



Doc#: 1011202018 Fee: \$48.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 04/22/2010 12:02 PM Pg: 1 of 7

B. Johnson 4th Floor A00197059

When Recorded Mail To:
Kirkland & Ellis LLP
300 N LaSalle Street
Chicago, IL 60654
Attention: Tanya E. Brady, Esq.

**NON-DISTURBANCE AND
ATTORNMEN T AGREEMENT**

THIS AGREEMENT is made as of April 19, 2010, by and among RMC Operating Company, LLC, an Illinois limited liability company ("Landlord"), WHIRLPOOL CORPORATION, a Delaware corporation ("Tenant"), and Reid Murdoch, LLC, an Illinois limited liability company ("Owner").

RECITALS:

- A. Pursuant to a certain Office Lease dated April 19, 2010 (the "Lease"), Landlord leased certain space (the "Leased Premises") located in the building situated on property located at 325 N. LaSalle Street, Chicago, Illinois, legally described in Exhibit A (the "Property") to Tenant upon the covenants, terms, and conditions stated in the Lease. Owner has received a true copy of the Lease.
- B. The Lease has not been amended or modified.
- C. Owner is the fee owner of the Property, and has leased the Property to Landlord pursuant to a certain Master Lease, dated April 23, 2004, which has been and may be amended from time to time by Owner and Landlord (the "Master Lease").
- D. The parties hereto desire to establish additional rights of quiet and peaceful possession for the benefit of Tenant.

AGREEMENTS:

NOW, THEREFORE, in consideration of the covenants, terms, conditions and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

- 1. Owner acknowledges that there is no default by Landlord under the Master Lease and that Landlord has the full right and authority under the terms of the Master Lease to enter into the Lease with Tenant. Owner consents to all of the terms of the Lease. Notwithstanding anything to the contrary, compliance by Tenant with its obligations under the Lease shall constitute complete satisfaction of all of Tenant's obligations under this Agreement and the Master Lease, and Tenant shall not be bound by or

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subject to any of the terms of the Master Lease, nor shall the Master Lease impose any obligations on Tenant or diminish any right or benefit of Tenant under the Lease or this Agreement or create any conditions to Tenant's receipt of the rights and benefits of the Lease or this Agreement nor shall any terms of the Master Lease give Owner the right to approve or disapprove any act or inaction by Tenant which is permitted or not prohibited by the Lease. In no event shall Tenant be required to perform any obligations of Landlord under the Master Lease. Without limiting the generality of the foregoing provisions, Owner agrees that if the Leased Premises or the Property is damaged or destroyed by fire or other casualty or taken by the exercise of any right of eminent domain, all insurance proceeds and condemnation awards shall be made available for the purposes of repair or restoration as provided in the Lease.

2. Owner hereby covenants that in the event it obtains Landlord's interest in the Property or if the Master Lease is terminated or if Owner obtains the right of possession of the Property, the Lease, including any consents and approvals granted by Landlord and any modifications or amendments will continue in full force and effect, and Owner shall recognize the Lease, including any consents and approvals granted by Landlord and any modifications or amendments and the Tenant's rights thereunder, and will thereby establish direct privity of estate and contract between Owner and Tenant as though the Lease, including any consents and approvals granted by Landlord and any modifications or amendments were directly made from Owner in favor of Tenant. None of the Tenant's rights shall be terminated, disturbed, diminished or adversely affected, nor shall Tenant's use, possession or enjoyment of the Property be interfered with or Tenant's rights under the Lease be reduced as a result of a default by Landlord under the Master Lease or the expiration or the termination of the Master Lease whether by merger or otherwise, or by Owner's acquisition of title to the Property; provided, however, that nothing contained in this sentence shall limit or restrict Landlord from exercising any rights or remedies provided in the Lease. Owner shall immediately upon such acquisition of Landlord's interest or possession, or the termination of the Master Lease, give written notice thereof to Tenant; and Tenant shall have the right to rely on such notice.

