

COMMON AREA MAINTENANCE AGREEMENT

THIS AGREEMENT, entered into as of this 14th day of February, 1997, by and between METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation, party of the first part (hereinafter referred to as "Developer"), and GENERAL ELECTRIC CAPITAL CORPORATION, for Itself and as Agent for Certain Participants, a New York Corporation, party of the second part (hereinafter referred to as "Boston Market");

Inst # 1997-05887

WITNESSETH:

WHEREAS, Boston Market is the owner of a parcel of land described in Exhibit "A" attached hereto and by this reference made a part hereof (said land being hereinafter referred to as the "Boston Market Property") on which there is to be constructed a restaurant building to be occupied by Boston Market upon completion;

WHEREAS, Developer maintains certain areas (hereinafter referred to as the "Common Areas") as hereinafter set forth for the benefit of certain owners and tenants of a substantial portion of the development known as Inverness Corners Shopping Center (said development and said areas thereof being generally within the property shown on the copy of a plan thereof attached hereto as Exhibit "B" and by this reference made a part hereof, said substantial portion thereof consisting of approximately thirty-one (31) acres):

WHEREAS, Boston Market recognizes that the maintenance by Developer of the Common Areas as hereinafter set forth will, upon completion of the aforesaid building on the Boston Market Property, inure to the benefit of the Boston Market Property as well as to the benefit of such other owners and tenants within the Inverness Corners Shopping Center development; and

WHEREAS, Developer and Boston Market desire to enter into this Agreement to establish the basis on which Boston Market will share in the costs and expenses of Developer in maintaining the Common Areas as hereinafter set forth.

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid by Developer to Boston Market, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and Boston Market covenant and agree as follows:

02/25/1997-05887
11:39 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE
21.00

1. Agreement to Share. Boston Market hereby recognizes that Developer presently maintains in a neat and orderly appearance the signs, lighting, entrances, parking areas and other landscaping located within Inverness Corners Shopping Center and within the right-of-way of a public highway fronting Inverness Corners Shopping Center known as Valleydale Road, and that Developer presently intends to so maintain any other roads constructed on land owned by Developer in Inverness Corners Shopping Center, all as shown on Exhibit "B". Boston Market hereby agrees for itself, its successors and assigns, that for a period of twenty (20) years from the date hereof, Boston Market shall pay annually its pro rata share, as determined in Section 2, of all reasonable expenses and costs incurred by Developer or its successors directly in so maintaining said signs, lighting, entrances, parking areas and other landscaping. Notwithstanding the foregoing, Boston Market agrees that the care and maintenance of the grass within the Highway U.S. 280 right-of-way in front of the Boston Market Property is not a part of the Common Areas and shall be maintained by Boston Market at a quality level equal to the quality level of maintenance of the Common Areas of Inverness Corners Shopping Center.

2. Method of Allocation. Boston Market's pro rata share of such maintenance costs and expenses within Inverness Corners Shopping Center, as shown by Exhibit "B", and Boston Market's total obligation shall be Two Thousand Six Hundred and No/100 Dollars (\$2,600.00) for the first year and shall be increased annually by five percent (5%).

3. Payment of Allocated Costs and Expenses. Such Common Area maintenance costs and expenses shall be paid annually by Boston Market, or its successors and assigns, to Developer, or its successors, within forty-five (45) days after receipt each calendar year by Boston Market, of a detailed statement from Developer certified by a duly authorized representative of Developer, or its successors, reflecting the total of such costs and expenses and a computation reflecting Boston Market's share of such costs. On or before the 30th day of April following each calendar year during the continuance of such Common Area maintenance by Developer, Developer shall submit such detailed statement of expenses for the immediately

preceding calendar year. Payments for any partial calendar years covered by the term of this Agreement shall be prorated according to the portion of the year covered.

4. Term of Maintenance. Nothing contained herein shall require or obligate Developer to maintain said signs, lighting, entrances (except the Access Road as defined in Exhibit "E", the Easement Agreement), parking areas and other landscaping and Boston Market recognizes that Developer, after thirty (30) days notice, may cease providing such maintenance at any time at its sole discretion. If Developer fails to maintain the Common Areas as required under this Paragraph 4, and such failure continues for a period of thirty (30) days after Boston Market has given written notice to Developer specifying the nature of the default (provided, however, no such notice is required in an emergency), Boston Market may enter upon Inverness Corners Shopping Center and perform the necessary maintenance or repair work. This Agreement shall continue in full force and effect until, the earlier of twenty (20) years from the date hereof, or the 31st day of May of the year following the last year in which Developer, or its successors, has incurred any chargeable costs or expenses in connection with such maintenance. Developer and Boston Market hereby agree that the obligation of Boston Market hereunder is a real covenant and shall bind and be enforceable against all subsequent owners of the Boston Market Property, and Boston Market covenants and agrees that in the event Boston Market conveys all or any portion of the Boston Market Property, that in connection with such conveyance Boston Market shall require the purchaser thereof to assume the obligations of Boston Market under this Agreement.

5. Books and Records. During the term of this Agreement, Developer, or its successors, shall maintain, keep, and preserve for a period of three (3) years after the time period to which they relate, full, complete, and accurate books and records regarding the maintenance costs and expenses which are the subject of this Agreement. Such books and records shall include complete information as to the purpose, nature, and amount of any item included in such costs and expenses, and the receipt of any expenditure in connection therewith. Boston Market, or its duly authorized agent or representative, shall have the right, at any reasonable time, to inspect such books and records and all related or supporting information.

6. **Invalid Provisions.** If any clause or provision of this Agreement shall be illegal, invalid, or unenforceable under present or future laws, the remainder of this Agreement shall not be affected thereby. It is the intention of Developer and Boston Market that in lieu of each clause or provision in this Agreement which shall be illegal, invalid, or unenforceable, there shall be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as possible in order to give effect to the intent of this Agreement.

7. **Entire Agreement.** This Agreement supersedes all prior discussions and agreements between Developer and Boston Market with respect to Common Area maintenance and constitutes the sole and entire agreement between Developer and Boston Market with respect thereto.

8. **Headings.** The headings of the paragraphs of this Agreement are for convenience of reference only and are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

9. **Effect.** This Agreement shall be binding and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns whether voluntary by act of the parties or involuntary by operation of law.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed under seal as of the date first above written.

METROPOLITAN LIFE INSURANCE COMPANY

Kathy Atkinson
Witness
Stephen R. Korman
Notary Public
Notary Public, Georgia, State at Large
My Commission Expires Jan. 12, 1998

By: [Signature]
Robert R. Merck
Vice President

GENERAL ELECTRIC CAPITAL CORPORATION,
for itself and as Agent for Certain Participants
By: Boston Chicken, Inc. ITS AGENT

By: [Signature]
Title: JAMES C HOAR
VICE PRESIDENT

Mary Ann Clark
Witness
[Signature]
Notary Public

My Commission Expires 9/22/97

EXHIBIT "A"

An Exhibit to the Common Area Maintenance Agreement

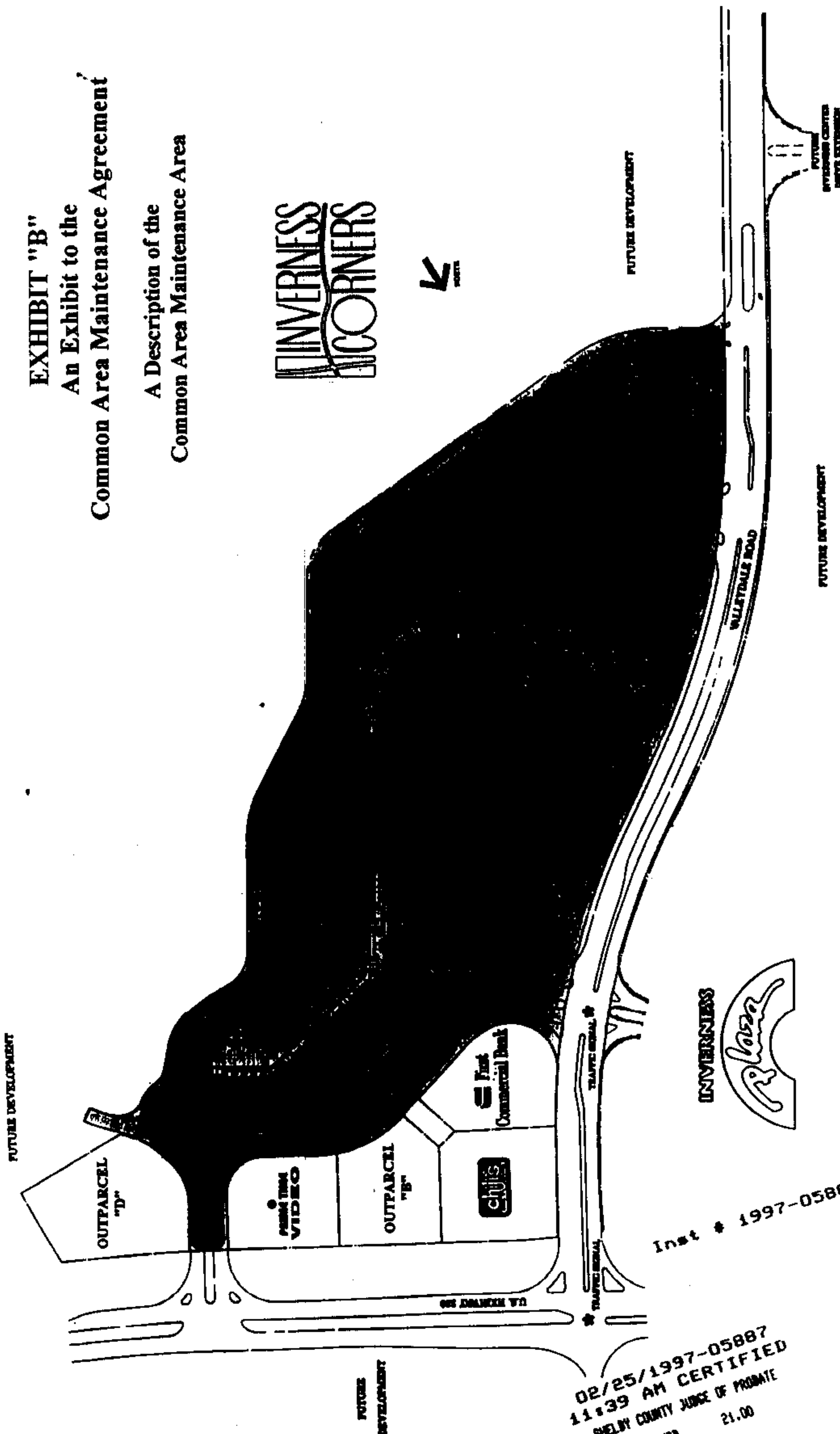
A Description of the "Property"

Being that tract of land known as Inverness Corners Outparcel
"B" on the Final Plat recorded in Map Book 21, Page 30 of
Shelby County, Alabama.

EXHIBIT "B"
An Exhibit to the
Common Area Maintenance Agreement

A Description of the
Common Area Maintenance Area

**INVERNESS
 CORNERS**



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