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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 08/31/2018 11:05 AM PG: 1 OF 9

THIS DOCUMENT WAS PREPARED BY, AND AFTER RECORDING, RETURN TO:

Laura S. Peck, Esq.  
Axley Brynerson, LLP  
P.O. Box 1767  
Madison, WI 53701-1767

**Cook County:**

Address: 7308 West Lawrence Avenue,  
Harwood Heights, IL 60706  
PIN: 12-12-419-064-000  
Date:

Attach legal description

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*This space reserved for Recorders use only.*

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**ASSIGNMENT OF RENTS AND LEASES**

THIS ASSIGNMENT OF RENTS AND LEASES (the "Assignment") is made as of August 21, 2018, by BRADFORD HARWOOD HEIGHTS 3 LLC, an Illinois limited liability company, having an office at Thirty South Wacker Drive, Suite 2850, Chicago, Illinois 60606-0000, herein called "Assignor", whether one or more, to NATIONAL GUARDIAN LIFE INSURANCE COMPANY, with offices at Two East Gilman Street, P.O. Box 1191, Madison, Wisconsin 53701-1191, herein called "Assignee".

WITNESSETH:

WHEREAS, Assignor has or will execute and deliver to Assignee a Mortgage Note (the "Note") dated as of even date herewith, payable to the order of Assignee in the principal amount of Three Million One Hundred Fifty Thousand and 00/100ths Dollars (\$3,150,000.00), bearing interest and payable as set forth in the Note, and Assignor has executed a certain mortgage (the "Mortgage") dated this same date with respect to the real property (the "Premises") described on Exhibit A attached hereto to secure performance of all of its covenants, agreements, and provisions contained in the Note and the Mortgage.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby presently and absolutely grants, transfers, and assigns to Assignee all of Assignor's right, title, and interest in and to (including those now owned or hereafter acquired): (i) any and all present or future leases or tenancies, whether written or oral, covering or affecting any or all of the Premises, including, without limitation, the Ground Lease dated as of February 11, 2016, as amended by First Amendment to Ground Lease dated effective August 24, 2016, entered into between Assignor, as Landlord, and Portillo's Hot Dogs, LLC, a Delaware limited liability company ("Tenant"), as Tenant ("Ground Lease"), as listed on the rent roll delivered to Assignee in connection herewith (all of which, together with any and all extensions, modifications, and renewals, collectively are referred to as the "Leases" or singularly as a "Lease"); and (ii) all rents, profits, proceeds, royalties, revenues, and other income or payments of any kind due or payable or to become due and payable to Assignor as the result of any use,

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possession, or occupancy of all or any portion of the Premises or as the result of the use of or lease of any personal property constituting a part of the Premises (all of which collectively are referred to as "Rents"), all for the purpose of securing:

- A. Payment of all indebtedness of Assignor evidenced by the Note; and
- B. Performance and discharge of each and every obligation, covenant, and agreement of Assignor contained herein and in the Note, Mortgage, and any other loan documents referenced therein or related thereto.

Assignor warrants and covenants that it has the right under applicable law, to assign the Leases, and otherwise to execute and deliver this Assignment and to keep and perform all of its obligations pursuant to it. Assignor further covenants that it will warrant and defend the Leases and Rents against all adverse claims, whether now existing or hereafter arising.

Assignor further covenants and agrees with Assignee as follows:

