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U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Community Hospices of America, L.L.C. [ ] Individual(s) [ ] Association [ ] General Partnership [ ] Limited Partnership [ ] Corporation-State [x] Other Limited Liability Company Additional name(s) of conveying party(ies) attached? [ ] Yes [x] No

2. Name and address of receiving party(ies) Name: Morgan Keegan Mezzanine Fund, L.P. Internal Address: Street Address: 30 Burton Hills Blvd. Ste. 500 City: Nashville State: TN Zip: 37215 [ ] Individual(s) citizenship [ ] Association [ ] General Partnership [x] Limited Partnership [ ] Corporation-State [ ] Other If assignee is not domiciled in the United States, a domestic representative designation is attached: [ ] Yes [x] No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? [ ] Yes [x] No

3. Nature of conveyance: [ ] Assignment [ ] Merger [x] Security Agreement [ ] Change of Name [ ] Other Execution Date: September 19, 2003

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 78/220,968 B. Trademark Registration No.(s) Additional number(s) attached [ ] Yes [x] No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Mary Ward Internal Address: Boulton Cummings Connors Berry Street Address: 414 Union Street, Suite 1600 City: Nashville State: TN Zip: 37219

6. Total number of applications and registrations involved: 1 7. Total fee (37 CFR 3.41) \$ 40.00 [x] Enclosed [ ] Authorized to be charged to deposit account 8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature. 09/26/2003 6TDM11 000000% 78220968 40.00 00 Mary Ward Name of Person Signing

Mary Ward Signature

September 23, 2003 Date

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK REEL: 002833 FRAME: 0001

**THIS FIRST AMENDED AND RESTATED SECURITY AGREEMENT AND THE DEBTORS' OBLIGATIONS HEREUNDER ARE SUBJECT TO A SUBORDINATION AGREEMENT DATED AS OF SEPTEMBER 19, 2003 AMONG WELLSRING HOSPICECARE, INC., HORIZON HOSPICE, LLC, HOSPICE CARE OF LOUISIANA, LLC, COMMUNITY HOSPICES OF AMERICA, L.L.C., HEALTHCARE BUSINESS CREDIT CORPORATION, THE 1818 MEZZANINE FUND II, L.P. AND MORGAN KEEGAN MEZZANINE FUND, L.P., WHICH, AMONG OTHER THINGS, SUBORDINATES THE BORROWERS' OBLIGATIONS HEREUNDER TO THE BORROWERS' OBLIGATIONS TO CERTAIN HOLDERS OF SENIOR DEBT, AS MORE FULLY DESCRIBED IN SAID SUBORDINATION AGREEMENT.**

**THIS FIRST AMENDED AND RESTATED SECURITY AGREEMENT AND THE DEBTORS' OBLIGATIONS HEREUNDER ARE SUBJECT TO AN INTERCREDITOR AGREEMENT DATED AS OF SEPTEMBER 19, 2003, AMONG WELLSRING HOSPICECARE, INC., HORIZON HOSPICE, LLC, HOSPICE CARE OF LOUISIANA, LLC, COMMUNITY HOSPICES OF AMERICA, L.L.C., THE 1818 MEZZANINE FUND II, L.P. AND MORGAN KEEGAN MEZZANINE FUND, L.P., WHICH, AMONG OTHER THINGS, SETS FORTH THE RESPECTIVE RIGHTS AND REMEDIES OF THE PARTIES WITH RESPECT TO CERTAIN OBLIGATIONS OF THE BORROWERS, AS MORE FULLY DESCRIBED IN SAID INTERCREDITOR AGREEMENT.**

#### **FIRST AMENDED AND RESTATED SECURITY AGREEMENT**

THIS FIRST AMENDED AND RESTATED SECURITY AGREEMENT (this "Agreement") is made as of the 19th day of September, 2003, by WELLSRING HOSPICECARE, INC. ("WHI"), a Delaware corporation; HORIZON HOSPICE, LLC ("Horizon"), a Delaware limited liability company formerly known as Wellspring HospiceCare of Mississippi, LLC; HOSPICE CARE OF LOUISIANA, LLC ("HCL"), a Delaware limited liability company formerly known as Wellspring HospiceCare of Louisiana, LLC; and COMMUNITY HOSPICES OF AMERICA, L.L.C., a Missouri limited liability company (each a "Debtor" and collectively, "Debtors"), in favor of MORGAN KEEGAN MEZZANINE FUND, L.P. ("Lender"), a Delaware limited partnership.

#### **RECITALS:**

**A.** Pursuant to that certain First Amended and Restated Loan Agreement of even date herewith among Debtors and Lender (as now existing and as may hereafter be amended, the "Loan Agreement"), Lender has agreed to extend credit to Debtors, on certain terms and conditions.

