

**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "**Agreement**"), made this 15<sup>th</sup> day of December, 2004, by, between and among LMP SOUTHAVEN I LLC, a Nevada limited liability company ("**Landlord**"), THE STERN CARDIOVASCULAR CENTER, P.A., a Tennessee professional corporation ("**Tenant**") and UNITED FARM FAMILY LIFE INSURANCE COMPANY, an Indiana corporation ("**Lender**").

**WHEREAS**, Landlord or its predecessor and Tenant have entered into that certain Medical Office Lease dated February 1, 2002, as amended by a First Amendment to Lease dated August 8, 2002 and a Second Amendment to Lease dated July 31, 2003 (collectively, the "**Lease**"), whereby Tenant agreed to lease from Landlord certain premises located in DeSoto County, Mississippi and more fully described on Exhibit A hereto and incorporated herein (the "**Leased Premises**"); and

**WHEREAS**, Lender has agreed to grant a loan to Landlord (the "**Loan**") which Loan is to be secured by a mortgage on certain real property ("**Property**"), including the Leased Premises (the "**Mortgage**"), by an assignment of Landlord's interest in all leases, rents, profits and contracts for such property (the "**Assignment of Leases**") and other documents executed or to be executed in connection therewith; and

**WHEREAS**, Tenant has requested that Lender agree not to disturb Tenant's possessory rights in the Leased Premises if Lender should foreclose its Mortgage provided that Tenant is not in default under the Lease and further provided that Tenant attorns to Lender or the purchaser at any foreclosure sale or to any party who takes a deed in lieu of foreclosure; and

**WHEREAS**, Lender is willing so to agree on the terms and conditions hereafter provided.

**NOW THEREFORE**, in consideration of the mutual promises herein contained, to induce Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord, Tenant and Lender covenant and agree as follows:

1. The Lease and Tenant's leasehold estate created thereby, including all rights under the Lease (including purchase options, rights of first refusal or similar rights, if any), shall be and are completely and unconditionally subject, inferior and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made to or to be made thereunder, to any renewals, extensions, modifications, substitutions or replacements thereof, and to any subsequent mortgage with which the Mortgage may be spread and/or consolidated.

2. Tenant agrees that it will attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any person or entity who acquires the real property of which the Lease Premises form a part by deed in lieu of foreclosure, and the successors and assigns of such purchaser, as its Landlord for the unexpired balance (and any extensions, if exercised) of the term of the Lease upon the same terms and conditions set forth in the Lease. If Lender succeeds to the interest of Landlord under the Lease, subject to Tenant's performance of its obligations under the Lease, the Lease will continue in full force and effect. Thereupon, Lender shall recognize the Lease and Tenant's rights thereunder and Tenant shall make full and complete attornment to Lender as substitute Landlord upon the same terms, covenants and conditions as provided in the Lease, except for any option to purchase or right of first refusal to purchase the Property as may be provided in the Lease. Further, Tenant agrees that any such option or right of first refusal to purchase the Property or any portion thereof, as may be provided in the Lease shall not apply to and shall not in any way impair or delay any Foreclosure, as defined herein. Tenant's attornment hereunder shall be effective and self-operative without the execution of any other instruments on the part of any party and shall be effective concurrently with such owner's acquisition of title to the Property. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of any such purchaser, (a) any instrument or certificate which, in the reasonable judgment of such holder(s), or such purchaser, may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment and (b) an instrument or certificate regarding the status of the Lease, consisting of statements, if true (and if not true, specifying in what respect): (i) that the Lease is in full force and effect, (ii) the date through which rentals have been paid, (iii) the duration and date of the commencement of the term of the Lease, (iv) the nature of any amendments or modifications to the Lease, (v) that no default, or state of facts, which with the passage of time or notice, or both, would constitute a default, exists on the part of either party to the Lease, and (vi) the dates on which payments of additional rent, if any, are due under the Lease.
3. In the event that it should become necessary to foreclose the Mortgage, Lender will not disturb Tenant's possession under the Lease so long as tenant is not in default under any of the terms, covenants, or conditions of the Lease.
4. In the event that Lender or any other party shall succeed to the interest of Landlord under the Lease, or otherwise becomes entitled to and takes possession of the Property, Lender, or any subsequent owner, shall not be personally liable for any claim of Tenant, but Tenant's claims shall be satisfied out of the interest, if any, of Lender, or the other party, in the Property, and each shall not be:
  - A. Liable for any act or omission of any prior landlord (including Landlord); or
  - B. Liable for the return of any security deposit unless such security deposit has physically and actually been received by Lender; or

