

6/23/08 3:32:32  
BK 2,915 PG 793  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

AFTER RECORDING MAIL TO:

**This Instrument Was Prepared By:**

Judith Tabor  
SunTrust Mortgage, Inc.  
7770 Poplar Avenue, ST 103  
Germantown, TN 38138

AP # SMITH0035486208

LN # 0035486208

**Note and Mortgage Modification and Additional Advance Agreement**  
(Providing for Fixed interest rate or Adjustable interest rate)

THIS AGREEMENT made this 23rd day of May 2008  
by and between James R. Smith and Nicole S. Smith

"No New monies"

("Borrower") of 7329 McElroy Road, Olive Branch, MS 38654,  
and SunTrust Mortgage, Inc., formerly known as  
901 Semmes Avenue, Richmond, VA 23224  
("Lender") of

**WITNESSETH**

WHEREAS, Borrower gave a certain mortgage note to Lender, dated  
in the original principal amount of \$ 238,000.00 ("Note");

WHEREAS, the payment of the Note was secured by a certain mortgage, deed to secure debt, or deed of trust  
given by Borrower to Lender, dated 04/20/2007, and recorded on 04/20/2007 in Official Record  
Book 2702, Page 163, Public Records of DeSoto County,  
Mississippi, ("Security Instrument"), which granted Lender a lien upon the real property described in said  
Security Instrument, ("Property");

WHEREAS, the parties wish to modify the Note to reflect the following:

- to change the term of the Note, and/or
- to change the interest rate on the Note from an adjustable rate to a fixed rate;
- to change the interest rate on the Note from a fixed rate to an adjustable rate;
- to change the adjustable rate of interest;

WHEREAS, there are certain closing costs and expenses associated with said change;

WHEREAS, Borrower has requested that Lender advance additional funds to cover said closing costs or  
expenses in the amount of \$ 0.00 and to have said advance be secured by the Security  
Instrument;

WHEREAS, the parties have agreed to modify the Security Instrument to allow for this one advance of  
funds to cover said closing costs or expenses;

NOW THEREFORE in consideration of the mutual covenants, the parties agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.
2. The parties acknowledge that upon execution of this Agreement the interest on said obligation shall have  
been paid through 05/31/2008.
3. The Note is hereby modified to reflect the following:

- a change in the term of the Note to reflect a new Maturity Date of 04/03/2007; and/or
- a change in the interest rate on the Note from an adjustable rate to a fixed rate of 5.875% % simple  
interest per annum with a new monthly principal and interest payment of \$ 1,302.84,  
beginning on 07/01/2008. The Note, as modified may not be assumed; or
- a change in the interest rate on the Note from an adjustable rate to an adjustable rate of %  
which will be calculated in accordance with the Adjustable Rate Rider which is attached hereto and  
incorporated herewith, with a new monthly principal and interest payment of \$  
beginning on; or
- a change in the interest rate on the Note from a fixed rate to an adjustable rate of %  
which will be calculated in accordance with the Adjustable Rate Rider which is attached hereto and  
incorporated herewith with a new monthly principal and interest payment of \$  
beginning on

SunTrust  
4418e

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4. Intangible recording taxes have already been paid on the original principal loan amount of \$ 238,000.00 . Borrower is executing this Modification Agreement setting the new loan amount at \$ 217,000.00 , consisting of: (i) \$ 217,000.00 (which is the current unpaid principal balance of the amount originally loaned to Borrower by Lender) and (ii) \$ 0.00 (additional advanced funds). Intangible recording taxes, in the amount of \$ , are being remitted herewith on the additional advanced funds upon recording of this Modification Agreement.

5. The Security Instrument is hereby modified to provide that it shall secure not only existing indebtedness, but also a future advance in the amount of \$ 0.00 as evidenced by this Agreement, which has been made within twenty (20) years from the original date of the Security Instrument, to the same extent as if this advance was made on the execution of the Security Instrument and has been made prior to the due date of the Note secured by the Security Instrument. The Security Instrument and this Modification are given for the specific purpose of securing any and all indebtedness by the Borrower to the Lender in whatever manner this indebtedness may be evidenced or represented, until the Security Instrument is satisfied of record. All covenants and agreements contained in the Security Instrument shall be applicable to this advance made by the Lender to the Borrower under this future advance clause. The Security Instrument has been modified to provide for future advances for the sole and limited purpose of securing the advance referenced above which reflects the closing costs or expenses associated with this Modification of Security Instrument.

6. This Agreement is made with the express understanding that all other provisions of the Note and Security Instrument, including but not limited to, the right of Lender to accelerate the balance due, shall remain in full force and effect and have not been altered, amended, modified, or changed, except as specifically provided herein. Nothing contained herein shall be construed to impair the security of the Lender, impact on the priority of the lien of the Security Instrument, nor effect or impair the rights and powers granted Lender by the Note and Security Instrument to recover the indebtedness.

7. Borrower certifies and warrants to Lender that (i) Borrower is owner of the Property described in the Security Instrument, (ii) there are no judgements, liens, claims, unpaid assessments, unpaid taxes, or second Security Instruments against Borrower or the Property, other than the lien of the Security Instrument, (iii) Borrower acknowledges that the Note and Security Instrument, as modified are binding upon Borrower, his heirs, successors, assigns, and legal representatives, (iv) the Security Instrument is a valid first lien upon the Property described therein, (v) Borrower reconfirms liability for payment of all indebtedness evidenced by the Note and Security Instrument, as modified, and will perform and comply with all the stipulations, agreements, covenants and conditions contained therein, (vi) Borrower has not executed, delivered, or filed a Notice of Limitation of Future Advance or any such document to limit the right to obtain a future advance in reference to the Security Instrument, and (vii) Borrower has no defenses, set-offs, or counterclaims with respect to the Note and Security Instrument, as modified.

8. The Security Instrument is only modified as herein provided and all the other terms and conditions not modified hereby shall remain unchanged and in full force and effect. This is the complete agreement of the parties and may only be modified in writing, signed by both parties. The term Borrower shall include the plural, where the context so requires.

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IN WITNESS WHEREOF, the borrower has caused this Modification Agreement to be duly executed as of the date first set forth above:

Signed, sealed and delivered in the presence of:

Borrower(s)

Duane Nichols  
Unofficial Witness

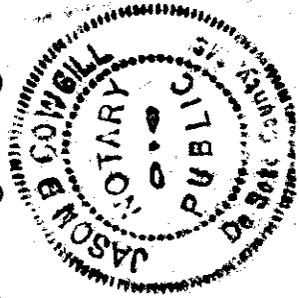
James R. Smith (Seal)  
James R. Smith

Jason Cowgill  
Notary Public

Nicole S. Smith (Seal)  
Nicole S. Smith

\_\_\_\_ (Seal)

\_\_\_\_ (Seal)



Signed, sealed and delivered in the presence of:

Lender SunTrust Mortgage, Inc.

Duane Nichols  
Unofficial Witness

Richard A. Willits (Seal)  
RICHARD A. WILLITS, V.P.

Susan F. Butler  
Notary Public

Kristi Garner (Seal)  
KRISTI GARNER, OFFICER

