

When recorded mail to: #6115148

First American Title  
Loss Mitigation Title Services 392.5  
P.O. Box 27670  
Santa Ana, CA 92799  
RE: DUNCAN - BMPG+

g Please Return To:

20101110000377750 1/5 \$384.00  
Shelby Cnty Judge of Probate, AL  
11/10/2010 12:57:38 PM FILED/CERT

Loan Number 0417961943  
Investor Loan Number 1693002183

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## MORTGAGE MODIFICATION AGREEMENT

[To be used to refinance balloon loans documented on Fannie Mae uniform instruments.]

This Mortgage Modification Agreement (the "Refinancing Instrument"), entered into and effective as of **JULY 20, 2010**, (the "Refinancing Date"), between **ROBERT A. DUNCAN AND TRACY M. DUNCAN, HUSBAND AND WIFE** ("Borrower (s)") and **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS")**, SOLELY DEFINED AS NOMINEE FOR THE LENDER ("Lender"), renews and extends the mortgage or deed of trust (the "Security Instrument," which term includes all riders thereto) to secure the debt evidenced by this Refinancing Instrument. The Security Instrument (i) is dated **AUGUST 25, 2003**, (ii) was executed to secure the note (the "Balloon Note") dated **AUGUST 25, 2003**, in the original principal sum of U.S. **THREE HUNDRED TWELVE THOUSAND AND 00/100 DOLLARS (\$312,000.00)**, executed by **ROBERT A. DUNCAN AND TRACY M. DUNCAN, HUSBAND AND WIFE** and payable to the order of **HOMEcomings FINANCIAL NETWORK, INC.**, (iii) is recorded on **SEPTEMBER 9, 2003** as Instrument Number **20030909000602850** of the official records of **SHELBY County, ALABAMA**, and (iv) affects rights with respect to the collateral defined therein as the "Property," which is located at **3912 CANNOCK DRIVE, BIRMINGHAM, ALABAMA 35242** and as described in the original Security Instrument.

**ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SHELBY, STATE OF ALABAMA, DESCRIBED AS FOLLOWS: LOT 199, ACCORDING TO THE SURVEY OF BROOK HIGHLAND, AN EDDLEMAN COMMUNITY 6<sup>TH</sup> SECTOR, 1<sup>ST</sup> PHASE, AS RECORDED IN MAP BOOK 14 PAGE 83 A&B IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.**

**PARCEL ID NUMBER: 039290002032**

The Security Instrument includes a Balloon Rider and the Balloon Note includes a Balloon Note Addendum, both of which provide for a Conditional Right to Refinance. In connection therewith:

(a) As further provided below, the Security Instrument is renewed, extended, and amended to secure repayment of the debt evidenced by this Refinancing Instrument, by delivery hereof to the Lender in recordable form in all respects.

(b) This Refinancing Instrument, when duly executed by Borrower, delivered by Borrower to Lender, and accepted by Lender, supersedes and satisfies the Balloon Note (including the Balloon Note Addendum); provided that any sums owed solely by reason of the Security Instrument and not evidenced by the Balloon Note are not released by execution and delivery of this Refinancing Instrument.

(c) Borrower acknowledges that immediately prior to execution of this Refinancing Instrument, the lien of the Security Instrument is valid and subsists against the Property.

(d) The debt evidenced by this Refinancing Instrument is evidenced by Section D hereof, which portion of this Refinancing Instrument is referred to therein as the "Note."