3. Tenant agrees to send a copy of any written notice of default sent to Landlord under such Lease, by certified mail, return receipt requested, to Friedman Properties, Ltd. 350 North Clark Street, Chicago, Illinois 60610, Attn: President and General Counsel or to such other address as Owner may designate by written notice to Tenant. Tenant further agrees that Owner shall have the right, but shall not be obligated, to cure such default on behalf of Landlord during the same coterminous grace period (if any) as is allowed to Landlord under the terms of the Lease. Upon Tenant's receipt of a written request by Owner, Tenant will promptly respond to Owner's request for information concerning any cure by Landlord of the specified default by Landlord.

4. If the interests of the Landlord under the Lease shall be transferred to Owner by reason of termination of the Master Lease, or otherwise, and Owner takes possession of the Property, Tenant hereby covenants and agrees that, upon thirty (30) days notice thereof from Owner, Tenant shall make full and complete attornment to the Owner as substitute Landlord upon the same terms, covenants and conditions as provided in the Lease, so as to establish direct privity of estate and contract between Owner and Tenant with the same force and effect as though the Lease [and all modifications and amendments] were originally made directly between Owner and Tenant. Tenant will thereafter pay directly to Owner all amounts, which are otherwise required by the Lease to be paid to Landlord. It shall not be necessary, except as required by law or court rules or procedures, for Owner to name Tenant as a party to enforce its rights under the Master Lease or to prosecute any action at law to gain possession of the Property and, unless required by law or court rules or procedures, Owner agrees not to name or otherwise join Tenant in any such proceeding.

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5. The provisions of this Agreement shall constitute covenants running with the Property and shall be binding upon and inure to the benefit of the respective parties hereto and their respective heirs, executors, administrators, beneficiaries, successors and assigns.

6. Landlord and Tenant hereby jointly and severally agree for the benefit of Owner, that, except for acts or omissions of Owner in exercising its rights to cure Landlord's defaults, neither this Agreement, nor the Master Lease, nor anything to the contrary in the Lease or in any modifications or amendments thereto shall, prior to Owner's acquisition of Landlord's interest in or possession of the Leased Premises, operate to give rise to or create any responsibility or liability upon Owner for the control, care, management or repair of the Leased Premises or for any waste committed on the Leased Premises by any party whatsoever or for any dangerous or defective condition of the Leased Premises; or impose responsibility for the carrying out by Owner of any of the covenants, terms and conditions of the Lease or of any modification or amendment or for any negligence in the management, upkeep, repair or control of the Leased Premises resulting in loss, injury or death to Tenant, or any licensee, invitee, guest, employee, agent or stranger. Notwithstanding anything to the contrary in the Lease, the Master Lease or otherwise, Owner shall be responsible for the performance of all covenants and obligations of Landlord under the Lease, but Owner's responsibility shall only begin upon the acquisition of Landlord's interest in or possession of the Property. If Owner shall acquire Landlord's interest in or possession of the Leased Premises and any obligations of Landlord under the Lease are not performed within the times and subject to the conditions provided in the Lease, then, notwithstanding anything herein or in the Lease to the contrary, Tenant shall have all rights under the Lease, at law or in equity for Landlord's breach of its obligations if the Owner fails to cure the default within the applicable cure period under the Lease.

7. Any notices to Tenant hereunder shall be effective upon receipt thereof by Tenant by a nationally recognized overnight courier (such as Federal Express), addressed as follows: WHIRLPOOL CORPORATION, a Delaware corporation, 2000 N. M-63, Mail Drop 1705, Benton Harbor, Michigan 49022, Attention: Director of Real Estate, with a copy to WHIRLPOOL CORPORATION, 2000 N. M 63, Mail Drop 2200, Benton Harbor, Michigan 49022, Attention: Secretary, or to such other address as Tenant may specify by notice to Owner.

8. Whenever used herein, the singular number shall include the plural, and the use of any gender shall include all genders. The words, "Owner", "Landlord" and "Tenant" shall mean, respectively, the owner from time to time of the fee, the ground leasehold and the sublease hold estates in the Leased Premises.

9. Landlord agrees to be bound by the effect of any notice provided under this Agreement to Tenant by Owner, and hereby releases Tenant from all liability as a result of reliance upon such notice.

