

## MORTGAGE SUBORDINATION AGREEMENT

THIS MORTGAGE SUBORDINATION AGREEMENT, dated as of \_\_\_\_\_, 2007, is by and among THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, (“Guardian”) a New York corporation, FALMOUTH PLAZA, LLC, a Maine limited liability company (“Falmouth Plaza”) and THE TOWN OF FALMOUTH, a Maine municipal corporation (the “Town”).

### RECITALS

A. Guardian is the holder of that certain Mortgage and Security Agreement with Assignment of Rents and Fixture Filing given by Falmouth Plaza to Guardian dated July 29, 1998 and recorded in the Cumberland County Registry of Deeds in Book 14022, Page 126 (the “Guardian Mortgage”). Guardian is also the holder of that certain Assignment of Leases and Rents from Falmouth Plaza dated July 29, 1998 and recorded in said Registry of Deeds in Book 14022, Page 174 (the “Guardian Assignment” and together with the Guardian Mortgage, the “Guardian Security Documents”). The Guardian Security Documents encumber certain property owned by Falmouth Plaza located in Falmouth, Cumberland County, Maine, as more particularly described therein (the “Property”).

B. Falmouth Plaza has previously entered into an Easement Agreement with Family Ice, a Maine not-for-profit corporation, dated July 28, 1998 and recorded in the Cumberland County Registry of Deeds in Book 14019, Page 259 (the “Family Ice Easement”). The Family Ice Easement includes, among other things, the right of ingress and egress over Hat Trick Drive, so called, which Hat Trick Drive passes over the Property and connects Depot Road, so called, to Clearwater Drive, so called. The Family Ice Easement is for a term coterminus with the term of that certain Ground Lease dated May 28, 1998 between the Town as landlord and Family Ice as tenant (the “Family Ice Ground Lease”). Such Family Ice Ground Lease is memorialized by a Memorandum of Lease dated July 29, 1998, and recorded in said Registry of Deeds in Book 14059, Page 132.

C. Falmouth Plaza has granted certain rights and easements to the Town for ingress and egress over said Hat Trick Drive and related matters. Such rights and easements are set forth in that certain Easement Agreement between Falmouth Plaza and the Town dated as of August 1, 2007 and recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_ (the “Town 2007 Hat Trick Drive Easement”).

D. Guardian has agreed to subordinate the Guardian Security Documents to the Town 2007 Hat Trick Drive Easement, subject, however, and reserving to Guardian, the right to terminate such Town 2007 Hat Trick Drive Easement under certain circumstances and at a future date, all as more fully set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Guardian hereby subordinates the priority of the liens of the Guardian Security Documents to the provisions, rights, easements, covenants and restrictions set forth in the Town 2007 Hat Trick Drive Easement, with the same force and effect as if the Guardian Security Documents were granted and recorded subsequent to, and without knowledge of, the execution and recording of the Town 2007 Hat Trick Drive Easement; provided, however, that Guardian hereby reserves for itself and its successors and assigns of the Guardian Security Documents, the right to terminate the Town 2007 Hat Trick Drive Easement upon the expiration or earlier termination of the Family Ice Ground Lease, but only in the event Guardian, or its successor or assigns, forecloses the Guardian Security Documents.

2. This Subordination Agreement and the termination rights reserved by Guardian in Paragraph 1 above shall automatically terminate upon the payment in full of the debt secured by the Guardian Security Documents prior to foreclosure thereof. Such termination shall be conclusively established by the recording of a release or discharge of the Guardian Security Documents.

3. The undersigned represents that it is the sole owner of the Guardian Security Documents, that it has not transferred, assigned or pledged the Guardian Security Documents, that it has the full right and power to execute and deliver this Subordination Agreement and that the execution and delivery hereof has been duly authorized by all necessary action.

4. This Subordination Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns and shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their representatives, thereunto duly authorized, as of the date first set forth above.

WITNESS:

THE GUARDIAN LIFE  
INSURANCE COMPANY OF  
AMERICA, a New York corporation

\_\_\_\_\_

By: \_\_\_\_\_

Its

Print Name: \_\_\_\_\_

STATE OF NEW YORK

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2007

Then personally appeared the above-named \_\_\_\_\_, \_\_\_\_\_  
of The Guardian Life Insurance Company of America, and acknowledged the foregoing  
instrument to be his/her free act and deed in his/her said capacity and the free act and deed of  
said The Guardian Life Insurance Company of America.

Before me,

\_\_\_\_\_  
Notary Public  
Print name: \_\_\_\_\_

WITNESS:

FALMOUTH PLAZA LLC  
a Maine limited liability company

By: G.L. Rogers & Co., Inc.,  
Its Manager

\_\_\_\_\_

By: \_\_\_\_\_  
George L. Rogers  
Its President

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

\_\_\_\_\_, 2007

Then personally appeared the above-named George L. Rogers, President of G. L. Rogers & Co., Inc., Manager of Falmouth Plaza LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said G. L. Rogers & Co., Inc. in its capacity as Manager of said Falmouth Plaza LLC, and the free act and deed of said Falmouth Plaza LLC.

Before me,

\_\_\_\_\_  
Notary Public/Attorney At Law  
Print name: \_\_\_\_\_

WITNESS:

TOWN OF FALMOUTH  
a political subdivision of the State of  
Maine

\_\_\_\_\_

By: \_\_\_\_\_  
Nathan A. Poore  
Its Town Manager

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

\_\_\_\_\_, 2007

Then personally appeared the above-named Nathan A. Poore, Town Manager of the  
Town of Falmouth, Maine, as aforesaid, and acknowledged the foregoing instrument to be his  
free act and deed in his said capacity the free act and deed of said Town of Falmouth.

Before me,

\_\_\_\_\_  
Notary Public/Attorney At Law  
Print name: \_\_\_\_\_