**B.** A condition to Lender's agreement to extend credit to Debtors is that Lender must be provided a security interest in all of Debtors' personal property and fixtures.

## AGREEMENT:

NOW THEREFORE, as an inducement to cause Lender to extend credit to Debtors, and for other valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed as follows:

### ARTICLE 1 DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

**"Books and Records"** means all of Debtors' books and records, including but not limited to records indicating, summarizing, or evidencing the Collateral, the Obligations, and Debtors' property, business operations, or financial condition, computer runs, invoices, disks, cd-roms, tapes, processing software, processing contracts (such as contracts for computer time and services) and any computer prepared information, disks, cd-roms, tapes, or data of every kind and description, whether in the possession of Debtors or in the possession of third parties.

**"Collateral"** means all of each Debtor's present and future interest in the following, each as presently defined in the UCC: Accounts, Chattel Paper, Deposit Accounts, Documents, Equipment, General Intangibles, Instruments, Inventory, Investment Property, Letters of Credit and Letter of Credit Rights, and Proceeds of all other Collateral.

**"Encumbrance"** has the meaning assigned in the Loan Agreement.

**"Event of Default"** has the meaning assigned thereto in the Loan Agreement.

**"IP Collateral"** means all of each Debtor's right, title and interest in and to:

(a) all of its presently owned and hereafter acquired trademarks, service marks, trademark or service mark applications, whether the foregoing are domestic (state or federal) or foreign, including, without limitation, each mark, registration, and application listed on Schedule 1(A) hereto, and together with (i) renewals thereof, (ii) all income, royalties, damages and payments hereafter due and/or payable with respect thereto, including, without limitation, damages and payment for past, present or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, (iv) all rights corresponding thereto throughout the world, (v) the Trademark License Rights, as hereinafter defined, (vi) trade dress, (vii) all customer and other lists related to any of the foregoing, (viii) together in each case with the goodwill of any Debtor's businesses connected with the use of, and symbolized by any of the foregoing and (ix) any Debtor's entire right, title and interest in, to and under all license agreements with any person or entity, whether any Debtor is licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Schedule 1(A) (the "Trademark License Rights", and together with all other interests described in this Section, the "Trademark Collateral"); and

(b) all of its presently owned and hereafter acquired patentable inventions, patents and patent applications, whether the foregoing be domestic or foreign, including without limitation the inventions and improvements described and claimed therein, including without limitation those (if any) listed on Schedule 1(B) attached hereto, and together with (i) all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (ii) all income, royalties, damages and payments now or hereafter due and/or payable under with respect thereto, including without limitation damages and payments for past, present or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, (iv) all rights corresponding thereto throughout the world, and (v) all rights as licensor or licensee with respect to any patents, patent applications and rights thereto and thereunder, including without limitation the licenses (if any) listed on Schedule 1(B) (such rights as licensor or licensee, collectively, the "Patent License Rights," and together with all other interests described in this Section, the "Patent Collateral"); and

(c) all of its presently owned and hereafter acquired copyright interests throughout the world, whether or not registered, including, without limitation, all copyright interests in the works listed and described on Schedule 1(C) attached hereto, including any registrations thereof or applications therefor, and (i) all renewals thereof, (ii) all income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights under all license agreements with any person whether any Debtor is licensor or licensee under any such license agreements, including without limitation, the licenses (if any) listed on Schedule 1(C) (the "Copyright License Rights", and together with all other interests described in this Section, the "Copyright Collateral").

**"Loan Documents"** has the meaning assigned thereto in the Loan Agreement.

**"Material Adverse Effect"** has the meaning assigned thereto in the Loan Agreement.

**"Obligations"** has the meaning assigned thereto in the Loan Agreement.

**"Permitted Dispositions"** has the meaning assigned thereto in the Loan Agreement.

**"Permitted Encumbrances"** has the meaning assigned thereto in the Loan Agreement.

**"Subsidiary"** has the meaning assigned thereto in the Loan Agreement.

**"UCC"** means the Uniform Commercial Code as in effect from time to time in the State of Tennessee.

Capitalized terms not defined in this Agreement shall have the meaning assigned thereto in the Loan Agreement.

## **ARTICLE 2 GRANT OF SECURITY INTEREST**

2.1 Security Interest. As security for the due and punctual payment and full and complete performance of each of the Obligations, Debtors hereby grant to Lender a security interest in and general lien upon all of each Debtor's rights, title and interests in and to the Collateral and any part thereof.

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES REGARDING COLLATERAL**

Each Debtor represents and warrants to Lender, which representations and warranties shall be continuing representations and warranties until all of the Obligations are satisfied in full, as follows:

3.1 Locations. The chief place of business, chief executive offices and the office(s) where Debtors' records are kept concerning accounts, contract rights and other similar Collateral, and the locations where their inventories, goods, equipment, fixtures and other similar Collateral are kept, are as set forth on Schedule 3.1 attached hereto.