1. Performance of Leases. Assignor faithfully will abide by, perform, and discharge each and every obligation, covenant, and agreement which it becomes liable to observe or perform under any present or future Lease, and at its sole cost and expense, Assignor will enforce or secure the performance in a prudent manner of each and every material obligation, covenant, condition, and agreement to be performed by the tenant under each and every Lease. Assignor will observe and comply with all provisions of law applicable to the operation and ownership of the Premises. Assignor will give prompt written notice to Assignee of any notice of default on the part of Assignor with respect to any Lease, and at its sole cost and expense, Assignor also will appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with any Lease or the obligations, duties, or liabilities of Assignor or any tenant pursuant to said Lease. Assignor will not lease or otherwise permit the use of all or any portion of the Premises (other than occupancy leases to commercial tenants, all in accordance with lease forms approved by Assignee) without the prior written consent of Assignee, and in no event will any Lease provide for rent that is below the fair market rent for such property. Assignor will not materially modify or alter the terms of the Ground Lease or any other Lease, not terminate the Ground Lease or any other Lease nor accept any surrender thereof, nor waive, excuse, or release the Tenant or any other lessee thereunder of or from any obligations, covenants, conditions, and agreements to be performed by Tenant or any such lessee without prior written approval of Assignee, which approval shall not be unreasonably withheld, conditioned or delayed.

2. Collection of Rents. This Assignment is intended to vest in Assignee the present and absolute right, title, and interest in and to the Leases and the Rents. However, until there occurs a default under the various provisions of this Assignment, the Note, or the Mortgage, Assignee grants to Assignor a license to collect, subject to the terms hereof, the Rents, as they respectively become due, but not more than thirty (30) days in advance, and to function as lessor and enforce the Leases. From and after:

- a. the occurrence of a default under this Assignment, the Note, or an event of default under the Mortgage which is not cured within the applicable grace period, if any; and

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b. delivery of a written notice to Assignor from Assignee, invoking Assignee's right to function as lessor under all Leases and to collect the Rents, to the exclusion of Assignor (the "Declaration"),

constructive possession of the Premises will be vested in Assignee. The Declaration shall be effective immediately upon its deposit in the United States mail. The sending of such Declaration shall not be considered the exclusive requisite action relating to the activation of the Assignment by Assignee it being intended this Assignment shall be fully operative without any further action on the part of Assignor or Assignee. Each of the following shall also be considered a discernible event, in addition to the Declaration, which will automatically serve to activate this Assignment:

- c. the taking of possession of the Premises by Assignee;
- d. the application or request by Assignee for the appointment of a receiver for the Premises;
- e. the commencement of an action to foreclose the Mortgage; or
- f. an event of default shall occur under the Mortgage beyond any applicable grace period.

After the delivery of the Declaration or any one of the other foregoing events of activation occurs, Assignor shall have no further right to function as lessor under any of the Leases or to collect Rents and immediately shall turn over to Assignee all prepaid Rents accruing on and after the date on which such notice is delivered to Assignor; the rents, income, issues, proceeds, royalties, revenues, and all other profits shall be paid directly to Assignee; Assignee may notify the tenants under the Leases, or any other parties in possession of the Premises, to pay the rents, income, issues, proceeds, royalties, revenues, and all other profits directly to Assignee at the address specified for notices to Assignee in the Mortgage; and Assignee may exercise all of its other rights and remedies granted hereunder. Assignor hereby irrevocably appoints Assignee its true and lawful attorney-in-fact for all the purposes set forth herein.

3. Protecting the Security of This Assignment. If Assignor fails to perform or observe any covenant or agreement contained in this Assignment (said failure constituting a "default" for the purposes of this provision), then Assignee, after giving Assignor written notice of such a default and if said default is not cured within thirty (30) days after said notice is given (except in the case of what Assignee in good faith perceives to be an emergency situation (e.g., but without limitation, payment of insurance policy premiums to avoid cancellation and payment of real estate taxes prior to foreclosure or penalty), in which case Assignee need not give prior notice before taking any action), without obligation to do so and without releasing Assignor from any obligation of any kind, may make or do the same in such manner and to such extent as Assignee deems appropriate to protect its security (including, specifically, without limitation, the right to commence, appear in, and defend any action or proceeding purporting to affect its said security, or the right or powers of Assignor to perform and discharge each and every obligation, covenant, and agreement of Assignor contained in the Leases). In exercising any such powers, Assignee may pay necessary costs and expenses. Assignor agrees and covenants to pay immediately upon demand all

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sums expended by Assignee under the authority of this agreement, together with interest thereon at the default rate of interest as provided in the Note.

