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MARIE G. KORTH
BOX ELDER COUNTY RECORDER

DEP. 89 FEE 125\$

26169/

1989 SEP 13 PM 1:05

WHEN RECORDED, RETURN TO:

Larry G. Moore, Esq.
Ray, Quinney & Nebeker
Suite 500
79 South Main Street
Salt Lake City, Utah 84111

BOOK 478 PAGE 471

RECIPROCAL EASEMENT

03 146 7/5/89
2541

Reciprocal Easement made this 31st day of August, 1989, by and between ShopKo Stores, Inc. d/b/a Uvalko ShopKo Stores, Inc., a Minnesota corporation ("ShopKo") and Lilly Pond Associates, a Delaware general partnership ("Developer") (hereinafter referred to collectively as "Declarants"), and expiring on December 1, 2010.

WHEREAS, Declarant ShopKo is the owner of certain real property located in Box Elder County, State of Utah, more particularly described as Lot 1, Brigham Intermountain Development Plat E, according to the official plat on file with the Box Elder County, Utah Recorder ("Parcel 'A'"); and

WHEREAS, Declarant Developer is the owner of certain adjacent real property located in Box Elder County, State of Utah, more particularly described as Lot 3 Brigham Intermountain Development Plat E, according to the official plat thereof on file with the Box Elder County, Utah Recorder ("Parcel 'B'"); and

WHEREAS, certain improvements have been or will be constructed by Declarants from time to time on their respective properties; and

WHEREAS, Declarants desire to provide for mutual access, ingress and egress rights, to, over and upon Parcel "A" and Parcel "B" (hereinafter referred to collectively as the "Combined Tract") for the mutual benefit of each Parcel and subject to which each Parcel shall be held, improved, sold, conveyed, leased, encumbered or otherwise transferred.

NOW, THEREFORE, Declarants hereby certify and declare that the Combined Tract shall be held, improved, sold, conveyed, leased, encumbered or otherwise transferred subject to the following easements, covenants, conditions and restrictions which are for the

purpose of protecting the value and desirability of and which shall run with the Combined Tract and shall be binding on all parties having any right, title or interest in the Combined Tract or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of the respective owners and lessees thereof. Notwithstanding anything herein to the contrary, this Reciprocal Easement shall be perpetual.

1. Easements for Ingress and Egress. The Declarants, their respective successors, assigns, legal representatives, tenants, customers, invitees, licensees, and employees shall each have an irrevocable, non-exclusive right of way and easement for ingress and egress for vehicular and pedestrian traffic over, upon and across those certain driveways, access ways, entrances, exits and sidewalks and common areas (hereinafter "Access") of the Combined Tract as such Access is or may be developed from time to time by the respective property owners. No charges will be made for the use of the Access by persons acting under this easement agreement.

2. Initial Improvements. Declarants each agree to complete, at its sole cost and expense, all improvements required for the development of its property which may include, without limitation, entrance statements, signs, security gates, landscaping, asphalt, striping, curbs, gutters and sidewalks. Neither Declarant shall be required to pay the cost to complete Access upon the other Declarant's property.

3. General Provisions.

a. This Declaration shall be subject to all easements heretofore, and (provided the same do not unreasonably interfere with the rights granted hereunder) hereafter, granted by the respective Declarants and their successors and assigns for the installation and maintenance of utilities and drainage facilities that may be reasonably necessary to the development of their respective properties.

b. Each Declarant, its respective successors and assigns shall have the right to enforce by any proceeding at law or in equity the restrictions, covenants, conditions, easements and liens now or hereafter imposed by the provisions of this Reciprocal Easement. Failure to enforce any restriction, covenant, condition, easement or lien herein contained shall in no event be deemed a waiver of the right to do so thereafter. All remedies provided

herein at law or in equity shall be cumulative and not exclusive. Invalidation of any provision of this Reciprocal Easement by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect. This Reciprocal Easement and every provision hereof shall continue in full force and effect unless amended, modified or terminated in accordance with the provisions hereof.

c. This Reciprocal Easement or any provision hereof may be amended, modified, or terminated, as to all or any portion of the Combined Tract only with the written consent of the owners of the land area subject to this Reciprocal Easement. No such amendment, modification, termination or extension shall be effective until a proper instrument in writing has been executed, acknowledged, and recorded in the Office of the County Recorder of Box Elder County, Utah.

d. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Reciprocal Easement or any provision hereof, the party or parties against whom judgment is rendered shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the court in such proceeding.

e. In the event of the sale or transfer by either party of its interest in the respective property, the selling party shall be freed and relieved of all of the obligations set forth in this Reciprocal Easement arising or accruing after the date of such sale or transfer (and, as used herein, "sale or transfer" shall include, but shall not be limited to, a sale or transfer consequent upon foreclosure or conveyance be deed in lieu of foreclosure), but the obligations and liabilities arising or accruing after such sale or transfer shall be binding upon the then owner or owners of the subject property.

f. Any notice which a party is required or may desire to give the other shall be in writing, and shall be given by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

A. If to SHOPKO:

Shopko Stores, Inc.
P.O. Box 19060
Green Bay, Wisconsin 54307-9060

Copy to:

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Super Valu Stores, Inc.
P.O. Box 990
Minneapolis MN 55440

and

Kelley, Weber, Pietz & Slater, P.C.
530 Jackson Street
Wausau, Wisconsin 54401
Attn: Colin D. Pietz

B. If to DEVELOPER:

Lilly Pond Associates
c/o D. Kenneth Patton
Helmsley-Spear, Inc.
60 East 42nd Street
New York, New York 10165

Copy to:

Ray, Quinney & Nebeker
Suite 500, 79 South Main Street
Salt Lake City, Utah 84111
Attn: Larry G. Moore

The provisions of this Reciprocal Easement shall be
binding upon the heirs, successors, assigns and legal
representatives of the parties hereto.

IN WITNESS WHEREOF, this Reciprocal Easement is executed
this 31st day of August, 1989.

SHOPKO:

SHOPKO STORES, INC., d/b/a UVALKO
SHOPKO STORES, INC., a Minnesota
corporation

By William J. Tyrrell
William J. Tyrrell, President

By William C. Hunt
William C. Hunt, Secretary

DEVELOPER: BOOK 478 PAGE 475

LILLY POND ASSOCIATES, a Delaware
partnership

By D. Kenneth Patton
D. Kenneth Patton
General Partner

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the 7th day of August, 1989, personally appeared
before me D. Kenneth Patton, who being duly sworn, did say that he
is a General Partner of Lilly Pond Associates, a Delaware
partnership, and that the foregoing instrument was signed on
behalf of said partnership by authority granted by its partnership
agreement and/or a resolution of its partners, and that said
partnership thereby executed the same.

My Commission Expires:

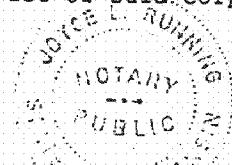
12-14-91

Deanne M. Dyer
NOTARY PUBLIC
Residing at: Salt Lake County, UT

STATE OF WISCONSIN)
: ss.
COUNTY OF BROWN)

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Personally came before me this 18th day of August, 1989, William J. Tyrrell, President of ShopKo Stores, Inc., d/b/a Uvalko Stores, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, and to me known to be the person who executed the foregoing instrument, and to me known to be such President of said corporation and acknowledged that he executed the foregoing instrument as such officer as the act of said corporation, by its authority.



James J. Tyrrell
Notary Public, Wisconsin
My Commission Expires: 10/03/90

STATE OF MINNESOTA)
: ss.
COUNTY OF HENNEPIN)

Personally came before me this 3rd day of August, 1989, William C. Hunt, Secretary of ShopKo Stores, Inc., d/b/a Uvalko Stores, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, and to me known to be the person who executed the foregoing instrument, and to me known to be such Secretary of said corporation and acknowledged that he executed the foregoing instrument as such officer as the act of said corporation, by its authority.

Lynne K. Jeurissen
Notary Public, Minnesota
My Commission Expires: 10/10/90

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