

## DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND CROSS-EASEMENTS

This Declaration of Covenants, Conditions, Restrictions and Cross-Easements ("Declaration") is made as of the 4<sup>th</sup> day of April, 2005, by CAP II - 98<sup>th</sup>/Unser, LLC, a New Mexico limited liability company (hereinafter "Declarant").

### PREAMBLE:

A. Declarant is the fee owner of those certain Parcels of real estate described as Lot 1-B and Lot 1-C located at the northeast corner of Vista Oriente Street (also known as 98<sup>th</sup> Street) and Unser Boulevard in the City of Albuquerque, County of Bernalillo, State of New Mexico, which Lots are designated "Lot 1-B" and "Lot 1-C" on Exhibit "A" and are more particularly described in Exhibits "B-1" and "B-2" respectively, which Exhibits are attached hereto and by this reference incorporated herein. Lot 1-B and Lot 1-C are sometimes hereinafter collectively referred to as the "Property" or individually as a "Lot".

B. Declarant wishes to grant certain easements for the benefit of each Lot and place certain restrictions upon the Property for the mutual benefit of Lot 1-B and Lot 1-C.

C. This Declaration shall run in perpetuity and is intended to be and shall be construed as covenants running with the land and shall be binding upon Declarant, each Owner, and all other persons acquiring any right, title or interest in and to the Property or



any part thereof, and shall inure to the benefit of Declarant and each person who becomes an Owner of any part of the Property, as well as their respective successors-in-interest.

Declarant hereby declares, grants and establishes the following easements, covenants, conditions, and restrictions for the benefit of Lot 1-B and Lot 1-C.

## ARTICLE I

### DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article I shall, for all purposes of this Declaration have the meaning herein specified.

Section 1.01. Common Area. "Common Area" shall mean all of those areas on each Lot which are not from time to time, and at any applicable time, occupied by buildings. By way of illustration, and not limitation, Common Area shall include all private streets, driveways, areas of ingress and egress, parking areas, service areas, sidewalks and other pedestrian ways, landscape areas and similar amenities designated and maintained for such uses from time to time. The Owner of each Lot shall have the right to change the Common Area at any time and from time to time, provided access as provided for in this Declaration is not adversely affected.

Section 1.02. Mortgage/Mortgagee. "Mortgage" shall mean a mortgage, deed of trust or other security device affecting all or any portion of or interest in either Lot 1-B or Lot 1-C and which has been recorded in the real property files of Bernalillo County (hereinafter "Official Records") and "Mortgagee" shall mean and refer to the mortgagee, beneficiary or other holder of any of the foregoing instruments, providing the name and



address of such mortgagee, beneficiary or other holder shall appear among the aforesaid Official Records.

Section 1.03. Owner. "Owner" shall mean any Person having any fee simple estate in any portion of either Lot 1-B or Lot 1-C, excluding any Person (hereinafter defined) who holds such interest as security for the payment of an obligation, but including any Mortgagee or other security holder in actual possession of any portion of the Property by foreclosure or otherwise, and any Person taking title from any such security holder.

Section 1.04. Person. "Person" shall mean artificial persons or legal entities (such as corporations, limited liability companies, partnerships, trusts, etc.) as well as natural persons.

Section 1.05. Plat. "Plat" shall mean that certain Plat entitled "Subdivision Plat of Lots 1-A, 1-B, 1-C and 1-D Ladera Industrial Center" recorded on June 24, 2004 in Book 2004C at Page 194 in the Officials Records of Bernalillo County.

Section 1.06. Walgreen. "Walgreen" shall mean Walgreen Co., an Illinois corporation.