4. Present Assignment. This Assignment constitutes a perfected, absolute, and present assignment, subject only to the conditions of Paragraph 2 above.

5. Defaults and Remedies. In the event of any default specified in this Assignment or the various provisions of the Note, Mortgage, or any other loan document which is not cured within any applicable grace period, Assignee, at its option, after notice to Assignor, may at any time:

a. In the name, place, and stead of Assignor and without becoming a mortgagee in possession: (i) enter upon, manage, and operate the Premises or retain the services of one or more independent contractors to manage and operate all or any part of the Premises; (ii) make, enforce, modify, and accept surrender of the Leases; (iii) obtain or evict tenants, collect, sue for, fix, or modify the Rents and enforce all rights of the lessor under the Leases; and (iv) perform any and all other acts that may be necessary or proper to protect the security of this Assignment;

b. With or without exercising the rights set forth in Subparagraph a. above, give, or require Assignor to give, notice to any or all tenants under the Leases, authorizing and directing the tenants to pay all Rents under the Leases directly to Assignee; or

c. Apply for the appointment of a receiver regarding the Premises, whether or not foreclosure proceedings are pending under the Mortgage and, if such proceedings were commenced, whether or not a foreclosure sale has occurred. Assignor consents to such an application.

The exercise of any of the foregoing rights or remedies and the application of the Rents shall not cure or waive any event of default, or notice of default, under this Assignment or the Note, the Mortgage, or any other loan document, nor invalidate any act done pursuant to such notice.

The remedies provided herein are independent of any other remedies provided in the Note, the Mortgage, or any other loan document. If Assignee exercises a remedy provided herein for a default without also exercising other remedies provided in such other loan documents for that same default, or if Assignee exercises a remedy provided in any other such loan document for a default without exercising a remedy provided herein for that same default, then the same shall not be construed as a waiver of Assignee's right to exercise such additional remedies for that same or any subsequent default. Furthermore, Assignee's failure to exercise its right to receive any Rents to which it is entitled by this Assignment shall not affect or be construed as a waiver of Assignee's right to receive any subsequently accruing Rents.

6. Application of Rents, Profits, and Income. All Rents collected by Assignee or the receiver each month are to be applied in the following order of priorities:

a. To payment of all fees of the receiver approved by the court;

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- b. To payment of all prior or current real estate taxes and special assessments with respect to the Premises;
- c. To payment of all premiums then due for the insurance required by the provisions of the Mortgage;
- d. To payment of expenses incurred for normal operation and maintenance of the Premises (including, without limitation, a fee for management of the Premises by Assignee or any third party retained by Assignee to manage the Premises); and
- e. To payment of all other obligations under the Note, the Mortgage, or any other loan document.

The rights and powers of Assignee under this Assignment and the application of Rents under this Paragraph 6 shall continue and remain in full force and effect both prior to and after commencement of any foreclosure action and after foreclosure sale and until expiration of any redemption period from any foreclosure sale, whether or not any deficiency remains after a foreclosure sale.

7. Assignee Not to Become Liable. Assignee is not obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability of Assignor under the Leases. This Assignment shall not operate to place upon Assignee responsibility for the control, care, management, or repair of the Premises or for the performance of any of the terms and conditions of the Leases. Assignee is not responsible or liable for any waste committed on the Premises, or for any dangerous or defective condition of the Premises, except to the extent that the same arise out of active negligence or willful misconduct by Assignee.

8. Assignor's Indemnification. Assignor hereby agrees to indemnify and to hold Assignee harmless from and against any and all claims, demands, liability, loss, or damage, including, but not limited to, all costs, expenses, and reasonable attorneys' fees asserted against, imposed on, or incurred by Assignee in connection with or as a result of this Assignment or the exercise of any rights or remedies under this Assignment or under the Leases, or by reason of any alleged obligations or undertakings of Assignee to perform or discharge any of the terms, covenants, or agreements contained in the Leases. If Assignee incurs any such liability, then the amount thereof, together with interest thereon at the default rate of interest as provided in the Note, shall be secured by this Assignment. Assignor shall reimburse Assignee therefor immediately upon demand.

