

AFFILIATION PROGRAM AGREEMENT

This AFFILIATION PROGRAM AGREEMENT (this “Agreement”) is made and entered into by and between FACULTY PHYSICIANS & SURGEONS OF LLUSM dba LOMA LINDA UNIVERSITY FACULTY MEDICAL GROUP (“LLUFMG”), a California nonprofit religious corporation (“LLUFMG”), and _____, a California professional optometric corporation (the “Optometric Group”). LLUFMG and Optometric Group are sometimes referred to in this Agreement as a “Party or, collectively, as the “Parties”.

RECITALS

WHEREAS, LLUMG has an ophthalmology practice (the “Practice”), and employs ophthalmologists (“LLUFMG Ophthalmologists”) who are also faculty members of the Loma Linda University School of Medicine, Department of Ophthalmology;

WHEREAS, the Practice is located on the campus of Loma Linda University Medical Center (the “Hospital”), and LLUFMG Ophthalmologists customarily perform their surgical procedures at the Hospital;

WHEREAS, Optometric Group employs and/or contracts with licensed optometrists (the “Optometrists”), and has an optometric business located within the service area of the Hospital;

WHEREAS, the Parties have had prior business interactions with each other, and now desire to formalize their affiliation on the terms set forth below.

NOW, THEREFORE, in consideration of the foregoing premises and of the covenants and agreements set forth herein, and intending to be legally bound hereby, the Parties agree as follows:

1. Affiliation Program.

(a) LLUFMG has established an affiliation program (the “Program”) with community optometrists and optometric groups (i) to promote public education regarding eye conditions, eye diseases, vision problems, medical conditions affecting vision, and available surgical eye procedures; and (ii) to foster open communication between the community optometrists and LLUFMG Ophthalmologists, with the goal of improving patient care.

(b) Optometric Group has elected to participate in the Program on the terms of this Agreement.

(c) As part of the Program, LLUFMG will provide to Optometric Group, and Optometric Group agrees to make available to patients at its offices, copies of educational and informational materials prepared by LLUFMG from time to time, that may be of interest to the patients.

(d) At the request of Optometric Group, LLUFMG will hold educational training sessions for Optometric Group and its Optometrists, focused on early detection and identification of various eye conditions and diseases.

(e) Optometric Group and its Optometrists will have access to LLUFMG Ophthalmologists, from time to time, for consultation purposes.

(f) LLUFMG will include Optometric Group and its Optometrists (i) on its list of Preferred Providers for LLUFMG patients requiring glasses, contact lenses and other optometric care; and (ii) on its website and marketing materials, as members of the Program.

2. Criteria for Participation in Program. Optometric Group agrees to the following criteria for participation in the Program:

(a) Optometric Group shall (and shall ensure that each Optometrist will) maintain all licenses, and comply with all local, state and federal laws, statutes and regulations applicable to its operation of a optometric practice;

(b) Optometric Group shall maintain for itself and the Optometrists, professional liability insurance with such coverage and deductibles that are customary in the industry for a optometric practice;

(c) Upon receiving a patient referral from LLUFMG, Optometric Group shall promptly schedule an appointment for the patient;

(d) Optometric Group shall maintain close communications with LLUFMG Ophthalmologists on the cases of patients referred to Optometric Group, and provide feedback to LLUFMG on the quality of care and outcome of surgical procedures (if any) performed by LLUFMG Ophthalmologists. Optometric Group shall also advise LLUFMG on any improvements that can be made to the referral management process and protocol;

(e) If a patient from Optometric Group is referred to LLUFMG, Optometric Group shall forward to LLUFMG any insurance coverage information and other relevant records;

(f) Neither Optometric Group nor any of its Optometrists shall differentiate or discriminate in performing services to patients on the basis of race, color, national origin, ancestry, sex, marital status, age or payor, or on any other basis prohibited by applicable law.

3. Notification of Certain Events. Optometric Group agrees to notify LLUFMG in writing within seventy-two (72) hours after the occurrence of any one (1) or more of the following events:

(a) Optometric Group becomes the subject of any suit, action or other legal proceeding arising out of Optometric Group's professional services;

(b) Any of its Optometrists becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(c) Any of its Optometrists is charged with or convicted of a criminal offense;
or

(d) Any of its Optometrists is debarred, suspended or otherwise ineligible to participate in any federal or state health care program.

4. Use of LLUFMG Name and Logo. Subject to prior written consent of LLUFMG [and the execution of an appropriate limited license agreement between the Parties], LLUFMG may permit Optometric Group to use the name and logo of LLUFMG in marketing materials to indicate Optometric Group's affiliation with LLUFMG as a member of the Program.

5. Use of Optometric Group's Name and Logo. Optometric Group hereby grants to LLUFMG a limited, revocable, non-exclusive license to use the name and logo of Optometric Group solely in connection with the Program and the activities described in this Agreement.

6. Term. This Agreement shall commence as of February 1, 2014, and shall continue for a term of two (2) years. Thereafter, the parties may by mutual agreement in writing extend the term for an additional one (1) year. Notwithstanding the foregoing, either Party may terminate this Agreement by five (5) business days written notice served on the other Party.

7. Indemnification.

(a) Optometric Group Indemnity. Optometric Group agrees to defend, indemnify and hold LLUFMG, its officers, agents and employees harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily/personal injury (including death), property damage or other harm resulting from Optometric Group's activities under the provisions of this Agreement, or any other negligent, illegal or tortuous acts or omissions of Optometric Group, Optometric Group's officers, agents, employees, subcontractors or independent contractors (hired by Optometric Group).

(b) LLUFMG Indemnity. LLUFMG agrees to defend, indemnify and hold Optometric Group, its officers, agents and employees harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily/personal injury (including death), property damage or other harm resulting from LLUFMG's failure to comply with the terms of this Agreement, or any other negligent, illegal or tortuous acts or omission of LLUFMG, LLUFMG's officers, agents, employees, subcontractors or independent contractors (hired by LLUFMG).

8. Proprietary Information. Each Party agrees to maintain the confidentiality of all non-public information relating to the other Party, its affiliates or any third party that may be disclosed by a Party to the other Party in connection with the performance of the obligations hereunder and to use such information solely for the purposes of the Program described herein. Each Party shall retain the entire right, interest and title to its proprietary information. Except as provided in Section 5, no license under any patent, copyright, trademark, other intellectual property right or any application therefor, is hereby granted or implied by the affiliation between LLUFMG and Optometric Group. Upon any termination of this Agreement, each Party shall (i) deliver to the other Party all proprietary information of the other Party, and (ii) make no further use of the other Party's proprietary information.

16. Counterparts. This Agreement may be executed in any number of counterparts, and any Party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

17. Compliance with Laws. The Parties shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, applicable to the performance of this Agreement.

18. Governing Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of California.

19. Attorneys' Fees. If legal action is commenced by either Party to enforce or defend its rights under this Agreement, or to interpret or enforce this Agreement, the prevailing Party in such action shall be entitled to recover its costs and reasonable attorneys' fees from the other Party, in addition to any other relief granted.

20. Survival. The provisions of Sections 7, 8, 12, 18 and 19 shall survive the expiration or earlier termination of this Agreement for any reason whatsoever.

21. Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

**FACULTY PHYSICIANS &
SURGEONS dba LLU FACULTY
MEDICAL GROUP**

OPTOMETRIC GROUP

By: _____
Ricardo Peverini, M.D.
President

By: _____

OPHTHALMOLOGY

By: _____
Michael Rauser, M.D.
Interim Cost Center Director

DRAFT