3.2 Trade names. Debtors conduct business under and through their legal names as set forth on the signature page hereto, and no other names, except as set forth on Schedule 3.2 attached hereto.

3.3 No Consents Necessary. Except for the recording of evidence of this Agreement with the United States Patent and Trademark Office (with respect to the Trademark Collateral and the Patent Collateral) and with the United States Copyright Office (with respect to the Copyright Collateral), and the filing of UCC financing statements naming Debtors as "debtors" and Lender as "secured party" in the appropriate filing offices, and the requisite filing requirements to perfect security interests in bank accounts and motor vehicles, no authorization, consent, approval or other action by, and no notice to or filing or recording with, any governmental, administrative or judicial authority or regulatory body is currently or is reasonably expected to be required either (i) for the grant by Debtors of the liens and security interests granted hereby or for the execution, delivery or performance of this Agreement by Debtors, or (ii) for the perfection of or the exercise by Lender of its rights and remedies hereunder.

3.4 Rights in Collateral.

(a) Debtors have the right to grant the security interests created by this Agreement. Except for the Permitted Encumbrances, the Collateral is not subject to any Encumbrances.

(b) Set forth on Schedules 1(A), (B) and (C) are complete and accurate lists of all material Trademark License Rights and other Trademark Collateral, Patent License Rights and other Patent Collateral, and Copyright License Rights and other Copyright Collateral respectively, owned by Debtors.

3.5 Regarding the IP Collateral.

(a) Each item of Trademark Collateral identified on Schedule 1(A), each item of Patent Collateral identified on Schedule 1(B), and each item of Copyright Collateral identified on Schedule 1(C) is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and each such item is validly registered or registrable and enforceable and subject to no claims or adverse limitations. Debtors have notified Lender in writing of: (i) all prior uses of any material item of Trademark Collateral of which Debtors are aware that could lead to such items becoming invalid or unenforceable, including prior unauthorized uses by third parties; (ii) any infringement on any proprietary right or default under any IP Collateral; and (iii) prior uses or publications of any material items of IP Collateral of which Debtors are aware which could lead to Debtors' interest in such items becoming invalid or unenforceable, including any publication or use which might place the work in the public domain, and all such items of IP Collateral are identified on Schedules 1.4(a), (b) and (c). All copyright interests in each work included within the Copyright Collateral that are necessary or reasonably significant to the conduct of Debtors' business have been, or will be within twenty (20) business days after the latter of the date of creation thereof or the execution of this Agreement, registered by Debtors with the United States Copyright Office, and certificates of registration with respect thereto are, or upon issuance thereof will be, in full force and effect.

(b) The Trademark License Rights, the Patent License Rights and the Copyright License Rights are in full force and effect, and Debtors are not in default of any of the foregoing License Rights and no event has occurred which with notice or the passage of time, or both, might constitute a material default by Debtors under the foregoing license rights.

3.6 Materially Misleading Statements. No representation, warranty or statement made herein, on any Schedule hereto or in any certificate or document furnished or to be furnished pursuant hereto contains or will contain any untrue statement of material fact or omits or will omit any fact necessary to make it not misleading in any material respect.

#### **ARTICLE 4 COVENANTS REGARDING COLLATERAL**

4.1 Inspection of Collateral. At reasonable times and from time to time upon reasonable advance notice from Lender, Debtors will permit representatives and agents of Lender reasonable access to their premises to inspect the Collateral and the Books and Records and to audit and make abstracts from the Books and Records; provided, however, at any time and from time to time after the occurrence of an Event of Default, upon the demand of Lender, Debtors will permit representatives and agents of Lender access to their premises to inspect the Collateral and the Books and Records and to audit and make abstracts from the Books and Records.

4.2 Filing of Financing Statements. At the sole option of Lender, and without Debtors' further consent, Lender may file all applicable financing statements or other applications, notices or other registration documents in any jurisdiction or office to perfect its security interests and liens hereunder. Except for Permitted Encumbrances, without the prior written consent of Lender, Debtors will not file or authorize or permit to be filed in any

jurisdiction any financing or like statement in which Lender is not named as the sole secured party.

4.3 Lender's Collateral Custody Duties. With respect to the Collateral, or any part thereof, which at any time may come into the possession, custody or under the control of Lender or any of its agents, associates or correspondents, Debtors hereby acknowledge and agree that the sole duty of Lender with respect to the custody, safekeeping and physical preservation of such Collateral, whether pursuant to Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as Lender deals with similar property for its own account. Neither Lender, nor any of its partners, members, managers, directors, officers, employees, affiliates, agents, associates or correspondents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so.