- C. Subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or
  - D. Bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
  - E. Bound by any previous amendment, modification, financial settlement or termination of the Lease made without Lender's written consent; or
  - F. Obligated to reimburse Tenant for any costs which arise from the failure to have the Premises completed and ready for occupancy within the time requirements if any by the Lease;
  - G. Obligated or liable with respect to the construction and completion of any improvements for tenant's use and occupancy;
  - H. Liable for any obligation with respect to any breach of warranties or representations of any nature under the Lease or otherwise, including, without limitation, any warranties or representations respecting the compliance with zoning, Landlord's title, Landlord's authority, habitability and/or fitness for any purpose, or possession; or
  - I. Liable for consequential damages.
5. Tenant shall not pay an installment of rent or any part thereof more than thirty (30) days prior to the due date of such installment.
  6. Tenant agrees not to enter into any amendment, modification, termination or financial settlement to the Lease without first obtaining written consent thereto from Lender. Any amendment, modification, termination or financial settlement to the Lease entered into without Lender's written consent shall be null and void.
  7. Tenant acknowledges that Landlord will execute and deliver to Lender the Assignment of Leases as additional security for the Loan, and Tenant hereby expressly consents to such assignment. Tenant agrees to give Lender a copy of any notice of default served upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of notice of Assignment of Leases or otherwise) of the address of such Lender. This Agreement shall constitute notice to Tenant of Lender's address as set forth below. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then the Lender, if it elects to cure such default without any obligation to cure such default, shall have an additional (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary. If within such thirty (30) days, Lender has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to

effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued. Tenant hereby agrees that no action taken by Lender to enforce any rights under the Mortgage or related security documents, by reason of any default thereunder (including, without limitation, the appointment of a receiver, any foreclosure or any demand for rent under any Assignment of Leases) shall give rise to any right of Tenant to terminate the Lease nor shall such action invalidate or constitute a breach of any of the terms of the Lease.

8. After notice is given to Tenant by Lender, pursuant to the Assignment of Leases, that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender, or in accordance with the directions of Lender, all rentals and other monies due and to become due to Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharges Tenant of and from any liability to Landlord on account of any such payments. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Mortgage, or to inquire into the existence of a default.
9. This Agreement shall inure to the benefit of and shall be binding upon Tenant, Landlord and Lender, and their respective heirs, personal representatives, successors and assigns provided that the interest of Tenant under this Agreement may not be transferred or assigned without Lender's written consent. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or enforceability shall, at the option of Lender, not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed according to the laws of the State of Mississippi.
10. No modification, amendment, waiver or release of any provision of this Agreement or any right, obligation, claim or cause of action arising thereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.
11. Where under this document rights and obligations are created between Tenant and Lender, at or subsequent to foreclosure proceedings, "Lender" shall be deemed to include any purchaser at a foreclosure sale or trustee's sale and any purchaser acquiring title through mortgage foreclosure proceedings.
12. Tenant has not relied upon any representation (either oral or in writing) of Lender in executing the Lease, the Estoppel Certificate or this Agreement and Tenant shall look only to Landlord to fulfill the terms, covenants and conditions of the Lease.
13. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage. Except as provided, neither this Agreement nor the Lease shall expand, enlarge, alter, affect or diminish Lender's rights under the loan documents.

Except as provided in this Agreement, the loan documents shall not expand, enlarge, alter, affect or diminish Tenant's rights or obligations under the Lease. Nothing herein contained is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of: (a) Landlord under the Lease or any subsequent Landlord, against Tenant in the event of any default by Tenant (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed or observed; or (b) Tenant to pursue claims under the Lease against any prior landlord (including Landlord) in the event of any default by prior landlord whether or not such claim is barred against Lender or a subsequent purchaser.

14. All notices shall be in writing and shall be: (a) hand delivered; (b) sent by United States express mail or by private overnight courier; or (c) served by certified mail postage prepaid, return receipt requested, to the appropriate address set forth above. Notices served as provided in (a) and (b) shall be deemed to be effective upon delivery. Any notice served by certified mail shall be deposited in the United States mail with postage thereon fully prepaid and shall be deemed effective on the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, whichever is earlier in time.

