

Document 2006 4918

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MICHELLE UTSLER. COUNTY RECORDER  
MADISON IOWA

COMPUTER	<input checked="" type="checkbox"/>	C X
RECORDED	<input checked="" type="checkbox"/>	
COMPARED	<input checked="" type="checkbox"/>	

PREPARED BY: MARIE KOBRICK  
ADDRESS: 5151 CORPORATE DRIVE  
TROY, MI 48098  
PHONE NO.: (248)312-5053

LOAN ASSUMPTION AGREEMENT

Assignor: BRIAN D. SWANSON

Assignee: FLAGSTAR

REFERENCE NUMBER (S) OF DOCUMENTS RELEASED/ASSIGNED/MODIFIED:

RECORDED: 11/23/03      INSTRUMENT: -      BOOK:2003      PAGE: 6974

Legal description on page: 5  
Tax id#: 820001301013000

MAIL TAX STATEMENTS TO:

Company name: FLAGSTAR BANK

Address: 5151 CORPORATE DRIVE TROY, MI 48098

When recorded mail to:

First American Title

Loss Mitigation Title Services-LMTS  
P.O. Box 27670  
Santa Ana, CA 92799  
Attn: MOD DEPT.

State: IOWA  
County: MADISON  
Order No.: 3155914



RECORD AND RETURN TO:  
FIRST AMERICAN TITLE 3155914  
P.O. BOX 27670  
SANTA ANA, CA 92799-7670  
ATTN: LMTS

THIS DOCUMENT WAS PREPARED BY:  
Marie Kobrick  
FLAGSTAR BANK, FSB  
5151 CORPORATE DRIVE  
TROY, MI 48098

Tax Parcel No.: 820001301013000

\_\_\_\_\_  
(Space Above This Line For Recording Data)  
Loan No.: 999787928  
4003787174

## LOAN ASSUMPTION AGREEMENT

THIS LOAN ASSUMPTION AGREEMENT ("Agreement"), effective as of **OCTOBER 18, 2006**,  
between **Brian D. Swanson** ("Seller")

and **Brian D. Swanson, a single man and Carla Campbell, a single woman** ("Borrower")  
and **FLAGSTAR BANK, FSB** ("Lender")

amends and supplements one certain promissory note ("Note") dated **NOVEMBER 21, 2003**, in the original  
principal amount of \$ **74,250.00** executed by **Brian D. Swanson** ("Maker")

payable to the order of **Limited Liability Company**

in accordance with the terms set forth therein. Seller and Borrower acknowledge that Lender is the holder and owner of the Note or is acting for the holder and owner of the Note and understands that Lender may transfer the Note, as amended by this Agreement, and that anyone who takes the Note by transfer and who is entitled to receive payments under the Note is called the "Lender" in this Agreement. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated **NOVEMBER 21, 2003**, and filed for record on **NOVEMBER 24, 2003**, in the real property records of **Madison** County, **IOWA** under Volume **2003**, Page **6974**, Instrument No. **NA**. Said Security Instrument conveys the real and personal property described in such Security Instrument (the "Property") located at:

**502 S. 1st. St.**  
**Winterset, IOWA 50273**  
(Property Address)

Loan No.: 999787928

the real property described being set forth as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF;**

Borrower is purchasing the above described property from Seller and desires to assume the payment of the Note and the covenants, conditions and obligations of the Security Instrument. Lender who is or who represents the legal holder and owner of the Note and of the lien(s) securing the same has agreed at the request of the Seller to allow the Borrower's assumption of the balance of the indebtedness evidenced by the Note as part of the consideration for the purchase of the property.

For and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to the other, the receipt and sufficiency of which are hereby acknowledged and confessed, and in consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

**1. Acknowledgment and Assumption of Unpaid Principal Balance:** Seller and Borrower acknowledge that as of **NOVEMBER 1, 2006**, the amount payable under the Note and secured by the Security Instrument (the "Unpaid Principal Balance") is U.S. \$ **72,500.39**. Borrower hereby expressly assumes the payment of the indebtedness evidenced by the above described Note and promises to pay jointly and severally to the order of the Lender the sum of U.S. \$ **78,492.90** (the "Principal Balance"), consisting of the unpaid principal balance less any reductions of principal made by Seller, any accrued but unpaid interest, and any additional sums advanced by Lender. Borrower also agrees to perform and comply with all covenants, conditions and obligations of the Security Instrument, as amended herein.

Interest will be charged on the Principal Balance until the full amount of principal has been paid. Borrower will pay interest at a yearly rate of **7.125** % as set forth below. The Borrower promises to make initial monthly payments of principal and interest of U.S. \$ **545.74**, beginning on **DECEMBER 1, 2006**, and continuing thereafter on the **1st** day of each succeeding month until principal and interest are paid in full. If on **DECEMBER 01, 2033** ("Maturity Date"), the Borrower still owes amounts under the Note and the Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date.

