 and New Operator 2 shall be not less than \$450,000.

**Section 10. Requirement for Shared Collateral Account.** The following new Section 3.5 is hereby added to the Loan Agreement effective as of May 1, 2015:

3.5 **Shared Collateral Account.** Lender has extended a loan in the amount of \$12,000,000 to APH&R Property Holdings, LLC, Northridge HC&R Property Holdings, LLC, and Woodland Hills HC Property Holdings, LLC, each a Georgia limited liability company, pursuant to a Loan Agreement dated as of February 25, 2015 (the “**Related Loan Agreement**”). Pursuant to the terms of Section 3.4 of the Related Loan Agreement, a \$2,000,000 Collateral Account (the “**Collateral Account**”) is established which secures both the loan under the Related Loan Agreement and the Loan under this Agreement. Section 3.4 of the Related Loan Agreement sets forth the conditions under which the Collateral Account is to be released as collateral. The following are conditions of this Agreement and the Loan:

(i) As of May 1, 2015, Section 3.4 of the Related Loan Agreement shall be in effect in the form contained in the original Related Loan Agreement, without any modification or amendment thereto.

(ii) As of May 1, 2015, the Collateral Account shall have been established and shall be in existence and fully funded in the amount of \$2,000,000.

(iii) From and after May 1, 2015, the Collateral Account shall be held not only as security for the loan under the Related Loan Agreement but also as security for the Loan under this Agreement.

(iv) The Collateral Account shall be released as collateral only in accordance with the provisions of Section 3.4 of the Related Loan Agreement as in effect on May 1, 2015, except that notwithstanding the definition of the term “Benton Operators” in Section 1.1 of the Related Loan Agreement, for purposes of applying the provisions of Section 3.4 of the Related Loan Agreement, the term “Benton Operators” shall mean Operator 1, New Operator 2 and Operator 3.

**Section 11. Representations and Warranties.** The term “**Signing Entity**” as used in this Section means any entity (other than a Borrower/Guarantor Party itself) that appears in the signature block of any Borrower/Guarantor Party in this Agreement or any of the Documents, if any. In order to induce Lender to enter into this Agreement, the Borrower/Guarantor Parties hereby represent and warrant to Lender as follows as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement:

(a) Each Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Georgia and duly registered to transact business and in good standing in the state of Arkansas, has all necessary power and authority to carry on its present business, and has full right, power and authority to enter into this Agreement, each of the Documents to which it is a party, and to perform and consummate the transactions contemplated hereby and thereby.

(b) AdCare is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia, has all necessary power and authority to carry on its present business, and has full right, power and authority to enter into this Agreement, each of the Documents to which it is a party, and to perform and consummate the transactions contemplated hereby and thereby.

(c) Each Operator is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Georgia and duly registered to transact business and in good standing in the state of Arkansas. Operator has full power and authority to carry on its present business, and has full right, power and authority to enter into this Agreement and each of the Documents to which it is a party and to perform and consummate the transactions contemplated hereby and thereby.

(d) Each Signing Entity is duly organized, validly existing and in good standing under the laws of the State in which it is organized, has all necessary power and authority to carry on its present business, and has full right, power and authority to execute this Agreement, the Documents in the capacity shown in each signature block contained in this Agreement, the Documents in which its name appears, and such execution has been duly authorized by all necessary legal action applicable to such Signing Entity.

(e) This Agreement, each of the Documents have been duly authorized, executed and delivered by such of the Borrower/Guarantor Parties as are parties thereto, and this Agreement, each of the Documents constitute a valid and legally binding obligation enforceable against such of the Borrower/Guarantor Parties as are

parties thereto. The execution and delivery of this Agreement, the Documents and compliance with the provisions thereof under the circumstances contemplated therein do not and will not conflict with or constitute a breach or violation of or default under the organizational documents of any Borrower/Guarantor Party or any Signing Entity, or any agreement or other instrument to which any of the Borrower/Guarantor Parties or any Signing Entity is a party, or by which any of them is bound, or to which any of their respective properties are subject, or any existing law, administrative regulation, court order or consent decree to which any of them is subject.