4.4 Defense of Collateral. Debtors shall defend the Collateral against all claims and demands of all persons or entities at any time claiming any interest therein other than Lender or those claiming under a Permitted Encumbrance.

4.5 Notice of Changes in State of Formation, Form of Entity, Location of Chief Executive Office, Residence, Books and Records, Collateral. Debtors shall provide Lender with prior written notice of: (i) any intended change in the form of entity of any Debtor, and/or its state of formation, (ii) any intended change in the chief executive office of any Debtor, and/or the office where any Debtor maintains its Books and Records; (iii) the location or movement of any Collateral to or at an address other than Debtors' locations as set forth on Schedule 3.1 hereof; and (iv) the creation or acquisition of any additional material IP Collateral. If any such new location in (ii) or (iii) above is located on leased or mortgaged premises, then Debtors will furnish Lender, prior to the effective date of any such change, with landlord's or mortgagee's waivers pertaining to such premises in form and substance satisfactory to Lender in its sole discretion.

4.6 Delivery of Instruments, Chattel Paper, Certificated Securities and Documents of Title. Immediately upon receipt of any and all Instruments, Chattel Paper, certificate securities and/or documents of title (including bills of lading and warehouse receipts), Debtors (i) shall deliver such Collateral to Lender, or another party at the direction of Lender, properly endorsed to Lender and/or accompanied by such instruments of assignment and transfer in such form and substance as Lender may request, and (ii) shall execute any form of assignment or endorsement reasonably requested by Lender with respect thereto. Debtors agree to stamp or otherwise mark any and all Documents, Instruments, Chattel Paper, certificated securities and its Books and Records relating to the Collateral in such manner as Lender may reasonably require to reflect the terms of this Agreement and the security interest granted herein.

4.7 Insurance. To the extent the Collateral is insurable against such risks, Debtors shall maintain insurance at all times with respect to the Collateral (including all risk extended coverage) against the risks of fire, theft and such other risks, including, without limitation, liability, errors and omissions and business interruption, as Lender may reasonably require, containing such terms, in such form and amounts, for such periods and written by such companies as are acceptable to Lender in its reasonable discretion. All such policies of insurance

shall name Lender as a lender/loss payee and shall provide for not less than thirty (30) days' prior written notice to Lender of intended cancellation or reduction in coverage. Debtors shall furnish Lender with certificates or other evidence satisfactory to Lender of compliance with the foregoing insurance provisions. Lender shall have the right (but shall be under no obligation) to pay any of the premiums on such insurance and all such payments shall become part of the Obligations and be considered an advance at the highest rate of interest provided for in the Loan Documents. Debtors expressly authorize its insurance carriers to pay proceeds of all insurance policies covering all or any part of the Collateral directly to Lender.

4.8 Disposition of Collateral. Debtors shall not license, sell, offer to sell, otherwise assign or permit the involuntary transfer of, or disposition of the Collateral or any interest therein, other than Permitted Dispositions, without the prior written consent of Lender.

4.9 Security Interests in Collateral. Except for Permitted Encumbrances, Debtors shall keep the Collateral free from any Encumbrance. If reasonably requested by Lender, Debtors shall give notice of Lender's security interests in the Collateral to any third person with whom Debtors have any actual or prospective contractual relationship or other business dealings.

4.10 Collateral not to be used in Violation of Laws. Debtors shall not use the Collateral or any of their property in violation of any law, statute, regulation, or ordinance.

4.11 Assignment of United States Accounts. If any of the Accounts arise out of contracts with the United States or any of its departments, agencies or instrumentalities, Debtors shall immediately notify and identify same to Lender, and shall promptly execute and deliver to Lender an assignment of claims for such Accounts in a form reasonably acceptable to Lender, and shall take all steps deemed necessary or desirable by Lender to protect Lender's interest therein under the Federal Assignment of Claims Act or any similar law or regulation.

4.12 Maintenance and Inspection of Equipment and Inventory. With respect to Equipment and Inventory, Debtors shall: (i) keep accurate Books and Records with respect thereto, including, without limitation, maintenance records and current stock, cost and sales records accurately itemizing the types and quantities thereof; (ii) upon request, deliver to Lender, or another party at the direction of Lender, all evidence of ownership in such Collateral, including certificates of title with Lender's interests appropriately noted on the certificate; and (iii) preserve the Inventory and Equipment in good condition and repair, and pay the cost of all replacement parts, repairs to and maintenance of the Inventory and Equipment.

