

This instrument was prepared by:

Bob Wieck  
JPMorgan Chase Bank, N.A., as Master Servicer  
1111 Fannin  
Houston, Texas 77002

State of Alabama)  
County of Shelby)

## MORTGAGE

This Mortgage is given on November 8, 2007. The grantor is FREEWAY EXPRESS, INC. ("Borrower"), an Alabama corporation, and whose address is 1251 Old Birmingham Highway,, Sylacauga, Alabama 35150. This Mortgage is given to TIGER PEG CAPITAL CORP. ("Lender"), a Delaware non-stock corporation, whose address is P. O. Box 2558, Houston, Harris County, Texas 77252-8059. Borrower owes Lender the principal sum of \$1,360,000.00. This debt is evidenced by Borrower's note dated the same date as this Mortgage ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on November 20, 2022. This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under Section 6 to protect the security of this Mortgage, together with interest and charges thereon; (c) the strict and timely performance of Borrower's indebtedness, obligations, covenants and agreements under this Mortgage, the Credit Agreement of even date herewith executed among , Borrower, Allen Oil Company of Sylacauga Inc., and Lender (the "Credit Agreement"), all other related papers securing the Note or relating in any way to the Credit Agreement or the Loan(s) made pursuant thereto and the Note (collectively, the "Credit Documents"); and (d) all expenses of Lender of the types described in the Credit Agreement and other expenses paid or incurred by Lender in performing the agreements of Borrower under the Credit Documents that Borrower has failed to perform. All of the indebtednesses, obligations, covenants and agreements described in clauses (a) through (d), inclusive, of the immediately preceding sentence are collectively called the "Obligations." The provisions of the Note and Credit Agreement are, by this reference, incorporated into this Mortgage as though set out verbatim here in their entirety. Any reference in this Mortgage to any document, instrument, contract or agreement (such as, for example, the Credit Agreement, the Note or this Mortgage) shall be deemed to mean, include and refer to that document, instrument, contract or agreement as it may from time to time be amended, modified or restated, and together with all substitutions and replacements therefor. Any capitalized term used in this Mortgage and not otherwise defined herein shall have the meaning ascribed to such term in the Credit Agreement. For and in consideration of these purposes and Lender's entering into the Credit Agreement, making the Loan(s) and advancing any other funds to or for the benefit of Borrower, Borrower does hereby mortgage, grant, bargain, sell, assign and convey to Lender and Lender's successors and assigns, with power of sale and hereby grants to the Lender a security interest in, all of Borrower's right, title and interests in and to the property (the "Land") described on Exhibit A attached hereto, together with all the improvements now or hereafter erected on the Land, and all easements, appurtenances, and fixtures now or hereafter a part of the Land. All replacements thereof and additions thereto, and also all rents, profits and proceeds of,



concerning or relating to any or all of the foregoing (including all insurance proceeds and condemnation or eminent domain proceeds or awards) shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Mortgaged Property."

TO HAVE AND TO HOLD the Mortgaged Property unto Lender and Lender's successors and assigns, forever.

BORROWER REPRESENTS that Borrower is lawfully seised of the estate hereby conveyed and has full power and lawful authority to mortgage, grant and convey the Mortgaged Property and that the Mortgaged Property is unencumbered, except for (a) any Lien for property taxes not yet due and payable; (b) the Liens in favor of Lender, and (c) any other encumbrances specifically described on Exhibit B attached hereto (collectively, the "Permitted Exceptions"). Borrower warrants and will defend forever the title to the Mortgaged Property and every part thereof and the validity and priority of the Lien created by this Mortgage against all claims and demands, subject to any Permitted Exceptions. Lien as used herein means any mortgage, pledge, charge, encumbrance, security interest, collateral assignment or other lien or restriction of any kind, whether based on common law, constitutional provision, statute or contract, and shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions.

COVENANTS. Borrower and Lender covenant, warrant and agree as follows:

**1. Payment of Obligations; Performance.** Borrower shall promptly pay when due the Obligations. Borrower will perform and comply with all provisions of the Credit Documents.

**2. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under Section 1 shall be applied: first, to any costs of collection, including reasonable attorneys' fees and the delinquency fees payable to the Servicer (as such term is hereinafter defined); second, to interest due under the Note; third, to principal due under the Note, and last, to any other Obligations.

