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## FOURTH LOAN MODIFICATION AGREEMENT

THIS FOURTH LOAN MODIFICATION AGREEMENT ("**Fourth Modification**") is entered as of February 1, 2010 and effective as of November 13, 2009, by and among **Dorchester Commons LLC**, an Illinois limited liability company ("**Borrower**"), **Ali D. Ata** ("**Guarantor**") and **RBS Citizens, National Association**, ("**Lender**") successor by merger to Charter One Bank, N.A., as successor by merger to First National Bank ("**Original Lender**") with its principal office and place of business located at 1215 Superior Avenue, Cleveland, Ohio (Lender, Borrower and Guarantor being sometimes referred to individually herein as a "**Party**" and collectively as "**Parties.**")

### RECITALS

A. Pursuant to a Business Loan Agreement dated as of November 13, 2003, by and between Borrower and Original Lender, Borrower executed and delivered to Original Lender that certain Promissory Note with Original Lender as Payee in the Principal Sum of \$3,200,000.00 dated November 13, 2003 (the "**Note**").

B. The Note is secured by that certain Mortgage ("**Mortgage**") dated as of November 13, 2003, executed by Borrower in favor of Original Lender and recorded on December 11, 2003 as Document No. 0334501214 with the Cook County, Illinois Recorder of Deeds encumbering the property commonly known as 1400-1420 East 53<sup>rd</sup> Street, Chicago, Illinois (the "**Property**"). The Property is legally described on Exhibit A attached hereto.

C. Under the Mortgage, among other things, Borrower agreed to pay each month a pro rata share of the annual real estate taxes ("**Tax Reserve Payments**") assessed with respect to the Property to be held in reserve by Lender for payment of such taxes when due ("**Tax Reserve**").

D. Guarantor unconditionally guaranteed prompt payment of the obligations of the Borrower under the Note and Mortgage pursuant to a Commercial Guaranty dated as of November 13, 2003 (the "**Guaranty**").

E. The Parties entered into a Loan Modification Agreement, dated as of November 13, 2008 and recorded December 24, 2008 as Document No. 0835939016 with the Cook County, Illinois Recorder of Deeds, whereby the Parties agreed, among other things, to extend the Maturity Date of the Note to May 13, 2009.

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## *Fourth Loan Modification Agreement*

F. The Parties entered into a Second Loan Modification Agreement dated as of May 13, 2009 whereby the Parties agreed, among other things, to extend the Maturity Date of the Note to August 13, 2009.

G. The Parties entered into a Third Loan Modification Agreement, dated as of August 13, 2009 and recorded September 13, 2009 and recorded September 17, 2009 as Document No. 092631103 with the Cook County, Illinois Recorder of Deeds, whereby the Parties agreed, among other things, to extend the Maturity Date of the Note to November 13, 2009.

H. The Note is further secured by all other instruments and documents executed by or on behalf of Borrower and delivered to Original Lender in connection with the Loan which are hereinafter collectively referred to as the "Other Security Documents." (Such Other Security Documents, together with the Note, the Mortgage, Loan Modification Agreement, Second Loan Modification Agreement, Third Loan Modification Agreement and the Guaranty being hereinafter collectively, the "Loan Documents.")

I. Lender is the successor by mergers to Original Lender.

J. Borrower and Guarantor acknowledge and agree that the principal balance of the Note, accrued unpaid interest and Borrower's monthly unpaid Tax Reserve Payments for November and December, 2009, and January, 2010, owed Lender under the Note to and including February 13, 2010 are set forth below:

Principal	Accrued Interest	Tax Reserve Payments
\$2,796,367.97	\$44,537.95	\$30,685.26

Borrower and Guarantor acknowledge and agree that (i) the Loan Documents are authentic, valid and enforceable; (ii) the security interests, liens and Mortgage granted to Lender under the Loan Documents are valid, perfected, choate, enforceable and existing liens; and (iii) Borrower and Guarantor do not have any defense, offset, recoupment or claim with respect to the Loan Documents or otherwise against Original Lender or Lender.

K. Borrower and Guarantor have requested and Lender has agreed to enter into this Fourth Modification, extending the Maturity Date of the Note upon the terms and conditions hereinafter provided.

### AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. Recitals. All of the recitals set forth above are fully incorporated herein by reference with the same force and effect as though restated herein. Unless otherwise indicated or herein defined, all defined terms shall have the meaning given to them in the Loan Documents.

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2. Conditions Precedent. Lender's obligations under this Fourth Modification shall be expressly conditioned on the receipt by Lender, on or before February 1, 2010, of the following:

- (a) Four (4) executed copies of this Fourth Modification;
- (b) A loan modification fee in the amount of \$6,990.00 provided, however, an additional fee of ½% of the outstanding principal balance of the Note as of April 1, 2010 shall be paid on April 1, 2010, if the Note and all indebtedness due under the Loan Documents is not paid in full by such date;
- (c) \$25,000.00 to be applied to the principal balance of the Note;
- (d) \$5,089.68 to be applied to the unpaid Tax Reserve Payments;
- (e) \$32,115.00 for principal and \$44,537.95 for interest as and for November and December 2009 and January 2010 unpaid principal and interest, now due under the Note; and
- (f) A current financial statement of Guarantor.

3. Modifications to Loan Documents. The Loan Documents are hereby amended and modified as follows:

- (a) Modifications to Note Maturity Date.
  - (i) The Maturity Date of the Note is extended from November 13, 2009 to June 30, 2010; and
  - (ii) Wherever November 13, 2009 appears in the Loan Documents it shall be replaced with June 30, 2010.
- (b) Modifications to Note Principal and Interest Payments
  - (i) Borrower shall pay regular monthly payments of principal in the amount of \$10,705.00, plus interest as it accrues under the Loan Documents commencing February 13, 2010, and on the 13<sup>th</sup> day of each month thereafter;
  - (ii) Guarantor shall pay \$75,000.00 of the proceeds Guarantor shall receive from the sale of the property owned by AW Ashland 59<sup>th</sup> Street LLC, commonly known as 59<sup>th</sup> and Ashland Avenue, Chicago, Illinois, if such sale closes, to be applied to the principal balance of the Note; and
  - (iii) In the event the amounts due and owing under the Note are not paid in full on or before April 1, 2010, the Interest Rate shall mean a rate equal to the sum of the 30-day LIBOR Rate for each Interest Period **plus** 5% to become effective on and after April 1, 2010.

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(c) Tax Reserve Payments.

(i) The surplus balance of the Tax Reserve in the amount of \$25,595.58 shall be applied to the \$30,685.26 unpaid Tax Reserve Payments; and

(ii) Borrower shall pay regular monthly Tax Reserve Payments in the amount of \$8,605.11, commencing February 13, 2010, and on the 13<sup>th</sup> day of each month thereafter.

4. Direct Debit. Borrower authorizes and directs Lender to debit Borrower's Charter One Bank account number 4500243657 for immediate payment of the amounts due pursuant to paragraph 2 of this Fourth Modification.

5. Reaffirmation of Loan Documents. Except as may be expressly set forth herein to the contrary, the Loan Documents remain unmodified, and all other terms and conditions thereof remain in full force and effect.

6. Reaffirmation of Guaranty. Guarantor specifically ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Fourth Modification. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder.

7. Captions, Counterparts. The captions used herein are for convenience of reference only and shall be deemed to limit or affect the construction and interpretation of the terms of this Fourth Modification. This Fourth Modification may be executed in any number of counterparts or in any number of counterpart signature pages, all of which together shall be deemed the original and constitute one and the same instrument.

8. Choice of Law, Severability and Consent to Jurisdiction. This Fourth Modification and the respective rights and obligations of the parties hereto, shall be governed by and construed according to the internal laws of the State of Illinois (without regard to its conflict of laws principles). The parties agree and stipulate that this Fourth Modification was executed, delivered and accepted by Lender in Illinois, all payments shall be made to Lender and accepted by Lender in Illinois, and that Illinois has a substantial relationship to the parties and to the underlying transaction contemplated by this Fourth Modification. Notwithstanding the foregoing, the parties agree that in the event of any action by the Lender in enforcing any of the Loan Documents, regardless of where the collateral is located, the parties agree and intend that the laws of the State of Illinois shall govern the right of Lender to collect or obtain a judgment and each party hereto consents to the jurisdiction of any federal or state court located in Cook County, Illinois. If any provision of this Fourth Modification is held invalid or unenforceable, the remainder of this Fourth Modification will not be affected thereby and the provisions of this Fourth Modification shall be severable in any such instance.

9. No Other Modification. Except for the modifications stated herein the Loan Documents are not otherwise changed, modified or amended.

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10. Reviewed by Attorneys. The Borrower and Guarantor each represent and warrant to the Lender that they (a) understand fully the terms of this Fourth Modification and the consequences of the execution and delivery of this Fourth Modification, (b) has been afforded an opportunity to have this Fourth Modification reviewed by, and to discuss this Fourth Modification and any documents executed in connection herewith with, such attorneys and other persons as Borrower and Guarantor may wish, and (c) has entered into this Fourth Modification and executed and delivered all documents in connection herewith of its/his own free will and accord and without threat, duress or other coercion of any kind. The parties hereto acknowledge and agree that neither this Fourth Modification nor the other documents executed pursuant hereto shall be construed more favorably in favor of one than the other based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation and preparation of this Fourth Modification and the other documents executed pursuant hereto or in connection herewith.

11. Agreements and Interpretation. No agreement or modification of any provision of the Loan Documents shall be effective without the written agreement of Borrower, Guarantor and the Lender and no waiver of any provision of the Loan Documents, or consent to any departure by the Borrower and Guarantor therefrom, shall be effective without the written consent of the Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand upon the Borrower or Guarantor in any case shall entitle Borrower or Guarantor to any other or further notice or demand in similar or other circumstances.

12. Release. Without limiting the generality of the foregoing, Borrower and Guarantor, on their own behalf and on the behalf of their representatives, trustees, affiliated and related entities, successors and assigns (hereinafter collectively referred to as the "**Borrowing Group**") hereby waive, release and forever discharge Lender, and its officers, directors, subsidiaries, affiliated and related companies or entities, agents, servants, employees, shareholders, representatives, successors, assigns, attorneys, accountants, assets and properties, as the case may be from and against all manner of actions, cause and causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, obligations, liabilities, costs, expenses, losses, damages, judgments, executions, claims and demands, of whatsoever kind or nature, in law or in equity, whether known or unknown, whether or not concealed or hidden, arising out of or relating to any matter, cause or thing whatsoever, that any of the Borrowing Group, jointly or severally, may have had, or now have or that may subsequently accrue against the Lender by reason of any matter or thing whatsoever arising out of or in way connected to, directly, or indirectly, the Loan Documents through the date hereof. Borrower and Guarantor acknowledge and agree that Lender is specifically relying upon the representations, warranties, covenants and agreements contained herein and that such representations, warranties, covenants and agreements constitute a material inducement to enter into this Fourth Modification.

13. Integration Clause. Prior drafts of this Fourth Modification, or any negotiations leading up to or regarding the terms contained in those drafts, shall not be admissible in any court to interpret the terms of this Fourth Modification, the Parties hereto agreeing that this Fourth Modification and the documents executed pursuant to or in furtherance of this Fourth Modification constitute the full, final and complete expression of the Parties' agreement, and

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## *Fourth Loan Modification Agreement*

supersedes all the prior written and oral understandings regarding the terms of this Fourth Modification.

### 14. Fees and Costs.

(a) In addition to any obligation to pay attorneys' fees under the Loan Documents, Borrower and Guarantor shall pay any and all attorneys' fees, costs and expenses incurred by Lender:

(i) In any action in which Lender is named a party as a result of or involving the Loan Documents;

(ii) In any bankruptcy proceeding filed by Borrower or Guarantor; and

(iii) Any Lender attorneys' fees and costs related to the preparation and recording of this Fourth Modification to be paid by Borrower or Guarantor within thirty (30) days of receipt of Lender's statement or invoice for such fees and costs.

(b) All such amounts due hereunder not otherwise paid shall be additional indebtedness under the Loan Documents.

15. Limitation of Relationship Between the Parties. The relationship of the Lender, Borrower and Guarantor has been and shall continue to be, at all times, that of creditor and debtor. Nothing contained in this Fourth Modification, or any instrument, document or agreement delivered in connection therewith, shall be deemed or construed to create a fiduciary relationship between the parties.

16. Waiver by Borrower and Guarantor. Borrower and Guarantor hereby expressly, irrevocably and unconditionally waive:

(a) Any and all notices of default, cure or grace periods and demands set forth in any of the Loan Documents or any note, guaranty, mortgage, security agreement or document executed in connection with or in furtherance of this Fourth Modification;

(b) Any and all rights of reinstatement or rights of redemption set forth in any Illinois law or statute or the Loan Documents;

(c) ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER ANY OF THE LOAN DOCUMENTS OR THIS FOURTH MODIFICATION, OR (2) IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY OF THE LOAN DOCUMENTS OR THIS FOURTH MODIFICATION, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF

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## *Fourth Loan Modification Agreement*

ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS FOURTH MODIFICATION MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(d) EVERY DEFENSE, INCLUDING A DEFENSE BASED ON THE IMPLIED COVENANT OF GOOD FAITH, CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH BORROWER OR GUARANTOR MAY NOW HAVE TO ANY ACTION BY LENDER IN ENFORCING THE LOAN DOCUMENTS, THIS FOURTH MODIFICATION OR ANY DOCUMENT EXECUTED IN CONNECTION WITH OR IN FURTHERANCE OF THIS FOURTH MODIFICATION.

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## Fourth Loan Modification Agreement

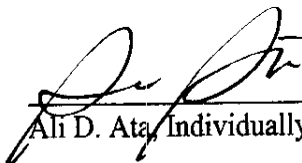
IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

**BORROWER:**

**Dorchester Commons LLC**, an Illinois limited liability company

By:   
Its: Manager

**GUARANTOR:**

  
Ali D. Ata, Individually

**LENDER:**

**RBS Citizens, National Association**, successor by merger to Charter One Bank, N.A., successor by merger to First National Bank

By: 

Property of Cook County Clerk's Office







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**LOTS 7, 8 AND 9 (EXCEPTING THEREFROM THE EAST 75.40 FEET OF SAID LOTS 7, 8 AND 9) TOGETHER WITH ALL OF LOTS 10, 11 AND 12 IN BLOCK 22, HYDE PARK, IN THE SOUTHEAST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

The Real Property or its address is commonly known as 1400-1420 East 53rd Street, Chicago, IL 60615.  
The Real Property tax identification number is 20-11-410-020-0000

EXHIBIT A