4.13 Assignment of Accounts. Following the occurrence of an Event of Default, and upon request by Lender, Debtors shall promptly give Lender, or another party at the direction of Lender, assignments, in a form acceptable to Lender, of all Accounts, all original and other documents evidencing a right to payment of Accounts, financial statements, agings, reports, lists of account debtors, copies of purchase orders, invoices, contracts, shipping and delivery receipts and such other data concerning the Accounts as Lender may request. Debtors agree that Lender and its authorized agents shall at all times have the right to confirm orders and to verify any or all of the Accounts in Lender's names, or in any fictitious name used by Lender for verifications.



#### 4.14 Continuing of Perfected Status of Collateral.

(a) Debtors agree to cooperate and join, at their expense, with Lender, in taking such steps as are necessary, in the reasonable judgment of Lender, to perfect or continue the perfected status of the security interests granted herein, including, without limitation, the execution, delivery and filing of any financing statements, amendments thereto and continuation statements, the delivery of Chattel Paper, Documents, certificated securities or Instruments to Lender, the obtaining of landlords' and mortgagees' waivers required by Lender, the notation of encumbrances in favor of Lender on certificates of title, prompt registration of all copyrights with the United States Copyright Office, prompt registration of all trademarks with the United States Patent and Trademark Office, and the execution and filing of any collateral assignments and any other instruments requested by Lender to perfect its security interests in any and all of Debtors' patents, trademarks, service marks, trade names, copyrights and other General Intangibles. Lender is expressly authorized to file financing statements without Debtors' signatures.

(b) Following indefeasible payment in full of all Obligations, Lender agrees to cooperate and join, at Debtors' expense, in executing and delivering all documents and taking all actions as are necessary to release and terminate Lender's security interests in and assignments of the Collateral.

(c) Debtors agree to cause any and all of their Subsidiaries that may be acquired at any time during the term of this Agreement to sign a joinder to this Agreement.

4.15 Lender as Attorney-in-Fact. Debtors hereby irrevocably appoint Lender (and any of its attorneys, officers, employees, or agents) as their true and lawful attorney-in-fact, said appointment being coupled with an interest, with full power of substitution, in the name of Debtors, Lender, or otherwise, for the sole use and benefit of Lender in its sole discretion, but at Debtors' expense, to exercise, to the extent permitted by law, in Lender's name or in the name of the Debtors or otherwise, the powers set forth herein, whether or not any of the Obligations are due, and such powers shall include, but not be limited to, the following powers, at any time following the occurrence of an Event of Default: (i) to endorse the name of Debtors upon any instruments of payment, invoice, freight, or express bill, bill of lading, storage, or warehouse receipt relating to the Collateral; (ii) to demand, collect, receive payment of, settle, compromise or adjust all or any of the Collateral; (iii) to file one or more financing statements naming Debtors as debtors and Lender as secured party and indicating therein the types or describing the items of Collateral herein specified; (iv) to correspond and negotiate directly with insurance carriers; (v) to sign and record one or more assignments or other instruments in favor of Lender to transfer ownership of any IP Collateral to Lender; and (vi) to execute and/or file any notice, statement, instrument, agreement, or other paper that Lender may require to create, preserve, perfect, or validate any security interest granted pursuant hereto or to enable Lender to exercise or enforce its rights hereunder or with respect to such security interest.

4.16 Liability of Lender as Attorney-in-Fact. Neither Lender nor its attorneys, officers, employees, or agents shall be liable for acts, omissions, any error in judgment or mistake in fact in its/their capacity as attorney-in-fact. Debtors hereby ratify all acts of Lender as

their attorney-in-fact other than as a result of the gross negligence or willful misconduct of Lender. This power, being coupled with an interest, is irrevocable until the Obligations have been fully satisfied. Lender shall not be required to take any steps necessary to preserve any rights against prior parties with respect to any of the Collateral.

4.17 Effect of Extensions and Modifications. While an Event of Default exists, Lender may extend the time of payment, arrange for payment in installments or otherwise modify the terms of, or release, any of the Collateral, without thereby incurring responsibility to, or discharging or otherwise affecting any liability of, Debtors.

## **ARTICLE 5 REMEDIES**

5.1 Acceleration of Obligations; General Rights of Lender. Upon the occurrence of an Event of Default, at Lender's sole option, all Obligations shall immediately become due and payable in full, all without protest, presentment, demand or further notice of any kind to Debtors, all of which are expressly waived. Upon and following an Event of Default, Lender may, at its option, exercise any and all rights and remedies Lender may have under this Agreement, any other Loan Document and/or applicable law.

5.2 Additional Rights and Remedies. In addition to the rights and remedies available to Lender as set forth above and any other rights or remedies available to Lender under applicable law, upon the occurrence of an Event of Default hereunder, Lender may at its option, immediately and without notice, do any or all of the following, which rights and remedies are cumulative, may be exercised from time to time, and are in addition to any rights and remedies available to Lender under any other agreement or instrument by and between Debtors and Lender:

(a) Exercise any and all of the rights and remedies of a secured party under the UCC, including, without limitation, the right to require Debtors to assemble the Collateral and make it available to Lender at a place reasonably convenient to the parties.