**3. Charges; Liens.**

(a) Borrower shall pay at least 30 days before delinquency all taxes, assessments, charges, fines and impositions attributable to any part of the Mortgaged Property which may create a Lien on any part of the Mortgaged Property that is not a Permitted Exception. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. If Borrower makes these payments directly, Borrower shall furnish to Lender receipts evidencing the payments promptly after Borrower's receipt thereof.

(b) Borrower shall promptly discharge any Lien against any part of the Mortgaged Property that is not a Permitted Exception unless Borrower (1) agrees in writing to the payment of the obligation secured by the Lien in a manner acceptable to Lender; (2) contests in good faith the Lien or defends against enforcement of the Lien, by posting a bond or other security therefor that is in Proper Form or in legal proceedings which in Lender's opinion operate to prevent the enforcement of the Lien; or (3) secures from the holder of the Lien an agreement satisfactory to Lender subordinating the Lien to this Mortgage. If Lender determines that any part of the Mortgaged



Property is subject to a Lien that is not a Permitted Exception, Lender may, but shall not be obligated to, give Borrower a notice identifying the Lien. Borrower shall satisfy the Lien or take one or more of the actions set forth above within ten days of the giving of notice, in the event that Lender elects to give such notice.

(c) If at any time after the date hereof there shall be assessed or imposed (1) a tax or assessment on the Mortgaged Property in lieu of or in addition to the impositions otherwise payable by Borrower pursuant to Section 3(a); (2) a license fee, tax or assessment imposed on Lender and measured by or based in whole (or in part) upon the amount of the outstanding Obligations, or (3) a license fee, tax or assessment imposed on Lender because of Lender's interest in the Mortgaged Property, then all (or said part of) such taxes, assessments or fees shall be deemed to be included within such impositions in Section 3(a) and Borrower shall pay and discharge the same as provided in Section 3(a) to the extent not prohibited by applicable law. If Borrower fails to pay any such impositions at least 30 days before delinquency or if Borrower is prohibited by law from paying such impositions, Lender may at its option declare all Obligations immediately due and payable and/or pursue the other remedies available to Lender under Section 17. Anything to the contrary herein notwithstanding, Borrower shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Lender.

#### **4. Hazard or Mortgaged Property Insurance.**

(a) Borrower shall, at its own expense, keep the improvements now existing or hereafter erected on the Mortgaged Property insured as required by the Credit Agreement. If Borrower fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Mortgaged Property in accordance with the Credit Documents.

(b) Nothing herein contained shall be deemed to excuse Borrower from repairing or maintaining the Mortgaged Property as provided in Section 5 or restoring all damage or destruction to the Mortgaged Property, regardless of whether there are insurance proceeds available to Borrower or whether any such proceeds are sufficient in amount.

(c) Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal on the Note shall not extend or postpone the due date of the monthly payments referred to in the Note or change the amount of the payments.

#### **5. Preservation, Maintenance and Protection of the Mortgaged Property.**

(a) Borrower shall not destroy, damage or impair the Mortgaged Property, allow the Mortgaged Property to deteriorate, or commit waste on the Mortgaged Property. Borrower shall not and shall not permit any other Person to, without the express prior written consent of Lender (which will not be unreasonably withheld or delayed if such removal, demolition or alteration will not, when completed, diminish the value of the Mortgaged Property) remove, demolish or substantially alter any material portion of the Mortgaged Property. Borrower shall keep the Mortgaged Property in good, safe, clean and attractive order and condition, and in compliance with applicable provisions of law, and requirements of property insurance policies, and make all necessary



repairs and replacements thereto. Borrower shall be in Default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Mortgaged Property or otherwise impair the Lien or security created by, or the priority of, this Mortgage. Borrower may cure such a Default by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes all of the adverse consequences described in the preceding sentence.

(b) Borrower shall not permit any of the fixtures, furnishings or equipment to be demolished or to be removed from the Mortgaged Property without the express prior written consent of Lender, unless said fixture, furnishing or equipment is replaced by an article of equal suitability and value, owned by Borrower free and clear of any Lien of any kind, except such as may be approved in writing by Lender, and that such replacement article shall be encumbered by the Lien of this Mortgage.

