

PROPOSITION 1D TELEMEDICINE EQUIPMENT LOAN AGREEMENT

This Proposition 1D Telemedicine Equipment Loan Agreement (“**Agreement**”) is entered into on the date last signed below (“**Effective Date**”) by and between (i) the Regents of the University of California (“**University**”), a constitutional corporation under Article IX of the Constitution of the State of California acting on behalf of its UC Davis Health System (“**UCDHS**”) and (ii) County of El Dorado Health Services Department, Mental Health Division-Placerville, (“**Provider**”).

RECITALS

A. WHEREAS, Proposition 1D, approved by California voters in November 2006, provides the University funding for capital improvements that expand and enhance medical education programs with an emphasis on telemedicine aimed at developing high-tech approaches to healthcare.

B. WHEREAS, the University has launched a program called the Community Investment Fund (“**Program**”) to provide telemedicine equipment to medically underserved rural communities.

C. WHEREAS, the University has determined that use of a portion of Proposition 1D funding to furnish telemedicine equipment to certain providers in medically underserved areas is an effective way to fulfill the intent of Proposition 1D.

D. WHEREAS, Provider is located in a medically underserved area in California and desires to secure the benefits of the Program for its patients.

E. WHEREAS, Provider wishes to engage UCDHS to (i) assist Provider in securing the equipment requested by Provider to participate in the Program; and (ii) assist Provider in training its personnel and affiliated physicians regarding use of telemedicine equipment.

F. WHEREAS, UCDHS wishes to utilize Proposition 1D funding to provide the foregoing assistance to Provider.

G. NOW, THEREFORE, UCDHS and Provider (collectively the “**Parties**”) agree as follows:

AGREEMENT

Section 1. UCDHS — ACKNOWLEDGEMENTS AND RESPONSIBILITIES

1.1 Equipment

(a) **General.** UCDHS shall, at its own expense, use reasonable efforts to (i) furnish Provider with the equipment listed in Exhibit A (“**Equipment**”), (ii) furnish Provider’s personnel with

training (via video or other means) regarding use of Equipment, (iii) purchase and maintain a three-year maintenance agreement (“**Maintenance Agreement**”) for select Equipment. The Equipment shall be and remain, at all times, the property of UCDHS, and upon the termination or expiration of this Agreement for any reason, Provider shall have the obligation to promptly arrange to return the Equipment to UCDHS at Provider’s cost.

(b) DISCLAIMER. UCDHS DOES NOT MAKE AND EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE EQUIPMENT AND NECESSARY COMMUNICATIONS LINKS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(c) Limitation of Liability. UCDHS shall have no liability for consequential, exemplary, indirect, special, incidental or punitive damages, including loss of profits, revenues, data or use, incurred by Provider or any third party, whether based on contract, tort or any other legal theory, arising out of selection, installation, maintenance, failure to maintain, use, misuse, or malfunction of the Equipment or the communications links utilized by Provider.

Section 2. PROVIDER — ACKNOWLEDGMENTS AND RESPONSIBILITIES

2.1 Equipment.

(a) Provider shall, at its own expense, supply any additional equipment necessary to effectively access its communication link (“**Additional Equipment**”).

(b) Provider shall maintain a designated technical coordinator (“**Technical Coordinator**”) at Provider’s facilities to serve as technical coordinator with UCDHS to maintain the Equipment.

(c) Provider shall be responsible for the full cost of repairing or replacing any and all Equipment that is damaged, destroyed, lost or stolen (collectively, “**Loss**”) from the time Provider assumes custody of the Equipment until it is returned to UCDHS. Provider shall obtain and maintain in full force and effect, a policy of insurance that provides coverage for any such Loss. Such insurance shall be issued by an insurance company or companies reasonably approved by UCDHS, shall name UCDHS and its directors, officers, agents and employees as additional insured entities with respect to the Equipment. Such policy will provide UCDHS with thirty (30) days’ advance written notice of cancellation. The insurance provided by Provider in accordance with this paragraph shall be primary to any coverage available to UCDHS for any such Loss.