The Borrower will make such payments at **5151 CORPORATE DRIVE  
TROY, MICHIGAN 48098**

or at such other place as Lender may require.

**2. No Release of Liability:** Seller is and shall remain liable for the payment of the Note, as modified herein, and the covenants, conditions and obligations of the Security Instrument and consents to any modification and renewal and extension described herein. Although Seller is and remains personally obligated to pay the sums secured by the Security Instrument, Seller agrees that Lender and Borrower may agree to extend, modify, forbear to make any other documents executed in connection herewith accommodations with regard to the terms of the Note, of the Security Instrument and any other documents executed in connection herewith.

**3. Assumption of Original Terms:** The Borrower(s) hereto agree to accept the terms of the Note and Security Instrument as originally entered into between the original Borrower(s) and Lender. The Borrower(s) and Lender have agreed to further enter into a Loan Modification Agreement modifying the terms of the original Note and Security Instrument evidenced by a Loan Modification Agreement.

4. **Transfer of Escrow Funds to Borrower:** Seller assigns and transfers to Borrower all funds on deposit for payment of taxes, homeowner association dues, insurance premiums and any applicable refunds. Borrower understands that it is Borrower's responsibility to obtain hazard insurance on the Property and that Seller's policy will not inure to Borrower's benefit.

5. **Waiver of Due-on-Transfer Clause:** In consideration of the assumption of the Note and Security Instrument by Borrower, and the modification of the Note (if any), as described above, the Lender agrees to waive and relinquish its right under the Security Instrument to declare all sums secured by the Security Instrument immediately due and payable by reason of the sale and transfer by Seller to Borrower, it being understood and agreed that this waiver and relinquishment applies only to said sale and not to any future sales or transfers. In addition, Seller hereby agrees that if the prepayment of the Note requires a refund of a portion of the interest previously collected in order to comply with the applicable laws of this state, Seller assigns and transfers to Borrower any and all right and interest in and to any such refund, and Lender is hereby authorized to pay or credit such refund to Borrower.

6. **Late Charges for Overdue Payments:** If the Lender has not received the full amount of any monthly payment by the end of **FIFTEEN (15)** calendar days after the date it is due, Borrower will pay a late charge to the Lender. The amount of the charge will be **5.000 %** of the overdue payment of principal and interest. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy, and will not be charged if such charge would constitute interest in excess of the maximum permitted by state law.

7. **Borrower's Right to Prepay:** Borrower has 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 Borrower makes a prepayment, Borrower will tell the Note Holder in writing that Borrower is doing so.

8. **Renewal and Extension of Maturity:** This Agreement is a "written extension" as provided by the applicable laws of this state. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby renewed and extended until the Indebtedness evidenced by the Note, as renewed, modified and extended hereby, has been fully paid. The parties acknowledge and agree that such extension, renewal, amendment, modification or rearrangement shall in no manner affect or impair the Note or the liens and security interests securing same, the purpose of this Agreement being simply to provide for the assumption of the indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note (including if applicable any and all vendor's liens securing the Note), which are expressly acknowledged by the Seller and the Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note. The Seller and the Borrower hereby expressly waives the benefit of any and all statutes of limitation which might otherwise inure to Seller's and the Borrower's benefit, or be in any way applicable to Seller's and Borrower's obligations under the terms of any and all instruments described herein.

9. **Usury:** No provisions of this Agreement or the Note or any instrument evidencing or securing the Note, or otherwise relating to the indebtedness evidenced by the Note, shall require the payment or permit the demand, collection, application or receipt of interest in excess of the maximum permitted by applicable state or federal law. If any excess of interest in such respect is herein or in any such other instrument provided for, or shall be adjudicated to be so provided for herein or in any such instrument, the provisions of this paragraph shall govern, and neither Seller, Borrower nor any endorser or guarantor of the Note nor their respective heirs, personal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent it is in excess of the amount permitted by applicable law. It is expressly stipulated and agreed to be the intent of Seller, Borrower and Lender to at all times comply with the usury and other laws relating to the Note and the Security Instrument and any subsequent revisions, repeals or judicial interpretations hereof, to the extent applicable thereto. In the event Lender ever receives, collects or applies as interest any such excess, including but not limited to any "late charges" collected, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the Note, and, if upon such application the principal balance of the Note is paid in full, any remaining excess shall be forthwith paid to Borrower and the provisions of the Note and the Security

Loan No.: 999787928

Instrument shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of execution of any new document, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder. In determining whether or not the interest paid or payable under any specific contingency exceeds the maximum interest allowed to be charged by applicable law, Borrower and Lender shall, to the maximum extent permitted under applicable law, amortize, prorate, allocate and spread the total amount of interest throughout the entire term of the Note so that the amount or rate of interest charged for any and all periods of time during the term of the Note is to the greatest extent possible less than the maximum amount or rate of interest allowed to be charged by law during the relevant period of time.