#### **6. Protection of Lender's Rights in the Mortgaged Property.**

(a) If Borrower fails to perform the covenants and agreements contained in any Credit Document, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may, in its sole discretion and without notice to Borrower, do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property or to pursue Lender's remedies hereunder (including, without limitation, the institution and prosecution of a foreclosure proceeding). Lender's actions may include paying any obligations secured by a Lien against any part of the Mortgaged Property that is not a Permitted Exception; appearing in court; paying reasonable attorneys' fees and expenses and other costs; entering on the Mortgaged Property to make repairs or replacements, and taking such other actions as Lender deems necessary or appropriate to protect its interests hereunder. Although Lender may take action under this Section, Lender in its sole discretion does not have to do so.

(b) Any amounts expended or disbursed by Lender under this Section shall become additional Obligations. Unless Borrower and Lender otherwise agree in writing, these amounts shall bear interest from the date of disbursement at the rate stated in the Note and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

#### **7. Condemnation.**

(a) The proceeds of an award or claim for damages, direct or consequential, in connection with any condemnation (or other exercise of eminent domain) or other taking of or damage to any part of the Mortgaged Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, with Lender to apply such proceeds first to the Obligations then owing, and then to pay the balance of such proceeds to the Borrower, unless the Credit Agreement provides otherwise. If Borrower receives any notice or other information regarding any such condemnation proceeding, Borrower shall give prompt written notice thereof to Lender. Lender shall be entitled to all compensation, awards and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings.



Lender shall also be entitled to make any compromise or settlement in connection with such taking or damage.

(b) Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal on the Note shall not extend or postpone the due date of the monthly payments referred to in the Note or change the amount of such payments.

**8. Borrower Not Released; Forbearance By Lender Not a Waiver.**


(a) None of (1) extension of the time for payment; (2) modification of amortization of the Obligations granted by Lender to any successor in interest of Borrower or any guarantor; (3) any release of any Person obligated thereon or any of the Mortgaged Property, or (4) any other amendment, modification, waiver, release or benefit granted or agreed to by Lender shall operate to release the liability of the original Borrower, any other guarantor or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or any guarantor; refuse to extend time for payment; otherwise modify amortization of the Obligations, or release any party obligated thereon or any part of the Mortgaged Property by reason of any demand made by the original Borrower, any other guarantor or Borrower's successors in interest. Lender shall have no obligation to give notice to or obtain the consent of Borrower or any guarantor to any such extension or modification. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

(b) The acceptance by Lender of payment of any Obligations after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other Obligations or to declare a Default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Lender shall not be a waiver of Lender's right to pursue Lender's remedies under Section 17, nor shall Lender's receipt of any awards, proceeds or damages operate to cure or waive Borrower's Default in payment of Obligations.

**9. Successors and Assigns Bound; Signers.** The covenants and agreements of this Mortgage shall bind and benefit the heirs, beneficiaries, administrators, executors, personal and legal representatives, receivers, trustees, successors and assigns of Lender and Borrower, as applicable, subject to the provisions of Section 13.

**10. Notices.** Any notice, demand or other communication to Borrower provided for in this Mortgage shall be given in the manner described in the Credit Agreement. Any notice actually received, however and from whomever given or received, shall always be effective when received.

**11. Governing Law; Severability.** This Mortgage shall be governed by and construed in accordance with the applicable laws of the State of Alabama. In the event that any provision or clause of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision; each provision of this Mortgage shall be enforced to the fullest extent permitted under applicable law. To this end the provisions of this Mortgage are declared to be severable.

  
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**12. Default; Remedies.** A "Default" under this Mortgage shall mean the failure of Borrower to pay any installment of principal and accrued interest on the Note as and when due, the failure of Borrower to pay any other Obligation as and when due, the occurrence or existence of one or more other Events of Default as defined in the Credit Agreement or other such defaults as are otherwise described herein. With respect to any Default, Lender shall have and may exercise any and all rights and remedies set out or provided in any of the Credit Documents or otherwise available under applicable law, and all such rights and remedies shall be cumulative and may be pursued concurrently, independently, or successively and Lender may pursue inconsistent remedies. The only limitation upon such remedies is that there shall be but one full and complete satisfaction of the Obligations.

**13. Transfer of the Mortgaged Property or a Beneficial Interest in Borrower.** If all or any part of the Mortgaged Property or any interest or estate in it is sold or transferred (or if Borrower is not a natural Person and a beneficial interest in Borrower is sold or transferred to any Person other than another existing holder of such beneficial interests), leased (except for leases or rental agreements which are entered into in the ordinary course of Borrower's business and relate to use of portions of the improvements for retail or service establishments), mortgaged, encumbered or otherwise disposed of without Lender's express prior written consent, it shall constitute a "Default" hereunder and Lender may, at its option, require immediate payment in full of all Obligations.