(f) The Borrower/Guarantor Parties are in full compliance with all of the terms and conditions of the Documents to which they are a party, and no Default or Event of Default has occurred and is continuing with respect to any of the Documents.

(g) There is no litigation or administrative proceeding pending or threatened to restrain or enjoin the transactions contemplated by this Agreement or any of the Documents, or questioning the validity thereof, or in any way contesting the existence or powers of any of the Borrower/Guarantor Parties or any Signing Entity, or in which an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Agreement or any of the Documents, or would result in any material adverse change in the financial condition, properties, business or operations of any of the Borrower/Guarantor Parties.

(h) The statements contained in the Recitals to this Agreement are true and correct.

**Section 12. Documents to Remain in Effect; Confirmation of Obligations; References.** The Documents shall remain in full force and effect as originally executed and delivered by the parties, except as expressly modified and amended herein. In order to induce Lender to enter into this Agreement, the Borrower/Guarantor Parties hereby (i) confirm and reaffirm all of their obligations under the Documents, as modified and amended herein; (ii) acknowledge and agree that Lender, by entering into this Agreement, does not waive any existing or future default or event of default under any of the Documents, or any rights or remedies under any of the Documents, except as expressly provided herein; (iii) acknowledge and agree that Lender has not heretofore waived any default or event of default under any of the Documents, or any rights or remedies under any of the Documents; and (iv) acknowledge and agree that they do not have any defense, setoff or counterclaim to the payment or performance of any of their obligations under, or to the enforcement by Lender of, the Documents, as modified and amended herein, including, without limitation, any defense, setoff or counterclaim based on the covenant of good faith and fair dealing. All references in the Documents to any one or more of the Documents, or to the "Loan Documents," shall be deemed to refer to

such Document, Documents or Loan Documents, as the case may be, as modified and amended by this Agreement. Electronic records of executed documents maintained by Lender shall be deemed to be originals thereof.

**Section 13. Certifications, Representations and Warranties.** In order to induce Lender to enter into this Agreement, the Borrower/Guarantor Parties hereby certify, represent and warrant to Lender that all certifications, representations and warranties contained in the Documents and in all certificates heretofore delivered to Lender are true and correct as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement, and all such certifications, representations and warranties are hereby remade and made to speak as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement.

**Section 13. Entire Agreement; No Reliance.** This Agreement sets forth all of the covenants, promises, agreements, conditions and understandings of the parties relating to the subject matter of this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this Agreement other than as are herein set forth. The Borrower/Guarantor Parties acknowledge that they are executing this Agreement without relying on any statements, representations or warranties, either oral or written, that are not expressly set forth herein.

**Section 15. Successors.** This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors, assigns and legal representatives.

**Section 16. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 17. Amendments, Changes and Modifications.** This Agreement may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

**Section 18. Construction.**

(a) The words “hereof,” “herein,” and “hereunder,” and other words of a similar import refer to this Agreement as a whole and not to the individual Sections in which such terms are used.

(b) References to Sections and other subdivisions of this Agreement are to the

designated Sections and other subdivisions of this Agreement as originally executed.

(c) The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

(d) Where the context so requires, words used in singular shall include the plural and vice versa, and words of one gender shall include all other genders.

(e) The Borrower/Guarantor Parties and Lender, and their respective legal counsel, have participated in the drafting of this Agreement, and accordingly the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Agreement.

**Section 19. Counterparts; Electronic Signatures.** This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same document. Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. An electronic record of this executed Agreement maintained by Lender shall be deemed to be an original.

**Section 20. Governing Law.** This Agreement is prepared and entered into with the intention that the law of the State of Illinois shall govern its construction and enforcement, except that insofar as this Agreement relates to a Document which by its terms is governed by the law of the State of Arkansas, this Agreement shall also be governed by the law of the State of Arkansas.

**Section 21. Waiver of Trial by Jury. THE PROVISIONS OF THE LOAN AGREEMENT AND THE OTHER DOCUMENTS RELATING TO WAIVER OF TRIAL BY JURY SHALL APPLY TO THIS AGREEMENT.**

**LEGAL ADDRESSES AND BANKING DETAILS OF THE PARTIES**

_____	_____
_____	_____
_____	_____
_____	_____