9. Authorization and Direction to Tenant. Upon notice from Assignee that it is exercising the right to collect Rents, as set forth in Paragraph 2 of this Assignment, Assignor hereby irrevocably authorizes and directs the tenants under the Leases to pay to Assignee all sums due under the Leases. Assignor hereby consents and directs that said sums shall be paid to Assignee without the necessity of a judicial determination that a default has occurred or that Assignee is entitled to exercise its rights pursuant to this Assignment. To the extent such sums are paid to Assignee, Assignor agrees that the tenant has no further liability to Assignor for the same. The signature of Assignee alone is sufficient for the exercise of any rights under this Assignment, and the receipt by Assignee alone of any sums received is full discharge and release of any such tenant

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or occupant of the Premises. Checks for all or any part of the Rents collected under this Assignment shall, upon notice from Assignee, be drawn to the exclusive order of Assignee.

10. Satisfaction. Upon full satisfaction of the Mortgage, this Assignment automatically shall become null and void and of no further effect. However, Assignee shall, at Assignor's request, note the satisfaction of this Assignment on the instrument evidencing satisfaction of the Mortgage.

11. Assignee Not a Mortgagee in Possession. Nothing herein contained and no actions taken pursuant to this Assignment (short of actually taking physical possession of the Premises) shall be construed as constituting Assignee as a mortgagee in possession.

12. Specific Assignment of Leases. Upon request by Assignee, Assignor agrees to transfer and assign to Assignee any and all specific Leases that Assignee identifies in a written notice to Assignor. Such transfer or assignment by Assignor shall be upon the same or substantially the same terms and conditions as are contained herein. Assignor promptly will file or record such assignment, at Assignor's expense, if requested by Assignee.

13. Warranties and Representations. Assignor warrants and represents that Assignor is entitled to receive said rents, issues, and profits; that neither the same nor any existing leases have been heretofore sold, assigned, transferred, or conveyed; that Assignor has good right to sell, assign, transfer, and convey the same and to grant to and confer upon Assignee the rights, interests, powers, and authorities herein granted and conferred; that there is no default under any existing Lease; that the existing Leases have not been amended or modified; and that Assignor has not accepted rent for any future monthly payment period except for the current period.

14. Unenforceable Provisions Severable. All rights, powers, and remedies provided in this document are intended to be exercised only to the extent that such exercise does not violate any applicable provision of law and are intended to be limited to the extent necessary to not render this Assignment invalid, unenforceable, or unreasonable under any applicable law. If any term of this Assignment is held to be invalid, illegal, or unenforceable, then the validity of other terms are intended to remain unaffected.

15. Successors and Assigns. The covenants and agreements herein contained shall be binding upon and the rights hereunder shall inure to the respective successors and assigns of Assignor and Assignee, including any purchaser at a foreclosure sale.

16. Captions; Amendments; Notices. The captions and headings of the paragraphs of this Assignment are for convenience only and are not intended to interpret or define the provisions of this Assignment. This Assignment can be amended only in a writing signed by Assignor and Assignee. All notices required by this Assignment shall be given by certified or registered mail or a commercial overnight courier service, and any notice so sent shall be deemed to have been given on the date the same is deposited in the United States mail, postage prepaid. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been given shall constitute receipt of the notice, demand, or request sent. Notices shall be addressed to Assignee or Assignor, as the case may be at the following addresses or at such other address as either party may from time to time designate by like notice:

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If to Assignee:

National Guardian Life Insurance Company  
P.O. Box 1191  
Madison, Wisconsin 53701-1191  
Attention: General Counsel

If to Assignor:

Bradford Harwood Heights 3 LLC  
30 South Wacker Drive, Suite 2850,  
Chicago, Illinois 60606-0000  
Attention: Chad W. Jones

17. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one instrument.

18. Governing Law. The Assignment shall be governed by the laws of the State of Illinois.

19. Waiver of Jury Trial. Assignor hereby waives any and all right to trial by jury in any action or proceeding relating to this Assignment, or any other document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing. Assignor represents that this waiver is knowingly, willingly and voluntarily given.