Notwithstanding anything to the contrary contained in the Balloon Note or Security Instrument, Borrower undertakes as follows:

Initials: 



**A. RENEWAL AND EXTENSION OF LIEN**

It is the intention of the Borrower and Lender that the lien of the Security Instrument shall secure the debt evidenced by this Refinancing Instrument and that the Security Instrument hereby shall be renewed and extended, as of the Refinancing Date, so long as required to secure such debt until it is paid in full. In connection with the foregoing:

- (i) The maturity date of the debt evidenced by this Refinancing Instrument is set forth in Section D(3)(a), below.
- (ii) Lender is expressly subrogated to all rights with respect to the Property, prepayment, and acceleration to which the holder of the Balloon Note was entitled by reason of the Security Instrument.
- (iii) In the event that any portion of the debt evidenced by this Refinancing Instrument cannot be lawfully secured by the Security Instrument as so renewed and extended, principal payments shall be applied first to that portion not so secured.
- (iv) Borrower acknowledges that the lien securing the Balloon Note is hereby renewed and extended, amended as provided immediately below, and is in full force and effect until the debt evidenced by this Refinancing Instrument is paid in full.

**B. AMENDMENT OF THE SECURITY INSTRUMENT**

All of the terms of the Balloon Rider are cancelled, null, and void as of the Refinancing Date.

**C. CO-GRANTOR LIABILITY**

Any party that signs below as a "co-grantor" did not execute the Balloon Note but signs below to grant and convey, under the terms of the Security Instrument, such interest as that party may have in the Property. Such party is not personally obligated to pay the debt evidenced by this Refinancing Instrument and secured by the Security Instrument (as renewed, extended, and amended hereby), and agrees that Lender and Borrower may agree to extend, modify, forbear or make any accommodations with regard to such debt or the Security Instrument (as renewed, extended, and amended hereby) without such party's consent.

**D. FULLY AMORTIZING NOTE**

**1. Borrower's Promise to Pay**

In return for a loan that I have received, I promise to pay U.S. \$239,943.78 (this amount is called "principal"), plus interest, to the order of Lender. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

**2. Interest**

Interest will be charged on unpaid principal on and after the Refinancing Date until the full amount of principal has been paid. I will pay interest at a yearly rate of 4.75%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section D(6)(b) of this Note.

**3. Payments**

**(a) Time and Place of Payments**

I will pay principal and interest by making payments every month.

I will make my monthly payments on the **FIRST** day of each month beginning on **OCTOBER 1, 2010**. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on **SEPTEMBER 1, 2033**, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "maturity date."

I will make my monthly payments at **GMAC MORTGAGE PROCESSING, PO BOX 780, WATERLOO, IA 50704** or at a different place if required by the Note Holder.

**(b) Amount of Monthly Payments**

My monthly payment of principal and interest will be in the amount of U.S. \$1,430.60.

**4. Borrower's Right to Prepay**

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

Initials: AV SD



**5. Loan Charges**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

**6. Borrower's Failure to Pay as Required**

**(a) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.00% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(b) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(c) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

**(d) No Waiver by Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(e) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

**7. Giving of Notices**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section D(3)(a) above or at a different address if I am given a notice of that different address.

**8. Obligations of Persons Under this Note**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**9. Waivers**

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**10. Security Instrument**

In addition to the protections given to the Note Holder under this Note, the Security Instrument protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. The Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Initials: 



**Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower.


**11. Rights of Transferees**

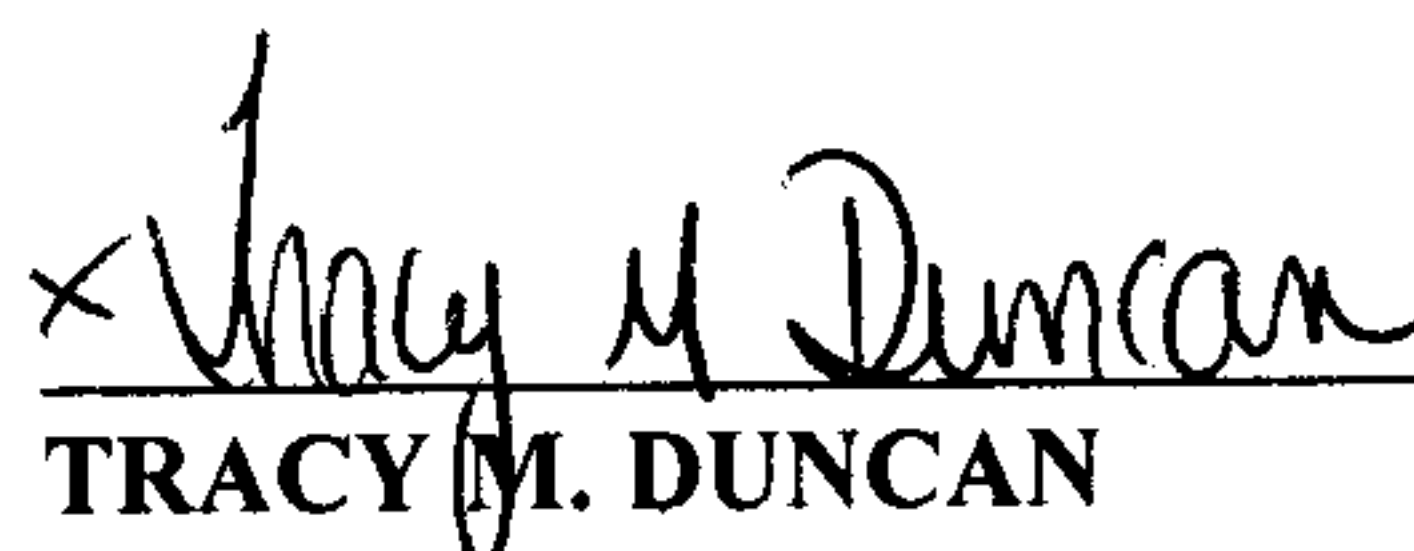
A transferee of this Refinancing Instrument shall have the rights of a "holder in due course" under the Uniform Commercial Code if the transferee took rights under this Refinancing Instrument in good faith, for value, and without notice of a claim or defense, and if there has been endorsement and delivery as are required by the Uniform Commercial Code to become a "holder in due course."

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**THE WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.**

**THERE ARE NO UNWRITTEN (ORAL) AGREEMENTS BETWEEN THE PARTIES.**

x   
\_\_\_\_\_  
ROBERT A. DUNCAN -Borrower

x   
\_\_\_\_\_  
TRACY M. DUNCAN -Borrower

Lender does not, by its execution hereof, waive any right it may have against any person not a party hereto.

**Accepted by Lender:**


Lender Name: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), Solely defined as nominee for the Lender

By:   
\_\_\_\_\_  
[Signature]

JILL BOHLKEN  
[Signatory's typed name]

Signatory's Title: ASSISTANT SECRETARY

\_\_\_\_\_  
[Space Below This Line for Acknowledgements]

  
20101110000377750 4/5 \$384.00  
Shelby Cnty Judge of Probate, AL  
11/10/2010 12:57:38 PM FILED/CERT

STATE OF Alabama

COUNTY OF Shelby

SS:

On August 3, 2010, before me Sisily W McClain, personally appeared **ROBERT A. DUNCAN AND TRACY M. DUNCAN, HUSBAND AND WIFE**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.  
WITNESS my hand and official seal.

Sisily W McClain  
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: July 16, 2014  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

[For Office Use Only]