(b) Operate, utilize, recondition and/or refurbish any of the Collateral for the purpose of enhancing or preserving the value thereof by any means deemed appropriate by Lender, in its reasonable discretion, including, without limitation, converting raw materials and/or work-in-process into finished goods.

(c) Notify the account debtors for any of the Accounts to make payment directly to Lender, or to such post office box as Lender may direct.

(d) Demand, sue for, collect or retrieve any money or property at any time payable, receivable on account of or in exchange for, or make any compromise, or settlement deemed desirable with respect to any of the Collateral.

(e) Notify the post office authorities to change the address for delivery of Debtors' mail to an address designated by Lender and to receive, open, and distribute all mail

addressed to Debtors, retaining all mail relating to the Collateral and forwarding all other mail to Debtors.

(f) Upon ten (10) calendar days' prior written notice to the Debtors (or one (1) day's notice by telephone with respect to Collateral that is perishable or threatens to decline rapidly in value), which Debtors hereby acknowledge to be sufficient, commercially reasonable and proper, Lender may sell, lease or otherwise dispose of any or all of the Collateral at any time and from time to time at public or private sale, with or without advertisement thereof, and with or without providing any warranties of title, infringement, possession, quiet enjoyment, merchantability or other like warranties, express or implied, and apply the proceeds of any such sale first to Lender's expenses in preparing the Collateral for sale (including reasonable attorneys' fees) and second to the complete satisfaction of the Obligations in any order deemed appropriate by Lender in its sole discretion. Debtors waive the benefit of any marshaling doctrine with respect to Lender's exercise of its rights hereunder. Lender or anyone else may be the purchaser of any or all of the Collateral so sold and thereafter hold such Collateral absolutely, free from any claim or right of whatsoever kind, including any equity of redemption of Debtors any such notice, right and/or equity of redemption being hereby expressly waived and released.

5.3 Grant of License to Use Intangibles. In addition to the grant of a security interest in the IP Collateral hereinbefore provided, for the purposes of enabling Lender to exercise its rights and remedies hereunder at such time as Lender (without regard to this Section) shall be lawfully entitled to exercise such rights and remedies after an Event of Default, each Debtor hereby grants to Lender an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to such Debtor, provided that the actual proceeds received by Lender of any use or sale of Lender's rights under such license shall be applied to the Obligations) to use, assign or sublicense any of the IP Collateral, now owned or hereafter acquired by such Debtor, and wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored, all computer software and programs and all source code and object code relating to such computer software and programs.

## **ARTICLE 6 GENERAL PROVISIONS**

6.1 Cumulative Remedies. The remedies provided Lender in this Agreement are not exclusive of any other remedies that may be available to Lender under any other document or at law or equity.

6.2 Notices. All notices and other communications hereunder shall be provided in the manner provided in the Loan Agreement.

6.3 Negotiated Document. This Agreement has been negotiated by the parties with full benefit of counsel and should not be construed against any party as author.

6.4 Not Partners; No Third Party Beneficiaries. The relationship of Lender and any Debtor is that of lender and borrower only, and neither is a fiduciary, partner or joint venturer of the other for any purpose. This Agreement has been executed for the sole benefit of

the parties hereto, and no third party is authorized to rely upon Lender's rights or duties hereunder.

6.5 Incorporation of Schedules. All Schedules and Exhibits referred to in this Agreement are incorporated herein by this reference.

6.6 Indulgence Not Waiver. Any party's indulgence in a departure from the terms of this Agreement shall not prejudice the party's right to demand strict compliance with this Agreement absent a written waiver or amendment that would be binding under the terms of this Agreement.

6.7 Assignment. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties, except that no Debtor may assign any rights or delegate any obligations arising hereunder without the prior written consent of Lender. Any attempted assignment or delegation by any Debtor without the required prior consent shall be void.

6.8 Entire Agreement. This Agreement and the other written agreements executed by the parties represent the entire agreement of the parties concerning the subject matter hereof, and all oral discussions and prior agreements are merged herein; provided, however, if there is a conflict between this Agreement and the Loan Agreement, the provision of the Loan Agreement shall control.

6.9 Amendment and Waiver in Writing. No provision of this Agreement can be amended or waived, except by a statement in writing signed in hand by or on behalf of the party against which enforcement of the amendment or waiver is sought (emails, voice mails and other forms of records that do not require handwritten signatures shall not be binding). This Agreement may be amended to add any Affiliate of Debtors as an additional Debtor through a joinder agreement executed by the joining Debtor.

6.10 Severability. Should any provision of this Agreement be declared invalid or unenforceable for any reason, the remaining provisions hereof shall remain in full effect.