(d) Provider shall be solely responsible for conducting any required testing, evaluation, inspection or calibration of Designated Equipment provided under this Agreement. In addition, Provider shall be responsible for the maintenance of the Equipment under the guidance of the UCDHS Technician. UCDHS technicians will generally be available via telephone during regular business hours.

(e) Maintenance Agreements for select Equipment will be secured by UCDHS for three (3) years. Provider shall obtain a similar Maintenance Agreement at the conclusion of the initial three (3) year period, and thereafter shall maintain same in full force and effect during the term

of this agreement. Provider is responsible for providing proof of renewal of Maintenance Agreements.

(f) Provider shall complete an annual UCDHS questionnaire, upon request, to demonstrate intended use of equipment and frequency of use.

(g) Use of the Equipment is authorized only for the specific activities and under the conditions described in Exhibit B. Any change to Exhibit B must be by written amendment, signed by both Parties to this agreement. If Provider does not use the Equipment or uses it in a way for a purpose not authorized by Exhibit B, UCDHS may, at its sole discretion, terminate this agreement with 10 days notice. If the agreement is terminated under this provision, Provider must cease any further use of the equipment upon notice of termination, except as necessary for safety reasons.

Section 3. TERM AND TERMINATION

3.1 Term. This Agreement shall commence on the Effective Date and shall be automatically extended for one (1) year periods of time unless either party provides the other with written notice of such party's intention to terminate the Agreement in accordance with terms of this Agreement. Upon the termination of this Agreement for any reason, all Equipment provided by UCDHS shall be returned to UCDHS, specifically to the Technical UCDHS contact listed in the Notice section below, by Provider at Provider's cost within 30 days of such termination in a fully functional state acceptable to UCDHS. Provider shall be responsible for making, at its own sole expense, such arrangements for transportation of the Equipment as may be necessary. Provider warrants that transportation of Equipment shall be provided by licensed haulers/contractors in compliance with all applicable State, Federal and local law.

3.2 Termination. Either party may terminate this Agreement without cause upon sixty (60) days' prior written notice to the other party. For cause termination shall include, but not limited to, the following as specified:

(a) **Breach.** Either party may terminate this Agreement on thirty (30) days' prior written notice to the other party in the event of a material breach by the other party which has not been cured within the thirty (30) day period. Termination shall be effective upon written notice issued after expiration of the thirty (30) day cure period.

(b) **Insolvency.** Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party after the occurrence of any of the following events:

(1) the other party becomes insolvent (for purposes of this Agreement, "insolvent" shall mean that the party is generally not paying its debts as such debts become due unless such debts are the subject of a bona fide dispute); or

(2) a receiver is appointed for the assets of the other party; or

(3) an assignment is made by the other party for the benefit of its creditors; or

(4) any relief is taken or suffered by the other party as debtor under any bankruptcy or insolvency act and such proceeding has not been dismissed in sixty (60) days.

(c) Illegality. UCDHS shall have the right to terminate this Agreement upon notice to Provider in the event that (1) Provider — or any person with an ownership interest or in a management position with Provider — is excluded from participation in federal or state health care programs, debarred from receipt of federal or state funds, or convicted of a crime; or (2) any legislation, regulation or rule is duly passed, adopted or implemented by any federal, state or local government or legislative body or any private agency; or UCDHS receives notice of an actual or threatened decision, finding, or action by any governmental or private agency, court or other third party (whether or not either party to this Agreement is a party to such action), and such legislation, regulation, rule, decisions, finding or action will result in any of the following consequences because of this Agreement or any transactions contemplated herein: (a) materially and adversely affect UCDHS's licensure, tax-exempt status or any accreditation or certification; (b) materially and adversely affect a medical staff member's licensure or privileges; (c) materially and adversely affect UCDHS's ability to present a bill or claim or to receive payment or reimbursement with respect to any category of services or patients from any federal, state, local governmental or non-governmental payor; or (d) subject UCDHS or any medical staff member to a risk of prosecution, civil monetary penalty or Medicare or Medi-Cal program exclusion.

(d) Force Majeure. Either party may terminate this Agreement in accordance with the provisions of Section 4.9.

Section 4. GENERAL PROVISIONS

4.1 Use of Name. Provider shall not refer to this Agreement or UCDHS's or the University of California's participation in this Agreement or use UCDHS's or the University of California's name in any advertising or promotional materials or statements to the public without the prior written approval of UCDHS.

4.2 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be performed wholly within that state. Venue shall be exclusively in the judicial district encompassing Sacramento, California.

4.3 Partial Invalidity. If any provision of this Agreement is found to be invalid or unenforceable by any court or other lawful forum, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions of this Agreement, unless such invalidity or unenforceability would defeat an essential business purpose of this Agreement.

4.4 Expenses. Should either party institute any mediation, action or proceeding to enforce this Agreement or any provision hereof or for damages by reason of any alleged breach of this Agreement or of any provision hereof, or for a declaration of rights hereunder, the substantially prevailing party in any such mediation, action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' fees, incurred by the substantially prevailing party in connection with such mediation, action or proceeding. The determination of which party is the "substantially prevailing party," shall be made by the mediator, court or arbitrator, as applicable, at the time of the mediation, action or proceeding, as the case may be.

4.5 Notices. All notices which are required or permitted to be given pursuant to this Agreement shall be in writing and shall be sufficient in all respects if delivered personally, by electronic facsimile (with a confirmation by certified mail, return receipt requested, placed in the mail no later than the following day), by express courier (such as Federal Express) or by certified mail, return receipt requested, postage prepaid, addressed to a party as indicated below:

UCDHS

**COUNTY OF EL DORADO
HEALTH SERVICES
DEPARTMENT, MENTAL
HEALTH DIVISION-
PLACERVILLE**

• For Contract Matters

Annie Wong
Manager, Health System Contracts
Health System Contracts
Sherman Building, Suite 2300
2315 Stockton Blvd.
Sacramento, CA 95817
916-734-3820

• For Contract Matters

Name: Neda West
Title: Director
Address: 931 Spring Street
Placerville, CA 95667
Phone: 530-621-6149

• For Technical Matters

George Wu (Technical Manager)
Center for Health and Technology
2300 Stockton Blvd., Suite 3900
Sacramento, CA 95817
916-734-5675

• For Technical Matters

Name: Tim Sampson
Address: 931 Spring Street
Placerville, CA 95667

Notice shall be deemed to have been given upon transmittal thereof as to communications which are personally delivered or transmitted by electronic facsimile and, as to communications made by United States mail, on the third day after mailing (so long as the mailing was made in a metropolitan area in the State of California). The above addresses may be changed by giving notice of such change in the manner provided above for giving notice.

4.6 Assignability. No party to this Agreement may assign the Agreement, assign rights under the Agreement, or delegate duties under the Agreement without the prior written consent of the other party hereto. Except as specifically provided in this Agreement, any attempted assignment or delegation of a party's rights, claims, privileges, duties or obligations hereunder shall be null and void.

4.7 Construction and Agreement. Ambiguities, if any, in this Agreement shall be reasonably construed in accordance with all relevant circumstances, including, without limitation, prevailing practices in the industry of the parties in the place where the contract is to be performed and shall not be construed against either party, irrespective of which party may be deemed to have authored the ambiguous provision.

4.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

4.9 Force Majeure. Neither party hereto shall be liable for any delay or failure in the performance of any obligation under the Agreement or for any loss or damage (including indirect or consequential damage) to the extent that such nonperformance, delay, loss or damage results from any contingency which is beyond the control of such party, provided such contingency is not caused by the fault or negligence of such party. A contingency for the purposes of this Agreement shall be third-party communication network outages (such as satellite malfunctions or failures) beyond the control of either party, Acts of God, fire, explosions, storms, wars, hostilities, blockades, public disorders, quarantine restrictions, embargoes, strikes or other labor disturbances, and compliance with any law, order or control of, or insistence by any governmental or military authority. The party claiming to be affected by such contingency shall give immediate notice to the other party, giving full particulars thereof. The existence of such contingencies shall justify the suspension of performance hereunder by either party; provided, however, that if such period of delay shall exceed sixty (60) days from the date of such notice, either party shall have the right to terminate this Agreement.

