

# UNOFFICIAL COPY



Doc#: 0411833216  
Eugene "Gene" Moore Fee: \$32.50  
Cook County Recorder of Deeds  
Date: 04/27/2004 12:29 PM Pg: 1 of 5



Return to: TCF National Bank  
Consumer Lending Department  
555 E. Butterfield Rd.  
Lombard, IL 60148

SPACE ABOVE RESERVED FOR RECORDING DATA

## COMMANDCREDIT PLUS<sup>®</sup> MORTGAGE

TCF NATIONAL BANK  
ILLINOIS CONSUMER LENDING DEPARTMENT

Account Number: 092 -226  
FILE NO. 70-01569635

**THIS MORTGAGE ("Mortgage") SECURES A REVOLVING LINE OF CREDIT UNDER WHICH ADVANCES, PAYMENTS, AND READVANCES MAY BE MADE FROM TIME TO TIME. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE MAXIMUM PRINCIPAL INDEBTEDNESS SECURED BY THIS MORTGAGE AT ANY ONE TIME IS ONE HUNDRED SIXTY THOUSAND DOLLARS AND 00 CENTS**

Dollars (\$160,000.00). This Mortgage is made this 23rd day of April, 2004, by ALBERTO AVILA and MARIA OLGA AVILA

Married as Husband and Wife

whose address is 7217 S SPAULDING CHICAGO IL 60629

(the "Borrower"), who grants, conveys, mortgages and warrants to TCF National Bank, a national banking association, 800 Burr Ridge Parkway, Burr Ridge, Illinois 60521 (the "Lender"), land and property in Cook County, Illinois, described as:

SEE ATTACHED LEGAL DESCRIPTION

PREPARED BY: SERVANDO ANDRADE 555 E. BUTTERFIELD RD. LOMBARD, IL 60148

street address: 7217 S SPAULDING CHICAGO IL 60629  
PIN # 19-26-214-006-0000

together with all buildings, improvements, and fixtures on the property, whether now on the property or added in the future, and all easements and other rights that pertain to the property (collectively the "Property"). This Mortgage secures performance and payment under the terms of the CommandCredit Plus<sup>®</sup> Home Equity Line of Credit Agreement and Disclosure Statement dated the same date as this Mortgage, subject to any amendment as permitted by its terms ("Agreement"). In addition to the indebtedness due under the Agreement, this Mortgage secures Protective Advances which may be in excess of the maximum principal amount stated above, with interest thereon and any other charges owing under the Agreement (collectively "Debt") and the performance of all covenants and agreements of the Borrower contained herein. "Protective Advance" is defined as a payment made by Lender for performance of covenants of Borrower pertaining to insuring or preserving the Property upon Borrower's failure to perform. The interest rate under the Agreement is variable and can change daily, as described in the Agreement. The full Debt, if not paid earlier, is due and payable on 04/28/2019.

Borrower promises and agrees:

1. To keep the Property in good repair, and to comply with all laws and ordinances, which affect the Property.
2. To pay all taxes, assessments, and water bills levied on the Property and any other amounts which could become a senior Security Interest against the Property. "Security Interest" includes any lien, mortgage or other encumbrance.

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3. To perform all obligations under any Security Interest on the Property. As of the date hereof, there exists no other Security Interest on the Property, other than as disclosed to Lender on the title search and report or other title evidence obtained by Lender prior to accepting this Mortgage, or on Borrower's loan application.
4. To keep the Property insured against fire, windstorm, flood, and such other hazards as Lender may require, in an amount and manner acceptable to Lender, and with the proceeds made payable in the policies to Lender as mortgagee, and to deliver such proof of insurance as Lender may require. Borrower may obtain insurance from the insurance company of Borrower's choice as long as the insurance company is reasonably acceptable to Lender. Lender will apply any insurance proceeds to pay the Debt, unless Lender agrees in writing that the proceeds can be used differently. If Lender uses the proceeds to reduce the Debt, Borrower will still have to make regular monthly payments until the Debt is satisfied. **Unless Borrower provides Lender with evidence of the insurance coverage required by Borrower's Agreement with Lender, Lender may purchase insurance at Borrower's expense to protect Lender's interests in Borrower's property ("Collateral"). This insurance may, but need not, protect Borrower's interests. The coverage that Lender purchases may not pay any claim that Borrower makes, or any claim that is made against Borrower in connection with the Collateral. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by this Agreement. If Lender purchases insurance for the Collateral, Borrower will be responsible for the costs of that insurance, including interest and any other charges Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Borrower's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Borrower may be able to obtain on Borrower's own. Lender is not required to obtain the lowest cost insurance that might be available.**
5. That if all or part of the Property is condemned or taken by eminent domain, Borrower directs the party condemning or taking the Property to pay all of the money to Lender. Lender will apply the money to pay the Debt, unless Lender agrees in writing that the proceeds can be used differently. If Lender uses the money to reduce the Debt, Borrower will still have to make regular monthly payments until the Debt is satisfied.
6. That if Borrower fails to perform any of Borrower's obligations under this Mortgage, Lender may pay for the performance of such obligations. Any amount so paid and the cost of any title search and report made after any Default, may be added to the Debt as a Protective Advance.
7. That the term "Default" means (a) Borrower's failure to comply with the terms of this Mortgage such that Lender may terminate the Account as stated in the d"Possible Actions" section of the Agreement; or (b) Borrower's failure to comply with the terms of the Agreement such that Lender may terminate the Account as stated in the d"Possible Actions" section of the Agreement; or (c) Borrower's failure to comply with the terms of any Security Interest having priority over this Mortgage such that Lender may terminate the Account as stated in the d"Possible Actions" section of the Agreement.  
 The term "Lender" includes Lender's successors and assigns and the term "Borrower" includes and binds the Borrower's, heirs, personal and legal representatives, successors, and assigns of the undersigned. If this Mortgage is signed by two or more persons, the obligations and Security Interest granted by this Mortgage shall be cumulative and in addition to any other remedies provided by law. Each person who signs this Mortgage is responsible for keeping all of the promises made by Borrower. Lender may choose to enforce its rights against anyone signing this Mortgage or against all of them. However, if someone signed this Mortgage, but signed the Agreement as collateral owner only, then that person will not be required to pay any amount under the Agreement, but will have signed only to grant, convey, mortgage and warrant any rights that person has in the Property. Also, Borrower may agree to extend, modify, forbear, or make any accommodations with regard to the Note or Mortgage without such collateral owner's consent.
8. If Borrower is in default of any of the provisions of the Agreement or this Mortgage, then Lender at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding and may avail itself of all other rights available under applicable law. **Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security (but not prior to acceleration under Section 9 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this section, including but not limited to, the amount of the Debt outstanding, the costs and charges of such sale, reasonable attorneys' fees and costs of title evidence. In the event of any foreclosure or other sale**