6.11 Time of Essence. Time is of the essence of this Agreement, and all dates and time periods specified herein shall be strictly observed.

6.12 Gender and Number. Words used herein indicating gender or number shall be read as context may require.

6.13 Captions Not Controlling. Captions and headings have been included in this Agreement for the convenience of the parties, and shall not be construed as affecting the content of the respective Sections.

6.14 Counterparts. This Agreement may be executed in counterparts with all signatures or by counterpart signature pages, and it shall not be necessary that the signatures of all parties be contained on any one document. Each counterpart shall be deemed an original, but all of them together shall constitute one and the same instrument.

6.15 Facsimiles. This Agreement may be executed by facsimile signatures, and shall be effective when Lender has received original or telecopy transmissions of the signature pages executed by all parties hereto; provided, however, that all parties shall deliver original executed documents to Lender promptly following the execution hereof.

6.16 Applicable Law. The validity, construction and enforcement of this Agreement and all other documents executed with respect to the Obligations shall be determined according to the laws of Tennessee applicable to contracts executed and performed entirely within that state.

6.17 Consent to Jurisdiction; Exclusive Venue. Each party to this Agreement hereby irrevocably consents to the jurisdiction of the United States District Court for the Middle District of Tennessee and of all Tennessee state courts sitting in Davidson County, Tennessee, for the purpose of any litigation to which Lender may be a party and which arises from or is related to this Agreement. It is further agreed that venue for any such action shall lie exclusively with courts sitting in Davidson County, Tennessee, unless (i) Lender agrees to the contrary in writing, or (ii) Lender initiates litigation in another court that either has personal jurisdiction over the parties to that action or has *in rem* jurisdiction over property relevant to the action. The parties waive any right to assert that the elected forum is not convenient and to raise any other objection to this election of exclusive venue.

6.18 Waiver of Jury Trial. Each party to this Agreement hereby knowingly, voluntarily, and with full benefit of counsel, irrevocably waives any right to obtain a trial by jury in any litigation arising from or related to this Agreement and confirms that the effect of this waiver is that all issues of fact and law in any such litigation shall be determined by a judge acting without a jury. This waiver is a material inducement to the execution of this Agreement and is intended to apply regardless of the basis of any claim raised in such litigation and, without limitation, shall apply to any litigation involving any claim or defense arising under contract law, tort, or under any statute or constitution.

6.19 Amended and Restated Agreement. This Agreement is an amendment to and restatement of, and not an extinguishment of, the obligations of Debtors under that Security Agreement dated as of February 10, 2003, made by WHI, Horizon and HCL in favor of Lender.

[The remainder of this page is intentionally blank.]

This First Amended and Restated Security Agreement is dated as of the date first written above.

THE UNDERSIGNED ACKNOWLEDGE  
A THOROUGH UNDERSTANDING OF  
THE TERMS OF THIS AGREEMENT  
AND AGREE TO BE BOUND THEREBY:

WELLSPRING HOSPICECARE, INC., a Delaware  
corporation

By: 

John W. Cline, its Chief Executive Officer

HORIZON HOSPICE, LLC, a Delaware limited liability  
company formerly known as Wellspring HospiceCare of  
Mississippi, LLC

By: Wellspring HospiceCare, Inc., a Delaware corporation,  
its sole member

By: 

John W. Cline, its Chief Executive Officer

HOSPICE CARE OF LOUISIANA, LLC, a Delaware limited  
liability company formerly known as Wellspring HospiceCare  
of Louisiana, LLC

By: Wellspring HospiceCare, Inc., a Delaware corporation,  
its sole member

By: 

John W. Cline, its Chief Executive Officer

COMMUNITY HOSPICES OF AMERICA, L.L.C., a  
Missouri limited liability company

By: Wellspring HospiceCare, Inc., a Delaware corporation,  
its sole member

By: 

John W. Cline, its Chief Executive Officer

LENDER:

MORGAN KEEGAN MEZZANINE FUND, L.P., a  
Delaware limited partnership

By:

RBH

Name:

R. BURTON HARVEY

Title:

PRINCIPAL

[Signature Page to First Amended and Restated Security Agreement]

**SCHEDULE 1(A)**

**Trademark Collateral**

<u>TRADEMARK DESCRIPTION</u>	<u>COUNTRY</u>	<u>SERIAL NO.</u>	<u>REG. NO.</u>	<u>STATUS</u>	<u>DATE OF REGISTRATION</u>
<b>Service Mark for "Community Hospices of America" (stylized and words only)</b>		78/220,968	Pending	Pending	Pending (application filed on March 3, 2003)