4.10 Insurance. Provider warrants that it shall maintain during the term hereof a policy of insurance with minimum coverage as follows:

(a) General Liability: Comprehensive or Commercial Form (Minimum Limits)

1)	Each Occurrence	\$1,000,000
2)	Products, Completed Operations Aggregate	\$2,000,000
3)	Personal and Advertising Injury	\$1,000,000
4)	General Aggregate (BI, PD)*	\$2,000,000

(not applicable to comprehensive form)

However, if such insurance is written on a claims-made form following termination of this agreement, coverage shall survive for a period no less than three years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this agreement.

(b) Workers' Compensation as required under California State Law.

4.11 Continuing Cooperation. Throughout the term of this Agreement, the parties shall cooperate in good faith and agree to perform any and all tasks which are reasonably necessary for the performance of this Agreement.

4.12 Exhibits and Amendments. All Exhibits are incorporated into this Agreement as part of the Agreement. This Agreement and its Exhibits may only be amended in writing and upon the approval of authorized officers of both Parties.

4.13 Integration. This Agreement sets forth the entire understanding between the parties relating to the transactions it contemplates, and supersedes all prior understandings relating to such transactions, whether oral or written. Any prior oral representations or modifications concerning this Agreement shall be of no force and effect, unless attached to this Agreement as a written amendment that is executed or initialed by the parties.

4.14 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 shall apply solely to the specific instance expressly stated.

4.15 Third Party Beneficiaries. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and the respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

4.16 Administrator for County. The County Officer or employee with responsibility for administering this Agreement is Russ Fackrell, Chief Fiscal Officer, Health Services Department, or successor.

4.17 Authorized Representatives. Each of the persons signing below represents and warrants to the other party that he/she is duly authorized to sign this Agreement and that upon his/her execution of this Agreement, this Agreement is a binding obligation of the party on whose behalf the person executes this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA**

Signed: _____
Annie Wong, Director
Health System Contracts

Date: _____

COUNTY OF EL DORADO

UCD H10-00340V
3/30/2011

By: _____
Chair
Board of Supervisors
"COUNTY"

Dated: _____

Attest: Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

Deputy

Dated: _____

EXHIBIT A
Proposition 1D Community Investment Fund Equipment Loan

Associated Project/Grant: 1D

Location: County of El Dorado Health Services Department, Mental Health Division-Placerville

Equipment Loaned

Telemedicine Cart: Global Media Telemed Cart Includes; 5" ball bearing casters, 22" Dell 1080p monitor, Integrated UL60601-1 medical grade power supply, secure custom brackets for pc and other items listed below.

*UCDHS Property Tag:

*Serial:

Videoconferencing Unit: Polycom - HDX 8000-720: HDX 8000 HD codec, EagleEye HD camera
Codec Serial:

Camera Serial:

Mic Pod Serial:

Telemedicine Peripherals:

Digital Camera:

Serial:

Maintenance Agreement

Maintenance Support Provider: IVCI

*Maintenance Support Expiration Date:

Other Comments/Notes

*UCDHS property tag, serial number and maintenance expiration date shall be identified after equipment delivery and submitted to Provider as an addendum to this Exhibit A.

EXHIBIT B

AUTHORIZED PURPOSE AND USE OF EQUIPMENT

1. Equipment is being provided primarily for the purpose of fulfilling the intent of Proposition 1D, Community Investment Fund, which provides equipment for medical and educational opportunities to medically underserved communities.
2. Under the conditions of this Agreement, Provider may enter into a separate contract for telemedicine services with UCDHS or sources other than UCDHS, utilizing the Equipment to access such services.
3. Equipment shall be stored in a secured location at the Provider facilities to prevent as far as possible, any damage, destruction, loss or theft of said equipment.
4. Equipment shall not be transported to or installed at any facility, other than the facility listed below:

Facility Name: County of El Dorado Health Services Department, Mental Health
Division-Placerville

Facility Address: 670 Placerville Drive
Placerville, CA 95667