## ARTICLE II

### EASEMENTS

#### Section 2.01. Ingress and Egress.

(A) Declarant hereby declares, grants to, and establishes for the benefit of the Owners of Lot 1-B and Lot 1-C, their lessees, customers and invitees, reciprocal, perpetual, non-exclusive cross-easements of ingress and egress for vehicular and





pedestrian traffic over and across the Common Areas of Lot 1-B and Lot 1-C as such Common Areas may exist from time to time. Additionally, Declarant hereby declares, grants to, and establishes for the benefit of the Owners of Lot 1-B and Lot 1-C, a perpetual, non-exclusive, reciprocal easement for vehicular and pedestrian ingress to and egress from the curb cuts on Unser Boulevard and Vista Oriente Street (also known as 98<sup>th</sup> Street) (i) over, upon and across those areas of the Property crosshatched and designated "Common Access Driveway" as shown on Exhibit "A" hereto. The easement rights created in this Section 2.01 are collectively referred to as "Access Easements". No Owner of either Lot shall construct or permit any barrier, fence, wall, building or any other structure of any kind which prevents or materially adversely affects access over the Common Area and/or the Common Access Driveways. Nothing contained herein shall be construed as a grant by Declarant of any vehicular parking rights in either Lot 1-B or Lot 1-C for the benefit of the other Lot, and the Owners of each Lot shall at all times provide sufficient parking on its Lot or portion thereof to satisfy any and all governmental parking requirements applicable thereto. Additionally, no facility on either Lot containing a vehicular drive-up or drive-through in which the stopping or standing of motor vehicles in line at a location for dropoff and/or pickup is intended (as, for example, at a restaurant, car wash or bank) shall be assigned, constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand onto the adjoining Lot, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and across said adjoining Lot.

(B) The Owner of each Lot shall construct and thereafter maintain, at its sole



cost and expense, concurrent with the development of said Lot, such portion of the Common Access Driveway as is located on its respective Lot. The entire Common Access Driveway will be constructed where shown on Exhibit "A" and to specifications to be jointly agreed upon between the Owners of each Lot. The Common Access Driveway shall not be moved or otherwise changed without the consent of all of the Owners of Lot 1-B and Lot 1-C which consent shall not be unreasonably withheld. Notwithstanding the responsibility of each Lot Owner to construct that portion of the Common Access Driveway as is located on its Lot, in the event that development of either Lot shall precede the development of the other Lot, the Owner of the first Lot to be developed (hereinafter the "Developing Lot") shall have the right to construct (and maintain at its sole cost and expense until such time as the other Lot is developed) all or as much of the Common Access Driveway on the adjoining Lot as the Owner of the Developing Lot, in its sole discretion, deems necessary to provide for adequate ingress and egress to the Developing Lot. The Owner of the Developing Lot shall have the right, in its sole discretion and at its sole cost and expense, to temporarily improve the Common Access Driveway over and across the adjoining Lot to an extent deemed adequate by the Owner of the Developing Lot for its use. After permanent construction of the Common Access Driveway, that portion of the Common Access Driveway located within each Lot shall be maintained in good condition and repair, clean and free of all rubbish, by the respective Owner of each Lot, provided however, if any damage to the Common Access Driveway located within one Lot is caused by the Owner of the other Lot, or its lessees or employees, that Owner shall be responsible for



repairing any such damage at its sole cost and expense

Section 2.02. Utilities. Declarant hereby establishes and grants for the benefit of each Lot and the Owners thereof and their successors, assigns and lessees, a perpetual, non-exclusive, reciprocal underground easement across such portions of the Common Areas of each respective Lot as such are maintained from time to time, for the purpose of installing, maintaining, operating, repairing, replacing and renewing any and all utility lines and related facilities, including without limitation, electricity, water, gas, sewer, telephone, cable television and storm drains. The location of any such utilities shall be subject to the reasonable review and consent of the Owner of the Lot to be burdened by such utilities (Owner's consent to be provided within fourteen {14} days or such request is deemed approved); provided that, in any event, no such utilities shall be located within any building footprint, or encroach upon any permanent improvements located on the Property from time to time, and all such easements, shall (if practical) be located along perimeters or boundary lines of the Property, but in any event shall be situated so as to minimize damage, diminution in value or other negative impacts, upon the burdened Property or Common Areas. The utility easements granted hereby are solely for the purposes set forth above, provided, however, that in using the easements granted hereby, any Owner who goes, or causes its agent or any utility company to go, upon any other Owner's property or Common Area shall (i) give the other Owner at least thirty (30) days prior written notice together with a drawing of any proposed installation or relocation of any utility line; (ii) cause such use of its utility easement to be conducted in a manner which,