**SCHEDULE 1(B)**

**Patent License Rights**

<u>PATENT DESCRIPTION</u>	<u>DOCKET NO.</u>	<u>COUNTRY</u>	<u>SERIAL NO.</u>	<u>FILING DATE</u>	<u>STATUS</u>
NONE					

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103037-002

**TRADEMARK**  
**REEL: 002833 FRAME: 0017**

**SCHEDULE 1(C)**

**Copyright Collateral**

**COPYRIGHT  
TITLE AND  
DESCRIPTION**

**DATE OF  
CREATION;  
FIRST DATE OF  
DISTRIBUTION;  
DATE OF  
APPLICATION  
OR  
REGISTRATION**

**APPLICATION  
NUMBER OR  
REGISTRATION  
NUMBER**

**ORIGINAL  
AUTHOR OR  
OWNER OF  
COPYRIGHT (IF  
DIFFERENT  
FROM DEBTOR)**

**RECORDATION  
NUMBER OF IP  
AGREEMENT  
TRANSFERRING  
FROM OWNER  
TO DEBTOR (IF  
ORIGINAL  
OWNER OF  
COPYRIGHT IS  
DIFFERENT  
FROM DEBTOR)**

**NONE**

**SCHEDULE 3.1****Location of Properties; Place of Business**

Location Name	Address
Wellspring HospiceCare, Inc. (Corporate Headquarters - The corporate headquarters is the chief executive office of all Borrowers.)	3500 Blue Lake Drive Suite 201 Birmingham, AL 35243
Hospice Care of Louisiana, LLC Alexandria, LA office	1500-A Lee Street Alexandria, LA 71301
Hospice Care of Louisiana, LLC Monroe, LA office	1410 Royal Avenue Monroe, LA 71201
Hospice Care of Louisiana, LLC Slidell, LA office	770 Gause Boulevard, Suite C Slidell, LA 70458
Horizon Hospice, LLC McComb, MS office	140 North 5 <sup>th</sup> Street McComb, MS 39648
Horizon Hospice, LLC Decatur, MS office	158 Broad Street Decatur, MS 39327
Horizon Hospice, LLC Meridian, MS office	1614 23 <sup>rd</sup> Avenue Meridian, MS 39301
Horizon Hospice, LLC Quitman, MS office	104-A South Archusa Quitman, MS 39355
Horizon Hospice, LLC Brookhaven, MS office	220 South Jackson Brookhaven, MS 39601
Community Hospices of America, L.L.C.	1465 E. Primrose Springfield, MO 65804
Community Hospices of America, L.L.C.	2135-2141 S. Eastgate Springfield, MO 65804
Community Hospices of America, L.L.C. – Tri Lakes	Corporate Woods Office Park 1756 Bee Creek Road Branson, MO 65616
Community Hospices of America, L.L.C. – Tri Lakes	845 Hwy. 60, Suite A Monett, MO 65708
Community Hospices of America, L.L.C. – South Central	809 North Main

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103037-002**TRADEMARK**  
**REEL: 002833 FRAME: 0019**

Location Name	Address
MO	Mountain Grove, MO 65711
Community Hospices of America, L.L.C. – Central MO	Jay Ousley Plaza 3600 I-70 Drive SE Columbia, MO 65201
Community Hospices of America, L.L.C. – Central MO	628 High Street Jefferson City, MO 65101
Community Hospices of America, L.L.C. – NW IL	256 South Soangetaha Road Suite 103 Galesburg, IL 61401
Community Hospices of America, L.L.C. – SW MO	3130 Wisconsin Avenue, Ste 6-7 Joplin, MO 64801
Community Hospices of America, L.L.C. – The Virginias (WV)	R.R. 2, Box 380 Blue Prince Road Bluefield, WV 24701
Community Hospices of America, L.L.C. – The Virginias (VA)	520 Virginia Bluefield, VA 24605

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TRADEMARK  
REEL: 002833 FRAME: 0020

**SCHEDULE 3.2**

**Debtors' Name(s)**

1. Hospice Care of Louisiana, LLC (f/k/a Wellspring HospiceCare of Louisiana, LLC) d/b/a: (A) Hospice Care of Louisiana, (B) Hospice Care of Louisiana in Slidell, (C) Hospice Care of Louisiana in Alexandria and (D) Hospice Care of Louisiana in Monroe.
2. Horizon Hospice, LLC (f/k/a Wellspring HospiceCare of Mississippi, LLC) d/b/a Horizon Hospice.
3. Community Hospices of America, L.L.C. d/b/a: (A) Community Hospices of America, (B) Community Hospices of America – Central Missouri, (C) Community Hospices of America – South Central Missouri, (D) Community Hospices of America – Southwest Missouri, (E) Community Hospices of America – Tri Lakes, (F) Community Hospices of America – The Four States, (G) Community Hospices of America – Northwest Illinois and (H) Community Hospices of America – The Virginias.