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under this Mortgage by virtue of judicial proceedings, advertisement, or otherwise, the Property may be sold in one parcel and as an entirety, or in such parcels, manner, or order as the Lender in its sole discretion may elect.

9. That Borrower shall not assign or transfer the Property or any beneficial interest in the Property by deed, bond for deed, contract for deed, installment sales contract, escrow agreement, or other instruments, or in any manner whatsoever, without Lender's prior written consent. Lender's written consent is not required in the following circumstances:
- (a) the creation of a lien or other encumbrance subordinate to Lender's Security Interest which does not relate to a transfer of rights of occupancy in the Property (provided that such lien or encumbrance is not created pursuant to a contract for deed);
  - (b) the creation of a purchase-money Security Interest for household appliances;
  - (c) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
  - (d) the granting of a leasehold interest which has a term of three years or less and which does not contain an option to purchase (that is, either a lease of more than three years or a lease with an option to purchase violates this provision);
  - (e) a transfer, in which the transferee is a person who occupies or will occupy the Property, which is:
    - (i) a transfer to a relative resulting from the death of Borrower;
    - (ii) a transfer where the spouse or child(ren) becomes an owner of the Property; or
    - (iii) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the Property; or
  - (f) a transfer into an *inter vivos* trust in which Borrower is and remains the beneficiary and occupant of the Property, unless, as a condition precedent to such transfer, Borrower refuses to provide Lender with reasonable means acceptable to Lender by which Lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupancy.
10. That Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.
11. That if the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charge collected or to be collected in connection with the loan exceeds the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the outstanding Debt or by making a direct payment to Borrower.
12. That this Mortgage, and any actions arising out of this Mortgage, are governed by Illinois law to the extent not preempted by federal law. If any provision of this Mortgage is found to be unenforceable, all other provisions will remain in full force and effect. Lender's failure to exercise any right or remedy under this Mortgage will not waive Lender's rights in the future.
13. That upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**Riders.** The following Riders are to be executed by the Borrower:

- Condominium Rider       Planned Unit Development Rider

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BY SIGNING BELOW, BORROWER HAS SIGNED AND DELIVERED THIS MORTGAGE AS OF THE DATE FIRST WRITTEN ABOVE, AND HEREBY RELEASING AND WAIVING ALL RIGHTS UNDER AND BY VIRTUE OF THE HOMESTEAD EXEMPTION LAWS OF THIS STATE.

Borrower:

Alberto Avila

(signature)  
ALBERTO AVILA

(type or very clearly print name)

Maria Olga Avila

(signature)  
MARIA OLGA AVILA

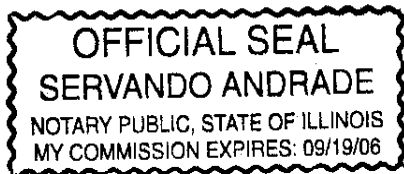
(type or very clearly print name)

State of Illinois

County of ) ss.

The foregoing instrument was acknowledged before me this 23rd day of April, 2004, by ALBERTO AVILA and MARIA OLGA AVILA

Married as Husband and Wife



Servando Andrade  
Notary Public

Cook County,

My commission expires: September 19, 2006

This instrument was prepared by:  
TCF National Bank  
800 Burr Ridge Parkway  
Burr Ridge, IL 60527

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## SCHEDULE "A"

70-01569635

LOT 35 IN BLOCK 7 IN FRANK A. MULHOLLAND'S SUBDIVISION OF THE  
NORTHEAST OF THE NORTHEAST OF SECTION 26, TOWNSHIP 33 NORTH,  
RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,  
ILLINOIS.

TAX ID# 19-26-214-006

Property of Cook County Clerk's Office