under the circumstances, is the least disruptive to the other Owner, its tenants, and the customers and invitees of each of them, including not conducting such work during the week before and after Easter, Halloween and Christmas; (iii) cause such use to be completed with due regard for the safety of all persons coming onto such Property or Common Area, and (iv) cause, at its expense, any damage to the other Owner's or its tenant's improvements (including without limitation, pavement) to be promptly repaired and restored as near as practicable to the prior condition of such improvement. Each such Owner shall be liable to such other Owner and tenants for any breach of the foregoing obligations, and each such Owner shall indemnify such other Owner and tenants and hold such other Owner and tenants free, clear and harmless from any and all claims, actions, demands, causes of action, costs and expenses whatsoever (including attorneys' fees and court costs) for any personal injury or property damage arising from or as a result of such Owner's use of a utility easement upon such other Owner's Property or Common Area.

**Section 2.03. Drainage.** Declarant hereby establishes and grants for the benefit of each Lot and the Owners thereof and their successors, assigns and lessees, a perpetual, non-exclusive, reciprocal drainage easement over, upon, under and across the Common Area of each Lot for the benefit of the other Lot, for the purposes of drainage of storm and surface water. Declarant also hereby establishes a non-exclusive and perpetual easement to install, maintain, repair and replace any storm water collection, retention, detention and distribution lines, conduits, pipes and other apparatus under and across those portions of the Common Areas of each Lot as are approved by the Owner of the Lot burdened



thereby. The storm water detention areas, if any, indicated on the Site Plan, and all lines, conduits, pipes and other apparatus for water drainage, and all storage systems necessary in connection therewith, shall be hereinafter called the "Water Detention and Drainage Facilities". The easement granted herein shall include the right of reasonable ingress and egress with respect to the Water Detention and Drainage Facilities as may be required to maintain and operate the same. Once constructed, (i) the Water Detention and Drainage Facilities shall not be modified, altered, relocated or otherwise changed, without the prior written consent of all Owners; and, (ii) each Owner shall operate and maintain, or cause to be operated and maintained, in good order, condition and repair, the Water Detention and Drainage Facilities located upon its Lot and make any and all repairs and replacements that may from time to time be required with respect thereto. No such easement for drainage shall cause an excessive amount of drainage over, upon, under and across the other Owner's Lot such that the same would unreasonably interfere with the full use and enjoyment of the Owner of such burdened Lot.

Section 2.04. Lot 1-B Sign Easement. The Owner of Lot 1-B shall have an exclusive and perpetual easement for the purposes of the installation, use, maintenance and repair of a Pylon Sign on Lot 1-C at the location designated "Lot 1-B Sign Pylon" on Exhibit "A", together with reasonable rights of ingress and egress for such purposes. Relocation and maintenance shall be at the sole cost and expense of the Owner of Lot 1-B. The Owner of Lot 1-B shall indemnify the Owner of Lot 1-C and Walgreen and hold them harmless from any and all losses, costs, claims and expenses arising out of or in





connection with the installation and maintenance of said Pylon Sign. Said Pylon Sign shall comply with all governmental rules, regulations and approvals. The content of any sign, panel, identification, mark or other communication maintained or placed on the Lot 1-B Sign Pylon shall be limited to identifying the business(es) then operating on Lot 1-B and shall be used for no other purpose. The size of the Lot 1-B Sign Pylon shall be determined in accordance with the applicable City of Albuquerque signage ordinances.

### ARTICLE III

#### RESTRICTIONS

Section 3.01. Walgreen Exclusive. So long as Walgreen has an interest of any kind in Lot 1-C, no portion of Lot 1-B shall be used for (i) the operation of a drug store or a so-called prescription pharmacy whether or not a pharmacist is present at such facility or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; or (ii) the operation of a medical diagnostic lab or the provision of treatment services (other than as part of a medical, dental, physician, surgical or chiropractic office[s], which office[s] shall not be restricted by this subsection [ii]). Notwithstanding the foregoing, if Walgreen, as occupant and/or Owner of Lot 1-C, closes its store to the public for six (6) months or more, then the foregoing exclusive use restrictions shall terminate, except in the event that Walgreen discontinues business as a result of fire, other casualty, remodeling, strike, temporary loss of licenses or other cause beyond Walgreen's control. In no event shall said restrictions terminate in the event that Walgreen or its successor discontinues



business and a permitted assignee or sublessee of Walgreen or its successor commences business operations in the Walgreen's building on Lot 1-C within six (6) months after taking possession of the premises, selling any such item or items so restricted as a material part of such assignee's or sublessee's business.

Section 3.02. Obnoxious Uses. Additionally, no portion of the Property shall be used for purposes of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, children's play or party facility, adult book store, adult theater, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd, closeout or liquidation store, auction house, flea market, educational or training facility, blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use, a car wash, an assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, or any use which creates a nuisance.

Section 3.03. Lot 1-C Building Set-back Line. No building shall be constructed at any time within the land area of Lot 1-C west of the "Building Set-back Line" shown on Exhibit "A" hereto. Canopies, footings or foundations which extend into the Common Area of Lot 1-C, together with any columns or posts supporting same shall not be deemed a violation of any of the provisions of this Declaration and shall not be deemed to be part of the Common Area.



Section 3.04 Building Height Restrictions. Any building constructed on Lot 1-B or Lot 1-C shall be one story in height and shall not exceed a total height of 30 feet (excluding architectural embellishments) measured from the grade level of each such Lot.

#### ARTICLE IV

##### GENERAL

Section 4.01. Notices. All notices required to be given pursuant to the provisions of this Declaration shall be in writing and delivered in accordance with the following accepted forms of delivery: (a) hand delivery with a signature and date to verify receipt; (b) Federal Express (or similar over-night carrier) for priority over-night delivery; (c) United States Postal Service postage prepaid, by Certified or Registered Mail, return receipt requested; or (d) facsimile (together with a copy sent by regular United States first class mail) to:

**If to Declarant:** CAP II - 98<sup>th</sup>/Unser, LLC  
2325 San Pedro NE, Suite 2A  
Albuquerque, NM 87110  
Attn: James A. Peterson  
Phone: 505/884-3578  
Fax: 505/884-6793

**If to any other Owner or occupant:** To such address as such Owner or occupant shall designate in writing to Declarant, or to the Owner's or occupant's address in the Property, if no other address is designated;

or to such address as is thereafter provided by the parties hereto. If written notice is hand delivered it shall be deemed received upon delivery. If written notice is sent via Federal Express, it shall be deemed received the next business day. If written notice is mailed via United States Certified or Registered Mail, it shall be deemed received upon the earlier of





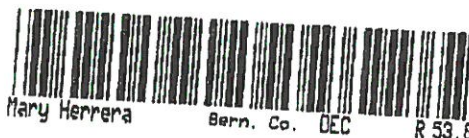
actual receipt or on the third business day following the date of mailing. If written notice is sent via facsimile, it shall be deemed received upon transmission when successful transmission has been confirmed by a printed confirmation sheet. In addition, all notices sent by facsimile shall also be mailed via regular United States Mail.