STATE OF IOWA

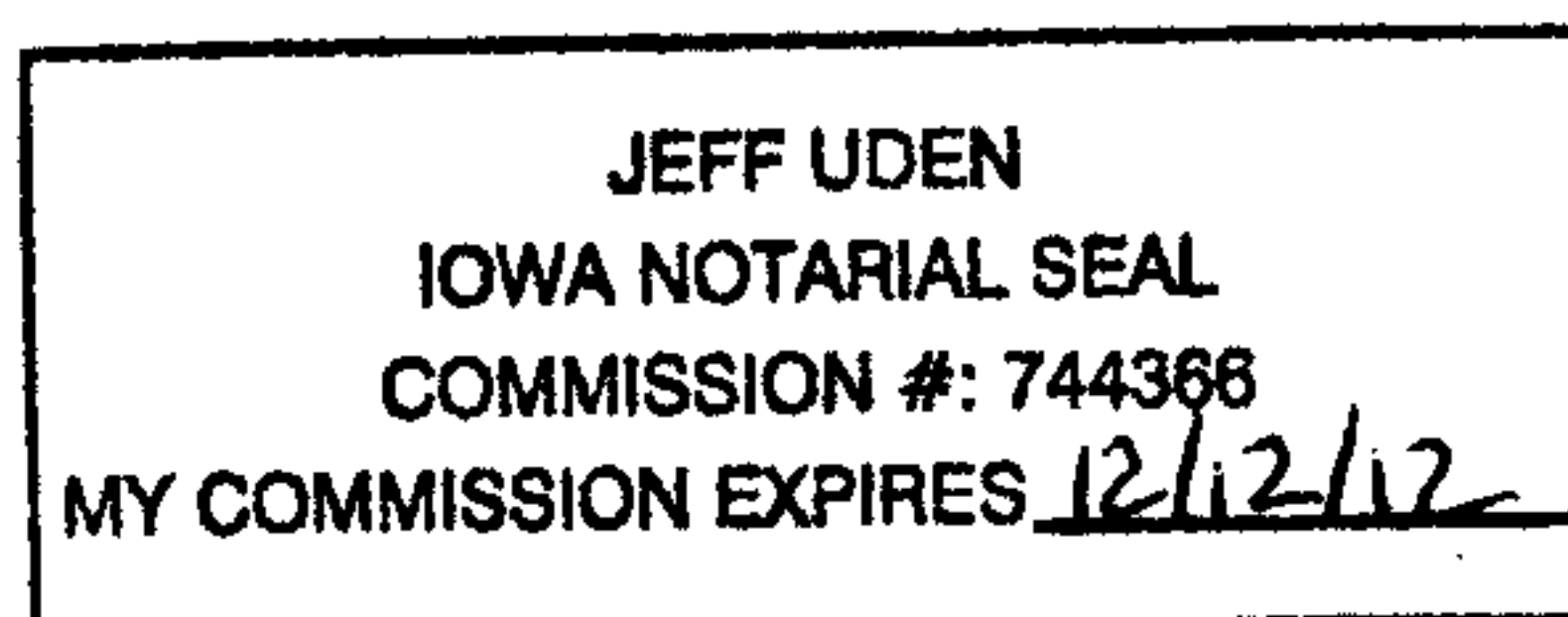
COUNTY OF BLACK HAWK

SS:

On August 17, 2010, before me Jeff Uden, a notary public in and for the said county, personally appeared Jill Bohlken known to me to be an Assistant Secretary of Mortgage Electronic Registration Systems, Inc. ("MERS"), Solely Defined As Nominee For The Lender, the company that executed the within instrumental also known to me (or proved to me on the basis of satisfactory evidence to be the person who executed the with instrument, behalf of the company herein named and acknowledged to me that such company executed the same.  
WITNESS my hand and notarial seal.

Jeff Uden  
Notary Public

My Commission Expires: 12/12/12



Instrument Prepared By:

Jodi Verly  
Jodi Verly/Loan Audit Department  
GMAC Mortgage, LLC  
3451 Hammond Avenue  
Waterloo, IA 50702

20101110000377750 5/5 \$384.00  
Shelby Cnty Judge of Probate, AL  
11/10/2010 12:57:38 PM FILED/CERT

MERS Identification Number (MIN) 100062604179619434  
MERS Telephone Number 1-888-679-6377

Initials: RV

Balloon Loan Refinancing Instrument-Single Family-Fannie Mae Uniform Instrument

Form 3269.14 01/97  
3269CA5 02/97