

Illinois Anti-Predatory  
Lending Database  
Program

Certificate of Exemption

4298061

Report Mortgage Fraud  
800-532-8785

The property identified as: PIN: 17-31-106-033-0000

Address:

Street: 3242 S LEAVITT ST

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60608

Lender: TCF NATIONAL BANK

Borrower: GRACIELA YANEZ and Richard Allen Gutierrez

Loan / Mortgage Amount: \$50,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: 531B8408-1630-4D19-AA65-5DAD4B487298

Execution date: 12/20/2010

**UNOFFICIAL COPY**

Return to: TCF NATIONAL BANK  
 RETAIL LENDING DEPARTMENT  
 555 EAST BUTTERFIELD ROAD  
 LOMBARD IL 60148

SPACE ABOVE RESERVED FOR RECORDING DATA

**COMMANDCREDIT PLUS® MORTGAGE** 42980661

TCF NATIONAL BANK  
 ILLINOIS RETAIL LENDING DEPARTMENT

Account Number: 092 069

**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**

**FIFTY THOUSAND DOLLARS AND 00 CENTS**

Dollars (\$50,000.00). This Mortgage is made this 20<sup>th</sup> day of December, 2010, by GRACIELA YANEZ and RICHARD ALLEN GUTIERREZ

Married

whose address is 3242 S LEAVITT CHICAGO IL 60608

(the "Borrower"), who grants, conveys, mortgages and warrants to TCF National Bank, a national banking association, 2508 South Louise Avenue, Sioux Falls, SD 57106 (the "Lender"), land and property in Cook County, Illinois, described as:

SEE ATTACHED. PREPARED BY A NEVAREZ @ TCFBANK 555 E. BUTTERFIELD LOMBARD IL 60148

street address: 3242 S LEAVITT ST CHICAGO IL 60608-6017

PIN # 1731106033000

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® 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 12/24/2040.

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.

# UNOFFICIAL COPY

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 "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 "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 "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 premises 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, forebear, 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**

# UNOFFICIAL COPY

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 the Borrower shall pay to Lender on the day the Minimum Payments are due under the Agreement, until the Agreement is paid in full, a sum (the "**Funds**") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over the Mortgage as a lien or encumbrance on the Property; and (b) premiums for any and all flood insurance required by Lender, if any. These items are called "**Escrow Items**." At origination or at any time during the term of the Agreement, Lender may require that Borrower provide escrow for hazard / homeowners insurance premiums, Community Association Dues, Fees, and Assessments, if any, and such premiums, dues, fees and assessments shall be an Escrow Item.

Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section 10. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be an obligation of the Borrower in this Mortgage, as the phrase is used in Section 6. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 6 and pay such amount and Borrower shall then be obligated under Section 6 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a written notice to Borrower by Lender and, upon such revocation, Borrower shall pay to Lender Funds, in such amounts that are then required under this Section 10.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with the law governing the Agreement.

The Funds may be commingled with other funds of the Lender. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Unless an agreement is made in writing, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

# UNOFFICIAL COPY

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender.

- 11. 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.

That 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

- 12. 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.

- 13. 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.

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

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:

Graciela Yanez  
(signature)  
GRACIELA YANEZ

\_\_\_\_\_  
(type or very clearly print name)

Richard Allen Gutierrez TO WAIVE Homestead Rights  
(signature)  
RICHARD ALLEN GUTIERREZ

\_\_\_\_\_  
(type or very clearly print name)

State of Illinois  
County of Cook ) ss.

The foregoing instrument was acknowledged before me this 20th day of December, 2010, by  
GRACIELA YANEZ and RICHARD ALLEN GUTIERREZ  
Married



Rocio Rodriguez  
Notary Public  
County, 3/30/2013  
My commission expires

**UNOFFICIAL COPY**

## EXHIBIT A

SITUATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS, TO  
WIT:

LOT 16 IN VAN SCHAACK AND HERRICK'S SUBDIVISION OF BLOCK 20  
IN S.J. WALKER'S SUBDIVISION OF THAT PART SOUTH OF THE CANAL  
OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE  
14 EAST OF THE THIRD PRINCIPAL MERIDIAN ALSO OF THAT PART  
SOUTH OF THE CANAL OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF  
SECTION 36, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD  
PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Permanent Parcel Number: 17-31-106-033-0000  
GRACIELA YANEZ

3242 SOUTH LEAVITT STREET, CHICAGO IL 60608  
Loan Reference Number : 785992  
First American Order No: 42980661  
Identifier:



When Recorded, Return to:  
First American Mortgage Services  
1100 Superior Avenue, Suite 200  
Cleveland, OHIO 44114



YANEZ

42980661

IL

FIRST AMERICAN ELS  
MORTGAGE



⑥