**14. Sale or Assignment of Note; Change of Servicer.** The Note or a partial interest in the Note (together with this Mortgage and the other Credit Documents) may be sold or assigned one or more times without prior notice to Borrower. Borrower understands that Lender intends to assign the rights of Lender under the Credit Documents to JPMorgan Chase Bank, N.A., as collateral agent for various creditors of Lender. A sale or assignment may result in a change in the Person (known as the "Servicer") that collects monthly payments due under the Credit Documents. There also may be one or more changes of the Servicer unrelated to a sale or assignment of the Note. JPMorgan Chase Bank, N.A., as servicer for Lender, shall be the initial Servicer.

**15. Modification.** In regards to the rights of any junior or intervening lienor or encumbrancer, Lender may at any time or from time to time change, waive, terminate, modify, discharge or release (in whole or in part) any provision of this Mortgage and grant such extensions and indulgences as Lender may determine, all without the consent of any junior or intervening lienor or encumbrancer, without any obligation to give notice of any kind thereto and without in any manner affecting the priority of the Lien of this Mortgage on any portion of the Mortgaged Property; any such agreement shall be superior to the rights of any junior or intervening lienor or encumbrancer.

**16. Unsecured Obligations.** All payments made on the Obligations, whether voluntarily or pursuant to foreclosure, sale or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Obligations which are not secured or fully secured by the Lien created by this Mortgage, if any.



**17. Remedies.** Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If any Default shall occur, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and Lender shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, to sell the Mortgaged Property (or such part or parts thereof as Lender may from time to time elect to sell) under a power of sale, which is hereby granted to Lender, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Mortgaged Property to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Mortgaged Property to be sold, by publication in some newspaper published in the county or counties in which the Mortgaged Property to be sold is located. If there is Mortgaged Property to be sold in more than one county, publication shall be made in all counties where the Mortgaged Property to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the date designated for the exercise of the power of sale hereunder. At any sale all or any part of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, Borrower hereby waiving the application of any doctrine of marshalling or like proceeding. In case Lender, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Obligations shall have been paid in full and this Mortgage shall have been terminated as provided herein. Lender or its designee may bid at any sale held under this Mortgage and may purchase the Mortgaged Property at any such sale, or any part thereof, if the highest bidder therefor, and may pay for any of the Mortgaged Property so purchased by crediting on the purchase price the outstanding balance of the Obligations. Borrower hereby authorizes and empowers Lender or the auctioneer at any foreclosure sale had hereunder, for and in the name of Borrower, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient quitclaim deeds of conveyance or bills of sale thereto. Borrower covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all Obligations, and (c) any excess to the Persons legally entitled thereto.

The Lender shall be entitled, as a matter of right (upon bill filed or other appropriate legal proceedings being commenced for the foreclosure of this Mortgage, to the extent required by law), to the appointment by any competent court or tribunal, without notice to Borrower or any other Person, of a receiver of the rents, issues, profits and revenues of the Mortgaged Property, with power to lease and control the Mortgaged Property and with such other powers as may be deemed necessary.



The provisions of this Mortgage with respect to acceleration and remedies are intended to comply with the provisions of applicable law as in force and effect on January 1, 1998, and in the event that any such provisions are eliminated or modified by future amendment to, or adoption of any statute superseding such applicable laws, the affected provisions of this Mortgage shall be deemed stricken from or modified in conformity with such amendment or superseding statute, effective as of its effective date.

**18. Release.** If (a) all the Obligations are performed and paid in full, and (b) Borrower has fulfilled all of its other obligations to Lender under this Mortgage, and (c) Lender has no obligation to extend any further credit to or for the account of Borrower to be secured by this Mortgage and there is in existence no contingent liability of Borrower that is secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower in accordance with applicable law. If required by applicable law, Lender, at the written request of Borrower, shall enter on the margin of each record of this Mortgage the date and amount of full or partial payments or file a separate written instrument so stating. Borrower shall pay any recordation costs.

**19. Assignment of Rents, Revenues, Income and Profits.**

(a) Borrower hereby assigns and transfers to Lender all Leases (hereinafter defined) and all rents, revenues, income and profits ("Rental") payable for or in respect of all or any part of the Mortgaged Property or under each Lease now or at any time hereinafter existing, such assignment being upon the terms set forth below. The term "Lease" or "Leases" means any oral or written agreement between Borrower and another Person to use or occupy all or any portion of the Mortgaged Property, together with any guaranties or security for the obligations of any tenant, lessee, sublessee or other Person having the right to occupy, use or manage any part of the Mortgaged Property under a Lease. Each time Borrower enters into a Lease, such Lease shall automatically become subject to this Section without further action.

(b) The transfer of Rental to Lender shall be upon the following terms: (1) until receipt from Lender of notice of the occurrence of a Default, each tenant may pay Rental directly to Borrower; but after a Default, Borrower covenants to hold all such Rental paid in trust for the use and benefit of Lender; (2) upon receipt from Lender of notice that a Default exists, each tenant is hereby authorized and directed to pay directly to Lender all Rental thereafter accruing or payable and receipt of Rental by Lender shall be a release of such tenant to the extent of all amounts so paid; (3) Rental so received by Lender shall be applied by Lender in accordance with Section 2; (4) without impairing its rights hereunder, Lender may, at its option, at any time and from time to time, release to Borrower Rental so received by Lender, or any part thereof; (5) Lender shall not be liable for its failure to collect or its failure to exercise diligence in the collection of Rental, but shall be accountable only for Rental that it shall actually receive, and (6) the assignment contained in this Section shall terminate upon the release of this Mortgage, but no tenant shall be required to take notice of termination until a copy of such release shall have been delivered to such tenant. As between Lender and Borrower, and any Person claiming through or under Borrower, other than any tenant who has not received notice that a Default has occurred, the assignment contained in this Section is intended to be absolute, unconditional and presently effective and the provisions of Subsections (b)(1) and (b)(2) above are intended solely for the benefit of each tenant and shall never inure to the benefit of Borrower or any Person claiming through or under Borrower, other than a



tenant who has not received such notice. It shall never be necessary for Lender to institute legal proceedings of any kind whatsoever to enforce the provisions of this Section. It is agreed that any Rental retained and reserved by Borrower pursuant to the aforementioned license will not constitute a payment by the Borrower to Lender of any portion of the Obligations (and hence will not be credited to the Obligations) until Rental is actually paid to Lender and retained by Lender and then, in such event, Rental so received shall be applied in accordance with Section 2.

(c) Should a Default occur, Borrower agrees to deliver immediately to Lender possession and control of all Rental held by Borrower in trust for the benefit of Lender. Borrower specifically agrees that Lender may upon the occurrence of any Default or at any time thereafter, personally or through an agent selected by Lender, take — or have a trustee take — possession and control of all or any part of the Mortgaged Property and may receive and collect all Rental theretofore accrued and all thereafter accruing therefrom until the final termination of this Mortgage or until the foreclosure of the Lien of this Mortgage, applying so much thereof as may be collected before sale of the Mortgaged Property by foreclosure of this Mortgage first to the expenses of Lender incurred in obtaining Rental and then applying Rental so received in accordance with the provisions of Section 2. Any such action by Lender shall not operate as a waiver of the Default in question, or as an affirmation of any Lease or of the rights of any tenant in the event title to that part of the Mortgaged Property covered by the Lease or held by the tenant should be acquired by Lender or other purchaser at foreclosure sale. Lender or Lender's agent may use against Borrower or any other Person such lawful or peaceable means as the Person acting may see fit to enforce the collection of any such Rental or to secure possession of the Mortgaged Property, or any part of it and may settle or compromise on any terms as Lender or Lender's agent sees fit, the liability of any Person for any such Rental. In particular, Lender or Lender's agent may institute and prosecute to final conclusion actions of forcible entry and detainer, or actions of trespass to try title, or actions for damages, or any other appropriate actions, in the name of Lender or Borrower, and may settle, compromise or abandon any such actions as Lender or Lender's agent may see fit; and Borrower binds Borrower and Borrower's heirs, beneficiaries, administrators, executors, personal and legal representatives, receivers, trustees, successors and assigns, as applicable, to take whatever lawful or peaceable steps Lender or Lender's agent may ask of Borrower or any such Person so claiming to take for such purposes, including the institution and prosecution of actions of the character above stated. However, neither Lender nor Lender's agent shall be obligated to collect any such Rental nor be liable or chargeable for failure to do so. Upon any sale of the Mortgaged Property or any part thereof in foreclosure of the Lien created by this Mortgage, such Rental so sold which thereafter accrues shall be deemed included in such sale and shall pass to the purchaser free and clear of the assignment made in this Section. Nothing in this Section is intended to require Lender to institute any legal proceedings or engage in any self help remedies in order to make the absolute assignment of Rental to Lender operative.

(d) Lender's acceptance of this assignment shall not, before entry upon and taking possession of the Mortgaged Property by Lender, be deemed to constitute Lender a "mortgagee in possession," nor obligate Lender to appear in or defend any proceeding relating to any of the Leases or to the Mortgaged Property, take any action hereunder, expend any money, incur any expenses or perform any obligation or liability under the Leases, or assume any obligation under the Leases including the obligation to return any deposit delivered to Borrower by any tenant. Lender shall not be liable for any injury or damage to Person or Property in or about the Mortgaged Property. Neither



the collection of Rental due under the Leases herein described nor possession of the Mortgaged Property by Lender shall render Lender liable with respect to any obligations of Borrower under any of the Leases.

**20. Grant of Security Interest.** For value received, Borrower hereby grants to Lender a security interest in all of the personal property covered by that certain Security Agreement of even date herewith between Borrower and Lender, including certain personal property now or hereafter located at the Mortgaged Property; this grant of a security interest is separate from the security interest granted in such Security Agreement, and Lender may foreclose the security interest granted herein in connection with any foreclosure on the Mortgaged Property.

**21. Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LENDER AND BORROWER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON ANY CREDIT DOCUMENT OR ARISING OUT OF, UNDER OR IN CONNECTION WITH ANY CREDIT DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY TO ANY CREDIT DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER AND BORROWER ENTERING INTO THE SUBJECT LOAN TRANSACTION.

BY SIGNING BELOW, Borrower accepts and agrees to all of the premises, terms and covenants contained in this Mortgage.

FREEWAY EXPRESS, INC.,  
an Alabama corporation

By: Timothy W. Allen  
Timothy W. Allen  
Vice President

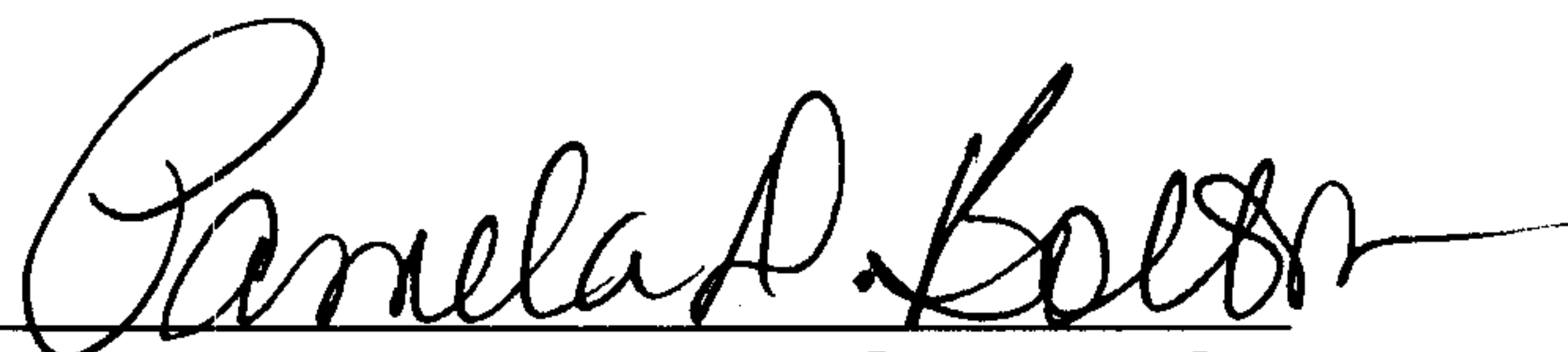
Exhibit A - Mortgaged Property Description (include street address)  
Exhibit B - Permitted Exceptions



THE STATE OF ALABAMA       §  
  §  
COUNTY OF TALLADEGA       §

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Timothy W. Allen, whose name as Vice President of Freeway Express, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 8th day of November, 2007, A.D. \_\_\_\_\_.




