

**2015035014 00024**

FORSYTH CO. NC FEE \$26.00

PRESENTED &amp; RECORDED

09/14/2015 08:54:43 AM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS

BY: RANDY L SMITH

DPTY

BK: RE 3250

PG: 504 - 510

Instrument prepared by and record and return to:  
 CONN APPLIANCES, INC.  
 4055 Technology Forest Blvd.  
 Suite 210  
 The Woodlands, TX 77381  
 Attention: Vice President – Real Estate

**SUBORDINATION, NON-DISTURBANCE  
 AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made and entered into as of September 10, 2015, by and between CONN APPLIANCES, INC., a Texas corporation ("Tenant") whose address is 4055 Technology Forest Boulevard, Suite 210, The Woodlands, Texas 77381, Attn: Vice President – Real Estate; ALAMANCE ASSOCIATES, LLC, a Delaware limited liability company ("Landlord"), whose address is 1307 W. Morehead Street, Suite 208, Charlotte, North Carolina 28208, Attn: Lease Administration; and STONEGATE BANK ("Lender"), whose address is 1430 North Federal Highway, Fort Lauderdale, Florida 33304, Attn: Steve Sanzone.

**PRELIMINARY STATEMENT OF FACTS:**

WHEREAS, Lender is the owner and holder of that certain Deed of Trust given by Borrower, to secure the payment of certain indebtedness therein described including a note in the principal amount of \$ 5,277,000.00, which Deed of Trust is dated as of the date hereof, and is being filed contemporaneously with this Agreement in the Forsyth County Public Registry, , as the same may be amended, supplemented or restated from time to time (the "Deed of Trust"), which constitutes a first mortgage lien on that certain real property (the "Mortgaged Premises") in the City of Winston-Salem, State of North Carolina, more fully described therein; and

WHEREAS, Tenant has entered into a Lease Agreement (the "Lease") dated September 26, 2014, made by Landlord, covering a part of the Mortgaged Premises being more fully described on Exhibit "A" attached hereto and made a part hereof (the "Premises"), and has filed a Memorandum of Lease in Book 3200, Page 613 of the Forsyth County Public Registry.

WHEREAS, Tenant and Lender desire to confirm their understanding with respect to the Lease and the Deed of Trust.

NOW, THEREFORE, in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, it is hereby agreed as follows:

1. **SUBORDINATION.** The parties hereto agree and acknowledge that the Lease, and Tenant's leasehold estate created thereby, excluding all rights and options to purchase the Premises, shall be and are completely and unconditionally subject and subordinate to the lien of the Deed of Trust and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications, increases or replacements thereof, except as provided herein.
2. **TENANT NOT TO BE DISTURBED.** So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof which may be effected in accordance with any renewal rights therefore in the Lease, shall not be diminished or interfered with by Lender or any successor interest to Borrower through Lender, whether by foreclosure or conveyance in lieu thereof, or otherwise, it being understood that Tenant's occupancy of the Premises shall not be disturbed by Lender or any third party for any reason whatsoever during the Term of the Lease or any such extensions or renewals thereof for so long as no default exists and is continuing, which shall be controlled by the terms of the Lease.
3. **TENANT NOT TO BE JOINED IN FORECLOSURE.** So long as Tenant is not in default (beyond any period given Tenant to cure such default) in payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Deed of Trust unless such joinder is required by law to foreclose the Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.
4. **TENANT TO ATTORN TO LENDER.** If the interests of Borrower shall be transferred to and owned by Lender or any other party (each, a "Successor Landlord") by reason of foreclosure or other proceedings brought by it in lieu of or pursuant to a foreclosure, or by any other manner, and Successor Landlord succeeds to the interest of the Borrower under the Lease, the Lease shall not terminate, and Tenant shall be bound to Successor Landlord and Successor Landlord shall be bound to Tenant under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Successor Landlord were the landlord under the Lease, and Tenant does hereby attorn to Successor Landlord as its landlord, said attornment to be effective and self-operative immediately upon Lender succeeding to the interest of the Borrower under the Lease without the execution of any further instruments on the part of any of the parties hereto; provided, however, that Tenant shall be under no obligation to pay rent to Successor Landlord until Tenant receives written notice from Successor Landlord that it has succeeded to the interest of the Borrower under the Lease. The respective rights and obligations of Tenant and Successor Landlord upon such attornment, to the extent of the then remaining balance of the term of the Lease and any extensions and renewals shall be and are the same as now set forth therein.
5. **LENDER NOT BOUND BY CERTAIN ACTS OF BORROWER.** If Successor Landlord shall succeed to the interest of Borrower under the Lease by foreclosure or conveyance in lieu