[Signatures Appear On Following Pages]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

LANDLORD:

RMC OPERATING COMPANY, LLC, by Historic Preservation Associates, LLC, its Manager

By:  _____

Its: Manager _____

TENANT:

WHIRLPOOL CORPORATION, a Delaware corporation

By:  _____

Its: VP SALES, NAR _____

OWNER:

REID MURDOCH, LLC

By:  _____

Its: Manager _____

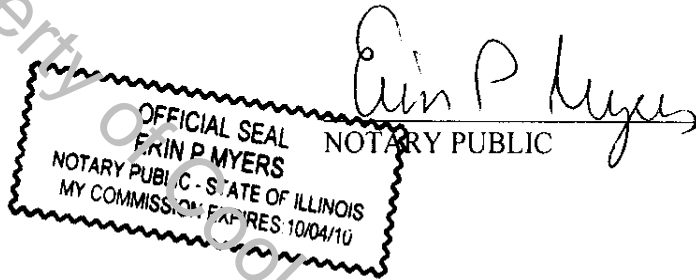
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ALBERT M. FRIEDMAN, the Manager of Historic Preservation Associates, LLC, the Manager of RMC Operating Company, LLC (the "LLC"), an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such representative, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of the LLC for the uses and purposes therein set forth.

GIVEN under my hand and notary seal, this 19 day of April, 2010.



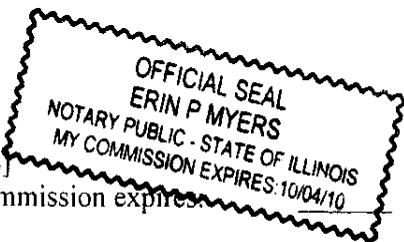
(SEAL)

My commission expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ALBERT M. FRIEDMAN, the Manager of Reid Murdoch, LLC (the "LLC"), an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he or she signed, sealed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said LLC, for the uses and purposes therein set forth.

GIVEN UNDER my hand and notary seal this 19 day of April, 2010.



[SEAL]

My commission expires: _____

Erin P. Myers
NOTARY PUBLIC

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STATE OF MICHIGAN)
) SS.
COUNTY OF BERRIEN)

I, Lorraine Seeland, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT SAM ABDELNOUR the VP SALES, NAR of WHIRLPOOL CORPORATION, a Delaware corporation (the "Tenant"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VP SALES, NAR appeared before me this day in person and acknowledged that he or she signed, sealed and delivered said instrument as his or her own free and voluntary act, and as the free and voluntary act of said Tenant, for the uses and purposes therein set forth.

GIVEN UNDER my hand and notary seal this 19th day of April, 2010.



[SEAL]

My commission expires:

9-30-2014

Lorraine Seeland
NOTARY PUBLIC

LORRAINE SEELAND
Notary Public, State of MI
County of Berrien
My Commission Expires 09-30-2014
Acting in the County of Berrien

Property of Cook County Clerk's Office

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EXHIBIT A

Property

PARCEL 1:

LOTS 2, 3 AND 4 OF BLOCK 3 IN THE ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 AND THE WEST $\frac{1}{2}$ OF THE ALLEY RUNNING NORTH AND SOUTH ABUTTING LOT 2 AFORESAID, AND LOTS 1 THROUGH 4 OF ASSESSOR'S DIVISION OF LOT 1 OF BLOCK 3 OF ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, PLATTED BY CANAL COMMISSIONERS.

PARCEL 2:

LOTS 1, 2, 3, 4, 5, AND 6 AND THE EAST $\frac{1}{2}$ OF THE ALLEY ABUTTING LOTS 1 THROUGH 4 ASSESSOR'S DIVISION OF LOT 1 OF BLOCK 3 OF ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, PLATTED BY CANAL COMMISSIONERS.

PARCEL 3:

THAT PART OF WEST CARROLL STREET FACATED BY THE CHICAGO CITY COUNCIL BY ORDINANCE ADOPTED ON APRIL 21, 1999.

Common Address: 325 North LaSalle Street/320 North Clark Street, Chicago, Illinois 60610

PIN: 17-09-407-001, 17-09-407-002, 17-09-407-003, 17-09-407-004, 17-09-407-005, and 17-09-407-006