Notary Public in and for Pamela D. Bolton  
the State of Alabama

Pamela D. Bolton

Printed Name of Notary Public

My Commission Expires: 10-12-2008

[SEAL]



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Shelby Cnty Judge of Probate, AL  
11/16/2007 03:38:21PM FILED/CERT



## EXHIBIT "A"

### LEGAL DESCRIPTION:

A part of the SW  $\frac{1}{4}$  of The NW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southwest corner of Section 19, Township 20 South, Range 2 West; thence run South 89 deg. 26 mm. 05 sec. East for 842.67 feet; thence run North 00 deg. 05 mm. 23 sec. East for 1223.63 feet to a found cap iron, being the point of beginning; thence continue on the last described course for 369.02 feet to a found cap iron on the Southerly right of way line of County Road No. 52; said point being situated on a curve to the left having a central angle of 12 deg. 46 min, 11 sec. and a radius of 1472.40 feet; thence run along the arc for 328.16 feet to a found open top iron; thence departing said right of way line run South 03 deg. 03 mm. 04 sec. West for 245.00 feet to a set  $\frac{1}{2}$  inch rebar; thence run North 86 deg. 50 min. 14 sec. West for 264.00 feet to the point of beginning; being situated in Shelby County, Alabama.


Less and except

A parcel of land situated in part of the Southwest  $\frac{1}{4}$  of Section 19, Township 20, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southwest corner of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  and run North 00 deg. 51 min. 26 sec. West for a distance of 1,837.23 feet thence run North 62 deg. 25 min. 08 sec. East for a distance of 137.30 feet; thence run North 79 deg. 67 min. 49 sec. East for a distance of 122.41 feet to a point on the Southernmost right of way line of Shelby County Highway 52 (right of way varies); thence run South 60 deg. 36 min. 21 sec. East along said right of way for a distance of 251.87 feet; thence run South 50 deg. 12 min. 05 sec. East along said right of way for a distance of 310.72 feet thence run South 75 deg. 44 mm. 24 sec. East along said right of way for a distance of 123.67 feet thence, leaving said right of way run South 00 deg. 26 min. 49 sec. East for a distance of 364.87 feet thence run South 85 deg. 59 min. 18 sec. East for a distance of 244.53 feet to the point of beginning; thence run North 27 deg. 07 min. 20 sec. East for a distance of 103.19 feet thence run South 04 deg. 01 min. 50 sec. West for a distance of 94.91 feet; thence run North 85 deg. 59 min. 18 sec. West for a distance of 40.47 feet to the point of beginning; being situated in Shelby County, Alabama.

Property Address:

1286 E. Highway 52  
Pelham, AL 35124


  
20071116000527430 12/13 \$2087.00  
Shelby Cnty Judge of Probate, AL  
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## EXHIBIT "B"

### PERMITTED EXCEPTIONS:

1. Subject to transmission line permit(s) to Alabama Power Company as shown by that instrument filed with the Judge of Probate of Shelby County, Alabama, in instrument recorded in Deed Book 126 at Page 299.
2. Subject to right of way granted to Shelby County as shown by that instrument filed with the Judge of Probate of Shelby County, Alabama, in instrument recorded in Deed Book 180 at Page 584.
3. Subject to easement to City of Pelham as shown by that instrument filed with the Judge of Probate of Shelby County, Alabama, in instrument No. 1999-18783.
4. Subject to title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including those set out in Deed Book 335 at Page 430.
5. Subject to rights of others use of 20 foot access easement as shown on survey by John Parks dated 08-23-90 and as set out in deed filed with the Judge of Probate of Shelby County, Alabama, in Real 314 at Page 861.
6. Subject to the following matters as shown on the survey of Conn & Allen, dated 9-14-99:
  - (a) Encroachment of concrete curb(s) off of the land on the Easterly and Northeasterly sides;
  - (h) Encroachment of "Exxon" sign off of the land on the Northeasterly side;
  - (c) Encroachment of fence(s) onto and/or off of the land on the Westerly side;
  - (d) Location of proposed sanitary sewer line on the Southerly and Southwesterly portion of the land;
  - (e) Encroachment of pavement off of the land on the Easterly side
7. Subject to any loss, damage, cost, expense and attorneys fees occasioned by any overlap, gap, gore, loss of land, boundary line dispute, or conflict of title with any adjacent owner.
8. Less and except any portion of the land lying between the boundary line of the legal description herein insured and the fence.
9. Subject to rights of others to use of the Pond.
10. Subject to temporary easement to State of Alabama set out in instrument recorded in Inst. No. 20041210000576350 in the Probate Office of Shelby County, Alabama.

  
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