- thereof, Successor Landlord shall not be: (a) liable for any act or omission of any prior landlord (including Borrower); (b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Borrower); (c) bound by any rent or additional rent which Tenant might have paid for more than the then current installment; (d) bound by any early termination, amendment or modification of the Lease made without its consent; (e) bound by any provisions of the Lease regarding the commencement or completion of any construction; (f) liable for the return of any security deposit except to the extent actually received by Successor Landlord from Borrower; except that Successor Landlord shall remain bound by any option to Tenant to purchase the Mortgaged Premises or any part thereof. In the event of a default by Borrower under the Lease or an occurrence that would give rise to an offset against rent or claim against Borrower under the Lease, Tenant will use its best efforts to set off such defaults against rents currently due Borrower.
6. ASSIGNMENT OF LEASE. Borrower has by a separate Collateral Assignment of Leases, Rents and Income recorded contemporaneously with this Agreement in the Forsyth County Public Registry, as the same may be amended, supplemented or restated from time to time (the "Assignment of Leases") assigned its interest in the rents and payments due under the Lease to Lender as security for repayment of the Loan. If in the future there is a default by the Borrower in the performance and observance of the terms of the Deed of Trust, the Lender may, at its option under the Assignment of Leases, require that all rents and other payments due under the Lease be paid directly to it. Upon notification to that effect by the Lender, the Borrower hereby authorizes and directs Tenant, and the Tenant agrees, to pay any payments due under the terms of the Lease to Lender. The Assignment of Leases does not diminish any obligations of the Borrower under the Lease or impose any such obligations on the Lender.
  7. SUCCESSORS AND ASSIGNS. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their heirs, administrators, representatives, successors and assigns, including without limitation each and every from time to time holder of the Lease or any other person having an interest therein including purchasers at foreclosure or those acquiring title pursuant to conveyance in lieu thereof and shall inure to the benefit of the Lender and its successors and assigns.
  8. CHOICE OF LAW. This Agreement is made and executed under and in all respects is to be governed by and construed in accordance with the laws of the State where the Premises are situate.
  9. CAPTIONS AND HEADINGS. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.
  10. NOTICES. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail, or equivalent, to Tenant at the Leased Premises and to Lender at the addresses as set forth above, or to such other places any party hereto may by notice in writing designate shall constitute service of notice hereunder.

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

**TENANT:**

**CONN APPLIANCES, INC.,** a Texas corporation

By: Don Welch

Name: Don Welch

Title: Vice President – Real Estate

STATE OF TEXAS

COUNTY OF MONTGOMERY

I certify that the following person personally appeared before me this day, acknowledging to me that the he voluntarily signed the foregoing document:

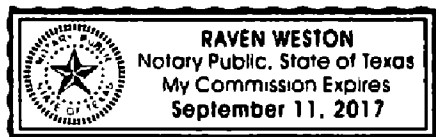
Don Welch, Vice President – Real Estate

*(insert name(s) of those signing)*

Witness my hand and official stamp or seal this 31st day of August, 2015.

Raven Weston

Notary Public



Raven Weston

Notary's printed or typed name

*[Note: Notary Public must sign exactly as on notary seal]*

My Commission Expires: September 11, 2017

**[NOTARY SEAL] (MUST BE FULLY LEGIBLE)**

**[Signatures continue on following page]**

**LANDLORD:**

**ALAMANCE ASSOCIATES, LLC, a Delaware  
limited liability company**

By: BayRock Investment Co., its sole member

By: BayRock Investment Co., LLC, its general  
partners

By: *Thomas L. Hammons*  
Name: Thomas L. Hammons  
Title: Manager

STATE OF Florida  
COUNTY OF Sarasota

I certify that the following person(s) personally appeared before me this day, each acknowledging  
to me that the he or she voluntarily signed the foregoing document:

**THOMAS L. HAMMONS**

*(insert name(s) of those signing)*

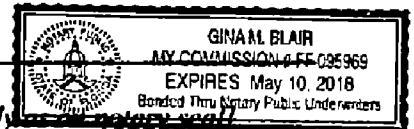
Witness my hand and official stamp or seal this 9<sup>th</sup> day of September 2015.

*GINA M. BLAIR*  
Notary Public

**GINA M. BLAIR**

Notary's printed or typed name

*[Note: Notary Public must sign exactly as on notary seal]*



My Commission Expires: \_\_\_\_\_

**[NOTARY SEAL] (MUST BE FULLY LEGIBLE)**

**LENDER:****STONEGATE BANK**

By: *St. Sanzone*  
 Name: STEVEN SANZONE  
 Title: SVP

STATE OF FLORIDA  
 COUNTY OF Broward

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that the he or she voluntarily signed the foregoing document:

Steven Sanzone EVP  
 (insert name(s) of those signing)

Witness my hand and official stamp or seal this 9<sup>th</sup> day of September, 2015.

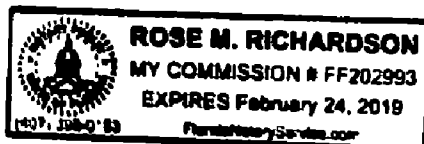
*Rose M. Richardson*  
 Notary Public

Rose M. Richardson  
 Notary's printed or typed name

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: February 24, 2019

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



**EXHIBIT A**

**LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in the City of Winston-Salem, Forsyth County, North Carolina, and being shown and designated as "Parcel C," containing approximately 4.972 acres, on that certain subdivision plat entitled "Final Subdivision Plat For: Pavilion Winston-Salem," and recorded in Plat Book 62, Pages 104-106 in the Office of the Register of Deeds for Forsyth County, North Carolina.