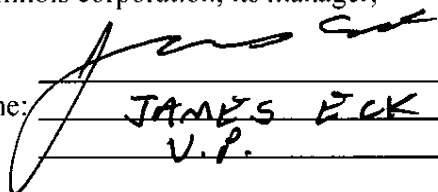
SIGNATURE ON NEXT PAGE FOLLOWING

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IN WITNESS WHEREOF, this Assignment has been duly executed, sealed, acknowledged and delivered as of the day and year first above written.

BRADFORD HARWOOD HEIGHTS 3 LLC,  
an Illinois limited liability company

By: Bradford Real Estate Services Corp.,  
an Illinois corporation, its manager,

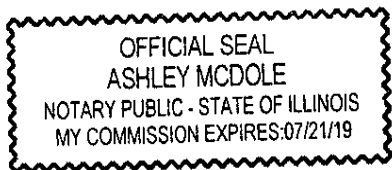
By:   
Name: JAMES ECK  
Its: V.P.

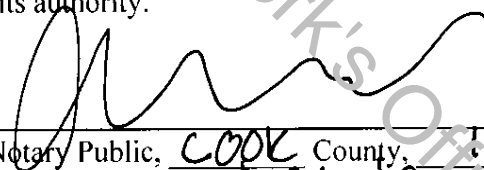
Property of COOK COUNTY CLERK'S OFFICE

### ACKNOWLEDGEMENT

STATE OF Illinois )  
) ss:  
COUNTY OF COOK )

Personally came before me this 15 day of AUGUST, 2018, the above-named James Eck, to me known to be the person who executed the foregoing instrument and to me known to be the VIC PRESIDENT of Bradford Real Estate Services Corp., an Illinois corporation, which is the manager of Bradford Harwood Heights 3 LLC, an Illinois limited liability company, and that he executed the foregoing instrument as such VIC PRESIDENT of such corporation as the manager of such limited liability company, as the deed of said limited liability company, by its authority.



  
Notary Public, COOK County, IL  
My Commission: 7.21.19

This instrument was drafted by:  
Laura S. Peck, Esq.  
Axley Brynelson, LLP



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## EXHIBIT A

### Legal Description

Lot B-1 in the final plat of subdivision of 7300 W. Lawrence Avenue Resubdivision No. 1 being a subdivision of part of the South East 1/4 of Section 12, Township 40 North, Range 12, East of the Third Principal Meridian, according to the plat thereof recorded on September 27, 2016 as Document Number 1627122147.

#### **Parcel 2:**

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Easements for the benefit of parcel 1 as granted in the Amended And Restated Reciprocal Easement Agreement Recorded September 27, 2016 as document number 1627122150 for The Purpose Of ingress and egress by Vehicular, Pedestrian And Bicycle Traffic; And Parking; Signage Over And Upon The Areas Depicted On Exhibit 'C' Attached Thereto Which Amends And Restates The Non-exclusive Easement For The Benefit of Parcel 1 As Created By Easement Agreement dated June 7, 1990 and recorded June 8, 1990 as document number 90271468.

#### **Parcel 3:**

Easements For The Benefit Of Parcel 1 As Created By Easement Agreement Recorded September 27, 2016 as document number 1627122146 For Access And Utilities Over Portions of lot 1 in aforesaid subdivision.

#### **Parcel 4:**

Easements For The Benefit Of Parcel 1 As Created By The Operating And Easement Agreement Recorded September 27, 2016 as document number 1627122149 relating to Vehicular And Pedestrian ingress and egress , Signage Easement; Parking; Utilities And Maintenance Over And Upon Portions Of lots A And C In 7300 W. Lawrence Avenue Resubdivision No. 1, As Depicted On Exhibits Attached Thereto.

Tax Parcel No.: 12-12-419-064-0000

Address: 7308 West Lawrence Avenue, Harwood Heights, IL 60706