**[SIGNATURE PAGES TO FOLLOW]**



**Tenant:**

THE STERN CARDIOVASCULAR GROUP, P.A.,  
a Tennessee professional corporation

By: Martin Grusin, Managing Director  
Name and Title

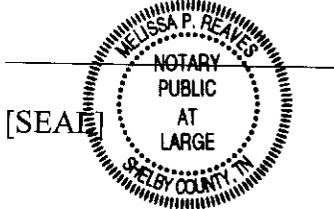
Address: 8060 Wolf River Boulevard  
Germantown, Tennessee 38138

STATE OF TN)  
COUNTY OF Shelby) SS:

Personally appeared before me, the undersigned authority in and for said county and state, on this 15 day of December, 2004, within my jurisdiction, the within named Martin Grusin, who acknowledged to me that he is Managing Director of The Stern Cardiovascular Group, P.A., a Tennessee professional corporation and that for and on behalf of said corporation, and as the act and deed of said corporation, he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Melissa P. Reeves  
Notary Public

My Commission Expires:



MY COMMISSION EXPIRES:  
April 15, 2008

**Lender:**

UNITED FARM FAMILY LIFE INSURANCE  
COMPANY, an Indiana corporation

By: Lee E. Livemore  
Director, Investments

Address: 225 South East Street, Suite 640  
Indianapolis, IN 46202

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Personally appeared before me, the undersigned authority in and for said county and state, on this 20th day of ~~December~~ <sup>January</sup>, 2004, within my jurisdiction, the within named Lee E. Livemore, who acknowledged to me that he is DIRECTOR, INV. of United Farm Family Life Insurance Company, an Indiana corporation, and that for and on behalf of said corporation, and as the act and deed of said corporation, he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Deborah S. Kunstek  
Notary Public

My Commission Expires:

July 16, 2006

[SEAL]



THIS INSTRUMENT PREPARED BY:  
JEFFREY A ABRAMS  
DANN PECAR NEWMAN & KLEIMAN  
2300 ONE AMERICAN SQUARE  
INDIANAPOLIS, IN 46204  
(317) 632-3232

WHEN RECORDED RETURN TO:  
DAVID J. JOHNSON, P.C.  
780 RIDGE LAKE BLVD., STE. 202  
MEMPHIS, TN 38120  
(901) 682-3450

**LEGAL DESCRIPTION**

A 2.03, more or less, acre tract of land also being known as Lot 16A of Southcrest Subdivision (Plat Book 81, page 44) being located in the north half of the southeast quarter of section 25, township 1 south, range 8 west of the Chickasaw Meridian, City of Southaven, DeSoto County, Mississippi and being more particularly described as follows:

Beginning the southwest corner of Lot 16A and the northwest corner of Lot 6B of the Southcrest Subdivision (Plat Book 81, page 44), said corner being a ½" rebar (found) in the east right-of-way line of Southcrest Parkway (90 foot right-of-way); thence, along said right-of-way line, a curve to the left with the following attributes: a delta angle of 5 degrees 12 minutes 21 seconds, a radius of 1425.00 feet, an arc length of 129.47 feet, a chord bearing of north 28 degrees 40 minutes 33 seconds west, and a chord length of 129.43 feet to a ½" metal pipe (set); thence, a curve to the left with the following attributes: a delta angle of 61 degrees 07 minutes 37 seconds, a radius of 154.24 feet, an arc length of 164.55 feet, a chord bearing of north 06 degrees 44 minutes 26 seconds east, and a chord length of 156.86 feet to a ½" metal pipe (set) in the south right-of-way line of Southcrest Circle (68 foot right-of-way); thence, along said right-of-way line, north 53 degrees 27 minutes 12 seconds east, a distance of 252.40 feet to a chiseled "x" (set); thence south 30 degrees 38 minutes 56 seconds east, a distance of 309.50 feet to a ½" metal pipe (set); thence south 64 degrees 10 minutes 18 seconds west, a distance of 352.02 feet to the point of beginning.

Containing 2.03, more or less, acres and being subject to all codes, covenants, easements, revisions, restrictions, regulations, and rights-of-way of record.

EXHIBIT "A"