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**DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS  
AND  
FIRST REFUSAL RIGHTS**

This Declaration of Protective Covenants, Conditions, Restrictions and First Refusal Rights (herein "Declaration"), made on the 26<sup>th</sup> day of NOVEMBER, 2006, by ALEGENT HEALTH - IMMANUEL MEDICAL CENTER, a Nebraska nonprofit corporation (herein "Declarant").

**RECITALS**

Declarant is the owner of certain real property delineated on the attached Exhibit "A" (herein referred to as the "Property"). Declarant, as the owner of the Property, is hereby imposing on the Property certain perpetual covenants and restrictions for development, improvement, use, operation, leasing, sale and transfer of the Property all as more particularly hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the Property shall be used, owned, sold, conveyed and transferred subject to all of the following restrictions, covenants, conditions and provisions:

1. **Restrictions.** For a period of fifty (50) years from and after the date of the recording of this Declaration in the Register of Deeds Office of Douglas County, Nebraska, the Property shall not be developed, improved, used, operated, leased, sold or transferred so as to permit any of the following uses and/or purposes thereon: Emergency Medical Service; Surgical Services; Radiation Therapy Services; Medical Imaging; Physical Therapy Services, Occupational Therapy Services; Family Practice Services; OB/GYN Services; Cardiovascular Services; Financial Institution Services; and Internal Medicine Services, all as defined herein. (i) Emergency Medical Service (EMS) is defined as services, including rescue operations, ambulance transportation, and emergency department services, that are required as a result of an acute illness or injury. Other components of such Emergency Medical Services include, but are not limited to, rescue and emergency care training, communications (including ambulance dispatch, hospital-to-EMS crew communication and a centralized emergency telephone number,

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911, for public access), effective medical control and evaluation, disaster linkage with mutual aid agreements between neighboring communities. Promotion of any such services shall also be prohibited. Promotion includes but is not limited to signage and advertising. (ii) Surgical Services is defined as the medical services dealing with manual and operative procedures for correction of deformities and defects, repair of injuries, and diagnosis and cure of certain diseases. (iii) Radiation Therapy Services is defined as medical services that uses ionizing radiation and particles in the treatment of malignancies. (iv) Medical Imaging Services includes diagnostic and treatment exams and/or procedures. This includes, but is not limited to any of the following: angiography, cardiac catheterization, magnetic resonance imaging, fluoroscopy, nuclear medicine, positron emission tomography, computed tomography, ultrasound, general radiology or mammography. (v) Physical Therapy Services is defined as rehabilitation concerned with the restoration of function and the prevention of disability following disease, injury, or loss of a body part. The therapeutic properties of exercise, heat, cold, electricity, ultraviolet radiation, and massage are used to improve circulation, strengthen muscles, encourage return of motion, and train or retrain an individual to perform the activities of daily living. For purposes of this document, this definition shall include acute rehabilitation; any physiatry clinic; and outpatient clinic service physical therapy, speech pathology, and aquatic therapy. This prohibition shall not apply to any of the Physical Therapy Services being provided by Quality Living, Inc. as of the date of execution of this document. (vi) Occupational Therapy Services is defined as therapeutic use of work, self-care, and play activities to increase independent function, enhance development, and prevent disability; it may include adaptation of task or environment to achieve maximum independence and to enhance quality of life. For purposes of this document, this definition shall include acute rehabilitation; any physiatry clinic; outpatient clinic service occupational therapy, speech pathology, and occupational health/rehabilitation services in an outpatient clinic setting. This prohibition shall not apply to any of the Occupational Therapy Services being provided by Quality Living, Inc. as of the date of execution of this document. (vii) Family Practice Services is defined as comprehensive medical care with particular emphasis on the family unit, in which the Physician's continuing responsibility for health care is not limited by the patient's age or sex nor by a particular organ system or disease entity. Family practice is the specialty that builds on a core of knowledge derived from other disciplines, drawing most heavily on Internal Medicine, Pediatrics, Obstetrics and Gynecology, Surgery, and Psychiatry, and establishes a cohesive unit, combining the behavioral sciences with the traditional biological and clinical sciences to coordinate total health care delivery; (viii) OB/GYN Services is defined as medical services that concerns management of women during pregnancy, childbirth and the puerperium and the management of diseases of the female reproductive organs and the breasts; (ix) Cardiovascular Services is defined as medical services pertaining to the heart and blood vessels; (x) Financial Institution Services is defined as any services provided by an organization authorized to do business under state or federal laws relating to financial institutions, including, without limitations, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions; (xi) Internal Medicine Services is defined as medical services treating diseases of the internal organs by other than surgical means. This paragraph shall not apply to any services that QLI has provided on a regular basis within 24 months prior to the date of recording of this document or is providing as of the date of recording of this document. The Property shall not at any time be developed, improved, used, operated, leased, sold or transferred in conflict with any of the provisions of this Declaration even if any zoning, mixed use agreement or other

governmental permit, order, rule or regulation pertaining to the Property as presently constituted or as hereafter changed, varied, modified or waived would permit such development, improvement, use, operation, leasing or sale.