For so long as Walgreen shall occupy premises on or have an interest in Lot 1-C, a copy of all notices required to be given pursuant to the provisions of this Declaration shall be delivered as follows:

TO: Walgreen Co.  
104 Wilmot Road, MS 1420  
Deerfield, IL 60015  
ATTN: Law Department  
Facsimile: 847/315-4825

With a duplicate to the Walgreen premises on Lot 1-C or to such other address(es) as provided by Walgreen from time to time.

Section 4.02. Maintenance. Each Owner shall at all times maintain its portion of the Property and all improvements thereon in a safe, clean, neat, attractive and sanitary condition as appropriate for a first-class commercial property, and in all respects in compliance with all governmental zoning, health, fire and police requirements. By way of illustration and not limitation, such maintenance shall include (i) maintaining the surfaces of all driveways and parking areas of its portion of the Property in a level, smooth and evenly covered condition with asphalt pavement or similarly appropriate surfacing material; (ii) planting, weeding, irrigating, pruning and otherwise maintaining landscaping on all of its portions of the Property which are not covered by a structure or paving; (iii) re-painting,



cleaning and repairing the exterior of all buildings and other improvements on a regular basis; (iv) removing all trash, refuse, papers and debris; (v) placing and keeping in repair and replacing as necessary directional signs, markers, lines and striping; and (vi) operating, keeping in repair and replacing as necessary such artificial lighting facilities as shall be reasonably required for the safe and attractive condition of the Property.

Section 4.03. Taxes. As to any portion of the Property, it is intended that all real estate taxes and assessments by public authority relating to said land and improvements thereon or the ownership thereof, shall be paid prior to delinquency by the respective Owner thereof.

Section 4.04. Default. This Declaration shall create privity of contract and estate with and among all grantees of all or any part of the Property and their respective heirs, executors, administrators, successors and assigns. In the event of a breach, or attempted or threatened breach by any Owner of any part of the Property, in any of the terms, covenants, and conditions hereof, any one or all such other Owners of any part of the Property shall be entitled forthwith to full and adequate relief by injunction and all such other available legal and equitable remedies from the consequences of such breach. In addition to all other remedies available at law or in equity, upon the failure of a defaulting party to cure a breach of this Agreement within thirty (30) days following written notice thereof by another party (unless, with respect to any such breach the nature of which cannot reasonably be cured within such (thirty) 30-day period, the defaulting party commences such cure within such (thirty) 30-day period and thereafter diligently pursues



such cure to completion) the non-defaulting party or parties shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting party and be reimbursed by such defaulting party, upon demand, for the reasonable costs incurred in the course of curing such default together with interest thereon at the prime rate for Bank One (or any successor institution) plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

Section 4.05. Insurance. Each Owner shall maintain at all times a commercial general liability policy insuring against claims for death, personal injury or property damage in a combined single limit amount not less than \$2,000,000.00. Upon request, (which shall not be made more frequently than once per year) each Owner shall provide the other with a certificate of insurance, evidencing the existence of a valid policy of insurance in conformity with the above specifications. Notwithstanding the foregoing, for so long as Walgreen or any Owner of Lot 1-C has a net worth in excess of Three Hundred Million Dollars (\$300,000,000.00) any insurance required hereunder to be carried by the Owner of Lot 1-C may, at Walgreen's or such Owner's option, be carried by Walgreen or such Owner under an insurance policy(ies), self-insurance or pursuant to a master policy of insurance or so-called blanket policy of insurance covering other locations of Walgreen or its corporate affiliates or such Owner or any combination thereof, and evidence of such coverage may be provided by a certificate of insurance.

Section 4.06. Covenants Running With The Land. The easements and covenants





established by this Declaration shall run in perpetuity and are intended to be and shall be construed as covenants running with the land, binding upon, and inuring to the benefit of and enforceable by the Declarant and all subsequent Owners of the Property or any part thereof, provided however, that nothing contained herein shall be construed as a grant for the benefit of any other Owner of any right or easement in any part of its Property for parking purposes. If during the existence of this Declaration, an Owner of all or any part of the Property shall sell or transfer or otherwise terminate its interest as Owner, then from and after the effective date of such sale, transfer, or termination of interest, such party shall be released and discharged from any and all obligations, responsibilities and liabilities under this Declaration as to the parts sold or transferred provided that the transferee assumes all of said obligations, responsibilities and liabilities, except those obligations, responsibilities and liabilities (if any) which have already accrued as of such date, and any such transferee by the acceptance of the transfer of such interest shall thereupon become subject to the covenants contained herein to the same extent as if such transferee were originally a party hereto. The covenants and easements established hereby are not intended and shall not be construed as a dedication of such rights in the Property for public use, and this Declaration shall not be deemed to vest any rights in any customers, invitees or the public at large, but are solely for the benefit of the Owners of the Property and their lessees, customers and invitees to the extent heretofore established. For so long as Walgreen shall occupy premises on or have an interest in Lot 1-C, in the event of a breach or attempted or threatened breach of any of the terms, covenants and



conditions of this Declaration, Walgreen shall have the right to pursue directly any and all remedies therefore available at law or in equity, specifically including, but not limited to injunctive relief.

Section 4.07. Attorney's Fees. In the event any Owner (or Walgreen as the case may be) is required to enforce the provisions hereof through judicial proceedings, the prevailing party shall be entitled to reasonable attorney's fees and court costs from the non-prevailing party.

Section 4.08. Estoppel Certificates. Any Owner of either Lot 1-B or Lot 1-C shall execute and deliver to any other Owner or its Mortgagee within fifteen (15) days from receipt of such other Owner's request from time to time, an estoppel certificate, in a form reasonably acceptable to the requesting Owner, which certificate shall include information as to any modification of this Declaration and to the best knowledge of the Owner to whom such request is made, whether or not the requesting Owner is in Default of this Declaration.

Section 4.09. Effective Date. The covenants, conditions, restrictions and cross-easements contained herein shall be effective commencing on the date of recordation of this Declaration in the Official Records and may be modified, amended or canceled by recordation in the Official Records of a writing executed by the fee Owners of a majority of the land area of the Property at the time of such modification, amendment or cancellation (and Walgreen, so long as it occupies Lot 1-C or has an interest therein).

Section 4.10. Severability. Each provision of this Declaration and the application



thereof to Lot 1-B and Lot 1-C are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration.

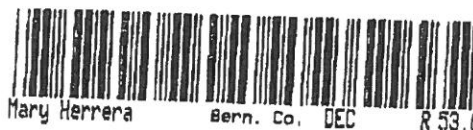
Section 4.11. Waiver. No waiver of any default of any obligation by any Owner of all or a part of the Property shall be implied from any omission by the other Owner or Owners to take any action with respect to such default.

Section 4.12. Relationship of the Owners. Nothing in this Declaration shall be deemed or construed by any party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

Section 4.13. Jurisdiction. The laws of the State of New Mexico shall govern the interpretation, validity, performance and enforcement of this Declaration.

Section 4.14. Subdivision. Nothing contained herein shall be construed as limiting the right of the Owners of Lot 1-B and Lot 1-C to subdivide and/or sell all or any portion of Lot 1-B or Lot 1-C to third parties, so long as any third party assumes the rights and obligations established hereunder.

Section 4.15. Legal Descriptions. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the Owners of Lot 1-B and Lot 1-C or any portion thereof, shall agree to promptly cause such legal description to be prepared and made a part hereof.





## ARTICLE V

### GRANTEE'S COVENANT

Each grantee, tenant or other person in interest, accepting either a deed or any other interest in either Lot 1-B or Lot 1-C, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by this Declaration and to incorporate this Declaration by reference in any deed or other document of conveyance of all or any portion of its interest in any real property subject hereto.

EXECUTED as of the date first above written.



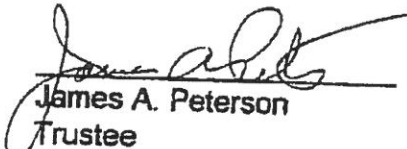
EXECUTED as of the date first above written.

**"DECLARANT"**

CAP II - 98<sup>th</sup>/Unser, LLC

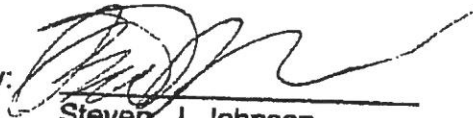
By: Peterson Properties Investments, LLC  
a New Mexico limited liability company  
its Managing Member

By: The James A. Peterson and Mary  
B. Peterson Revocable Trust  
(created August 18, 1998)  
its Managing Member

By:   
James A. Peterson  
Trustee

By: Steve Johnson Investments, LLC  
a New Mexico limited liability company  
its Member

By: Steve Johnson Development Ltd  
Liability Co., a New Mexico  
limited liability company, its  
Managing Member

By:   
Steven J. Johnson  
Managing Member



STATE OF NEW MEXICO )  
 )  
COUNTY OF BERNALILLO ) SS

This instrument was acknowledged before me this 4<sup>th</sup> day of April, 2005, by James A. Peterson, Trustee of the James A. Peterson and Mary B. Peterson Revocable Trust (created August 18, 1998), Managing Member of Peterson Properties Investments, LLC, a New Mexico limited liability company, Managing Member of CAP II - 98<sup>TH</sup>/ Unser, LLC on behalf of said limited liability company.

Mae Peterson  
NOTARY PUBLIC

My Commission Expires:  
5-20-07



OFFICIAL SEAL  
MAE PETERSON  
NOTARY PUBLIC STATE OF NEW MEXICO  
Notary Bond Filed With Secretary of State

My Commission Expires 5-20-07

STATE OF NEW MEXICO )  
 )  
COUNTY OF BERNALILLO ) SS

This instrument was acknowledged before me this 4<sup>th</sup> day of April, 2005, by Steven J. Johnson, Managing Member of Steve Johnson Development LTD Liability Co., a New Mexico limited liability company, Managing Member of Steve Johnson Investments, LLC, a New Mexico limited liability company, Member of CAP II - 98<sup>TH</sup>/ Unser, LLC on behalf of said limited liability company.

Mae Peterson  
NOTARY PUBLIC

My Commission Expires:  
5-20-07



OFFICIAL SEAL  
MAE PETERSON  
NOTARY PUBLIC STATE OF NEW MEXICO  
Notary Bond Filed With Secretary of State

My Commission Expires 5-20-07







## EXHIBIT "B-1"

### LEGAL DESCRIPTION OF LOT 1-B

LOT 1-B OF SUBDIVISION PLAT OF LOTS 1-A, 1-B, 1-C AND 1-D, LADERA INDUSTRIAL CENTER, BEING A REPLAT OF LOT 1 LADERA INDUSTRIAL CENTER SITUATE WITHIN THE TOWN OF ATRISCO GRANT PROJECTED SECTION 9, T.10N.R.2.E., N.M.P.M., CITY OF ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE REPLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JUNE 24, 2004 IN PLAT BOOK 2004C, PAGE 194.



98<sup>th</sup> & UNSER  
ALBUQUERQUE, NEW MEXICO  
MP 1/27/05 REV. MP 3/30/05

## EXHIBIT "B-2"

### LEGAL DESCRIPTION OF LOT 1-C

LOT 1-C OF SUBDIVISION PLAT OF LOTS 1-A, 1-B, 1-C AND 1-D, LADERA INDUSTRIAL CENTER, BEING A REPLAT OF LOT 1 LADERA INDUSTRIAL CENTER SITUATE WITHIN THE TOWN OF ATRISCO GRANT PROJECTED SECTION 9, T.10N.R.2E., N.M.P.M., CITY OF ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE REPLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JUNE 24, 2004 IN PLAT BOOK 2004C, PAGE 194.