**10. Loan Documentation:** As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Seller and Borrower acknowledge and reaffirm Seller and Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement. Any default by Borrower in performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.

**11. Hazardous Substances:** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. As used in this Paragraph 11, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 11, "Environmental Law" means federal laws and laws of jurisdiction where the Property is located that relate to health, safety or environmental protection.

**12. Partial Invalidity:** In the event any portion of the sums intended to be secured by this Agreement cannot be lawfully secured, payments in reduction of such sums shall be applied first to those portions not secured.

**13. Miscellaneous:** Borrower hereby agrees to pay all costs and expenses incurred by Lender in connection with the execution and administration of this Agreement, the assumption, renewal and extension and modification of the Note and Security Instrument and any other documents executed in connection herewith. Lender does not, by its execution of this Agreement, waive any right it may have against any person not a party hereto.

This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement.

**14. No Oral Agreements:** The written Loan Agreements represent the final agreements between parties 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.

Loan No.: 999787928

EXECUTED as of the day and year first above written.

Seller:

*Brian D Swanson*

Brian D. Swanson

- Seller

Seller's Address:

502 S. 1st. St.  
Winterset, IA 50273

Borrower:

*Brian D Swanson*

Brian D. Swanson

- Borrower

*Heather Jabe*

Witness

Witness Printed Name: *Heather Jabe*

*Roslyn Cockerell*

Witness

Witness Printed Name: *Roslyn Cockerell*

*Carla Campbell*

Carla Campbell

*Heather Jabe*

Witness

Witness Printed Name: *Heather Jabe*

*Roslyn Cockerell*

Witness

Witness Printed Name: *Roslyn Cockerell*

Loan No.:

999787928

**Borrower's Address:**

502 S. 1st. St.  
Winterset, IOWA 50273

**Lender:**

FLAGSTAR BANK, FSB

By:

Linda M. Krasicky

(Corporate Seal)

Its: **First Vice President**

**SELLER ACKNOWLEDGMENT**

State of Iowa )  
County of Dallas ) SS.

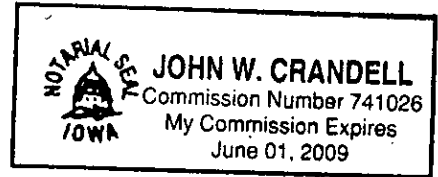
On Oct. 30, 2006 before me, John Crandell, Notary Public, personally appeared **Brian D. Swanson**

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.

Signature John W. Crandell  
Notary Public: John W. Crandell  
My Commission Expires: 06/01/2009

(Seal)



**BORROWER ACKNOWLEDGMENT**

State of Iowa )  
County of Dallas ) SS.

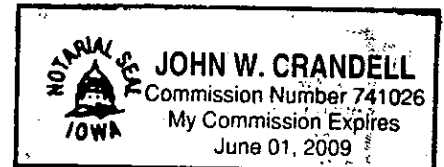
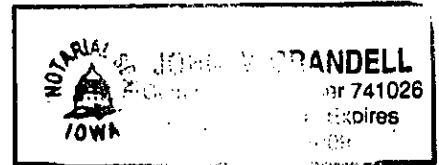
On Oct. 30, 2006 before me, John Crandell, Notary Public, personally appeared **Brian D. Swanson AND Carla Campbell**

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.

Signature John W. Crandell  
Notary Public: John W. Crandell  
My Commission Expires: 06/01/2009

(Seal)



LENDER ACKNOWLEDGMENT

State of Michigan )  
County of Oakland ) SS.

On 11-4-06 before me, Jeannette Williams Notary Public, personally appeared **Linda M. Krasicky,**  
**First Vice President**

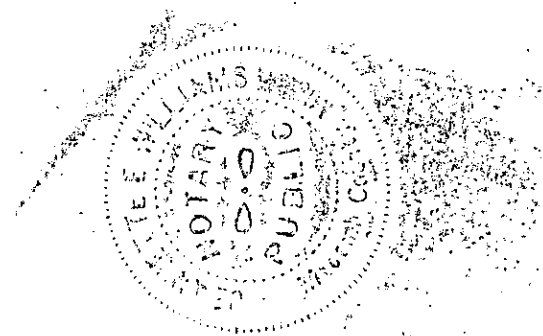
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jeannette E. Williams  
Notary Public: Jeannette E. Williams  
My Commission Expires:  

JEANNETTE E WILLIAMS Notary Public - Michigan Macomb County My Commission Expires Sep 18, 2011 Acting in the County of <u>OAKLAND</u>
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(Seal)





LOTS ONE (1) AND TWO (2) IN BLOCK ONE (1) OF BOWLSBY'S ADDITION TO THE TOWN OF WINTERSET, MADISON COUNTY, IOWA.