2. **Approval of Improvements on Property.** No improvements of any kind or nature shall be constructed, erected, placed or permitted to remain on the Property without first obtaining the written approval of Declarant or its assignee to such improvements, which approval shall not be unreasonably withheld. Prior to the construction of any improvements of any kind or nature on the Property, the owner(s) thereof shall be required to submit all plans for any such improvements to Declarant or its assignee for its review and approval, which will not be unreasonably withheld.

3. **First Refusal Option Right.** If any Owner(s) of the Property shall at any time during the term of this Declaration receive a bona fide acceptable written offer from a third party to acquire the Property, then in that circumstance before any such Owner(s) shall have the right to consummate the sale pursuant to such bona fide acceptable written offer, Declarant or its assignee is hereby granted the first refusal option to acquire the Property so offered for the purchase price and on the terms and conditions contained in such bona fide acceptable written third party offer. Declarant or its assignee shall exercise such right of first refusal within thirty (30) calendar days after the date that an executed copy of such acceptable written offer is delivered to Declarant or its assignee by the Owner(s). If Declarant or its assignee fails to reply to the Owner's written notice within such thirty (30) day period, then the Owner(s) may accept the offer from the third party in accordance with the terms and conditions of the third party's written offer; and upon the consummation of such sale to the third party, Declarant's or its assignee's right of first refusal to purchase the Property shall end automatically and Declarant or its assignee shall have no further right to purchase any interest in the Property pursuant to this Agreement. In the event, however, the sale to the third party for any reason is not consummated within the period provided within such third party offer or as it may be extended by the parties, then Declarant's or its assignee's first refusal right herein shall be reinstated and Declarant or its assignee shall have a continuing first refusal right on any proposed subsequent sale thereof by such Owner(s) to any succeeding third party during the term of this Declaration.

Owner(s) shall not be permitted to submit an acceptable bona fide offer for the Property to Declarant or its assignee if such bona fide offer is coupled with an offer to purchase property other than the Property or such offer is for less than the entire platted lot described in Exhibit A, the effect of which would be to frustrate the intent and purpose of this right of first refusal for Declarant or its assignee. Any such third party's acceptable bona fide written offer submitted to Declarant or its assignee coupled with an offer to purchase property other than the Property or for less than the entire platted lot described in Exhibit A, shall be null and void and may be disregarded by Declarant or its assignee, the same as if no offer had ever been made, and Declarant's or its assignee's first right herein on the Property shall remain and be continuing thereafter for the term of the Declaration.

If Declarant or its assignee exercises such right of first refusal in accordance with the provisions of this Section 3, then such Owner(s) and Declarant or its assignee shall execute a purchase agreement for a purchase price amount and with all of the other same terms and

conditions of the sale, conveyance and closing of the Property as contained in the third party offer.

4. **Covenants Run With Land.** All the covenants, conditions, restrictions and provisions of this Declaration shall perpetually run with and bind the Property and shall be binding upon all owners having or acquiring any right, title or interest of any kind in or to the Property, or any part thereof.

5. **Constructive Notice and Acceptance of Declaration.** Every Owner who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to all of the terms and provisions of this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in said Property.

6. **Amendment/Assignment.** This Declaration may be amended or terminated only by an instrument signed and acknowledged by the Declarant and the then owner(s) of the Property. Declarant may at any time assign and transfer any of its rights and authority as Declarant under this Declaration to any other entity, association or person, and such assignee shall thereafter have the same rights, powers and authority as the original Declarant.

7. **Severability.** If any term, provision or covenant of this Declaration shall to any extent be deemed invalid and unenforceable by judgment or court order the remainder of this Declaration shall not be affected thereby and such other terms, provisions and covenants of this Declaration shall be valid and shall be enforced to the fullest extent permitted by law.

8. **Remedies for Enforcement.** The Declarant or its assignee shall have the right to enforce by any proceeding at law or in equity, all reservations, restrictions, conditions and covenants imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages for such violation. Failure by the Declarant or its assignee to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver, relinquishment, or impairment of the right to do so at anytime thereafter.

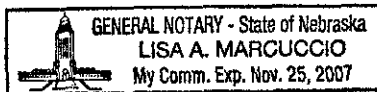
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this  
20<sup>TH</sup> day of NOVEMBER, 2006.

ALEGENT HEALTH – IMMANUEL MEDICAL  
CENTER, a Nebraska nonprofit corporation

By: Wayne A. Senson  
Its Chief Executive Officer

STATE OF NEBRASKA     )  
                                      ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 20<sup>TH</sup> day of  
NOVEMBER, 2006, by WAYNE A. SENSON, CHIEF EXECUTIVE OFFICER of ALEGENT  
HEALTH-IMMANUEL MEDICAL CENTER, a Nebraska nonprofit corporation, on behalf of  
the corporation.



[Signature]  
Notary Public

## **EXHIBIT A**

### Lot 4

Lot 4, Immanuel South, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska.