

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON,	)	
	)	CASE NO.
Plaintiff,	)	
	)	PETITION, PLEA AGREEMENT AND
vs.	)	WAIVER TO ENTER ADULT
	)	TREATMENT COURT
	)	
_____	)	
	)	
Defendant.	)	
_____	)	

Address \_\_\_\_\_  
*Street Apt # City State Zip*

Phone (\_\_\_\_) \_\_\_\_\_ Date of Birth \_\_\_\_\_

Email \_\_\_\_\_

Once the Lane County Adult Treatment Court (“the Court”) accepts this Petition on the day I am scheduled to formally enter the Lane County Adult Treatment Court Program (“the Program”), I agree to give up the rights listed below, and abide by the Rules listed in the Program Rules and Conditions Section. My initials next to each numbered sub-section indicate that I have read (or have had read to me) that subsection, and that I understand the rights I give up and the obligations I accept. I understand that I have the right to withdraw this petition at any time before the Court formally accepts it.

I understand and agree that my lawyer has counseled and advised me on the nature of the charge(s) against me, and all possible defenses, if any, that I might have in this case. I fully understand every charge made against me. I am satisfied with the representation that has been provided by my Attorney, and any investigation which has been conducted on my behalf.

I understand and agree that my mind is clear and I am not sick. I am not under the influence of alcohol or drugs.

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**WAIVER SECTION (FOR FELONIES ONLY)**

\_\_\_\_ **CHECK HERE IF THIS SECTION IS NOT APPLICABLE**

\_\_\_\_ 1. I, \_\_\_\_\_, have been accused of the following crime(s) in an Information dated \_\_\_\_\_:

Count	Charge	Date(s) of Offense(s)
1		
2		
3		

\_\_\_\_ 2. **Waiver of Indictment**: I understand that I have been accused of one or more crimes that require the State of Oregon to obtain an indictment from a Lane County Grand Jury. Having full and complete knowledge of my right to the aid of an attorney and to have my case presented to the Lane County Grand Jury, I do hereby freely and voluntarily waive and give up my right to require indictment by the Grand Jury on the above crime(s), and I hereby consent that the Lane County District Attorney may file an information in this court charging me as stated above.

\_\_\_\_ 3. **Waiver of Pre-adjudicative Rights**: I understand that I have the right to plead "not guilty" to any charges against me. If I plead "not guilty," I understand that I have the following rights:

- (a) The right to a speedy and public trial by jury during which I would be presumed to be innocent unless and until proven guilty beyond a reasonable doubt;
- (b) The right to a jury finding on any fact used by the court to enhance a presumptive sentence under the felony sentencing guidelines;
- (c) The right to have the assistance of a lawyer at all stages of the proceedings;
- (d) The right to use the power and process of the court to compel the production of any evidence including the attendance of any witnesses in my favor;
- (e) The right to see, hear, confront, and cross-examine all witnesses called to testify against me;
- (f) The right to take the witness stand at my sole option, and if I do not take the witness stand, no inference of guilt may be drawn from such failure;
- (g) The right not to be compelled to incriminate myself;
- (h) ***For UPCS Cases Only***: I stipulate that the substance seized which resulted in this charge being filed is the substance alleged in the Information filed by the District Attorney, and waive any further testing of the substance.

By initialing next to (3) above, I freely and voluntarily waive all of these rights.

**STIPULATION SECTION (CONDITIONAL DISCHARGE ONLY)**

\_\_\_\_ 4. I, \_\_\_\_\_,

hereby agree to enter (a) plea(s) of guilt(y), AND/OR;

hereby agree to proceed by means of a stipulated facts trial (at which my Attorney will stipulate to the prosecutor’s version of the facts and waive all argument), AND/OR

have previously pled guilty to the below listed charge(s) on \_\_\_\_\_:

Initials	Count	Charge and Date	Guilty Plea or Trial:
	1		
	2		
	3		

Additional Comments:

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\_\_\_\_ 5. **Deferred Judgment.** I understand and agree that, as a condition of entering the Program, the Court will find me guilty, either by my plea or through a stipulated facts trial. Regarding felony charges, I agree to proceed under ORS 475.245. Regarding misdemeanor charges, I agree to proceed under ORS 137.533. Under either statute, I understand that the Court will find me guilty and defer the proceeding without entering a Judgment of Conviction. If I fail to complete the Program, I understand that the Court will sentence me based upon the prior finding(s) of guilt, and thereby enter a Judgment of Conviction.

\_\_\_\_ 6. **Supervised Probation.** I understand that, by proceeding under ORS 475.245 and/or 137.533, I am agreeing to be placed on supervised probation, and to comply with the conditions of the Order Imposing Supervised Probation, which will include the condition that I successfully complete the Program and may include any other requirements ordered by the probation officer under ORS 137.540.

I understand that by signing this petition, I consent in advance to any and all probation extensions, including *nunc pro tunc* extensions, ordered by the Court. I understand that such extensions will not exceed a period of one year, and will only be granted if the Treatment Court Team (further described in subsection 24) determines that the Program

requirements cannot be met before my probation term expires. If I graduate from the Program after my original probation term would have expired, my most recently extended term of probation will also expire. If I graduate before my original term of probation expires, the circumstances will be taken on a case-by-case basis.

If I am terminated from the Program for any reason, my Program-specific obligations will cease. I understand that, after termination, I will be sentenced, and that I will likely be sentenced to a new term of probation, with no credit due for any portion of the term or terms of probation I completed during my time in the Program.

I reserve the right to withdraw my consent at any time by providing the Lane County District Attorney’s Office (“the District Attorney”) with written notice, but understand that withdrawing my consent may potentially lead to my termination from the Program, even in the absence of other Program violations.

\_\_\_7. **Sentence Exposure.** I understand that if I am terminated from the Program, the maximum sentence(s) I may receive is (are) as follows:

**For my felony charge(s):**

Count	Charge	Maximum Statutory Sentence
1		<input type="checkbox"/> Twenty (20) years prison and \$375,000 fine; <input type="checkbox"/> Ten (10) years prison and \$250,000 fine; <input type="checkbox"/> Five (5) years prison and \$125,000 fine;
2		<input type="checkbox"/> Twenty (20) years prison and \$375,000 fine; <input type="checkbox"/> Ten (10) years prison and \$250,000 fine; <input type="checkbox"/> Five (5) years prison and \$125,000 fine;
3		<input type="checkbox"/> Twenty (20) years prison and \$375,000 fine; <input type="checkbox"/> Ten (10) years prison and \$250,000 fine; <input type="checkbox"/> Five (5) years prison and \$125,000 fine;

My Attorney has informed me that the Oregon felony sentencing guidelines apply to all maximum statutory sentences. The Court will review those guidelines and presumptive sentences on the record before accepting my petition. I understand that the presumptive sentences are controlled by the Oregon felony sentencing guidelines, which my Attorney has explained to me. For example (notwithstanding the maximum statutory sentence) the presumptive sentence for a Level 1, Class “C” Drug Possession felony is 10 days jail and 18 months of supervised probation with standard drug terms and a Department of Motor Vehicle’s suspension.

**For my misdemeanor charge(s):**

Count	Charge	Maximum Statutory Sentence
1		[ ] One (1) year jail and \$6,250 fine; [ ] Six (6) months jail and \$2,500 fine; [ ] Thirty (30) days jail and \$1,250 fine.
2		[ ] One (1) year jail and \$6,250 fine; [ ] Six (6) months jail and \$2,500 fine; [ ] Thirty (30) days jail and \$1,250 fine.
3		[ ] One (1) year jail and \$6,250 fine; [ ] Six (6) months jail and \$2,500 fine; [ ] Thirty (30) days jail and \$1,250 fine.

### PROGRAM RULES AND CONDITIONS

- \_\_\_\_\_ 8. **Rules and Conditions Discussed in the Petition are Non-Exhaustive.** I understand that the rules and conditions discussed in this petition are not the only rules and conditions of the Program. I will be provided with a Handbook containing a complete list of all Program rules and conditions at a court orientation. I also understand that the Program is continually evolving, so as to keep up with current research into best practices. Whenever the Program’s Handbook is updated, I will be notified by my Attorney.
- \_\_\_\_\_ 9. **Assessment and Treatment, Including Inpatient Treatment.** I understand and agree that in order to enter the Program, I must undergo a substance abuse assessment as directed by the Court and by the treatment provider(s). Additionally, as part of the Program, I agree to undergo and to complete any outpatient or inpatient treatment deemed appropriate, as directed by the Court and by the treatment provider(s).
- \_\_\_\_\_ 10. **Abstinence.** I agree to refrain from using or possessing any controlled substances, including any controlled substances (such as pain killers and steroids) that may legally be prescribed by a physician, unless I have a current valid prescription and am taking the medication in accordance with that prescription. I further agree to refrain from consuming legal mind-altering substances including alcohol, marijuana, Spice, and Kratom (but not including caffeine or nicotine), as well as any other substance that may interfere with accurate urinalysis testing (such as poppy seeds). I understand that new mind-altering substances are created and that many of them are created for the explicit purpose of enabling individuals to evade drug tests, and as a result, the Program’s drug testing protocol is constantly being updated to detect new substances. I understand I may be in violation of Program rules if I use a substance that is either not approved or could cause a positive urinalysis. I understand that the Handbook provides complete information regarding the Program’s abstinence policy.
- \_\_\_\_\_ 11. **Urinalysis Testing.** I agree to submit to frequent, random, and observed drug-and-alcohol testing pursuant to Program rules and/or court order.

- \_\_\_\_\_ 12. **Medication.** I agree to fully inform my treating physician(s) of my substance use history and of my participation in this Program. If I receive or possess any prescriptions during my enrollment in the Program, I will immediately notify my counselor. If a physician prescribes me narcotic or addictive medications, I will immediately inform my probation officer, my counselor, my Attorney and the Court. Further, I understand that some over-the-counter (OTC) medications can be abused, or can interfere with drug testing results. Before using any OTC medications, I will seek guidance from probation officer and/or counselor. If either one advises me against taking such medication, I will obtain a physician’s written recommendation before doing so.
- \_\_\_\_\_ 13. **Court Attendance.** If I fail to appear for a Court hearing, I understand and agree that the Court can (and likely will) issue a warrant for my arrest. I understand the District Attorney can charge me with an additional crime of “Failure to Appear” for missing court appearances.
- \_\_\_\_\_ 14. **Courtroom Demeanor.** I will behave respectfully and attentively in the courtroom. I will turn off my cell phone and all other electronic devices when in Court.
- \_\_\_\_\_ 15. **Dress Code.** I agree to comply with the Court’s Dress Code, which I will review at Court orientation. I also understand that I will be provided with a copy of the dress code in the Handbook. I understand that if I willfully fail to comply with the dress code, the Court may ask me to leave – in which case my absence would be unexcused and could result in a sanction.
- \_\_\_\_\_ 16. **Incentives, Sanctions, and Interventions.** I understand that I may receive incentives when I progress in the Program, and responses/sanctions when I fail to comply with Program requirements. Incentives may include (but are not limited to): verbal praise, applause, gift cards, and early placement on the docket. Failure to abide by any rule set forth in the Handbook may result in a response/sanction or in termination from the Program. Responses/sanctions may include (but are not limited to): written assignments, sit sanctions, road crew, community service, or jail time. I understand that the Handbook contains more detailed information about what incentives and sanctions to expect under what circumstances.
- \_\_\_\_\_ 17. **Law-Abiding Conduct.** I agree to obey all laws (including municipal, county, state and federal) while in the Program. If I am charged with a new criminal or traffic violation while I am participating in the Program, that charge may be grounds for termination even in the absence of other Program-related violations. If I am arrested or cited for any crime or violation, I will report the arrest or citation to my probation officer within 48 hours.
- \_\_\_\_\_ 18. **No Informant Work.** I will not work with any police agency as an informant on drug cases, nor on cases where I may come into contact with illegal drugs. Nothing in this agreement shall prevent me from voluntarily providing historical information to a police agency regarding my involvement with illegal drugs.

- \_\_\_\_\_ 19. **Driving.** If I plan to drive while in the Program, I agree to comply with all motor vehicle laws and regulatory requirements, including all requirements regarding licensing and insurance. If the Court finds that I have driven while intoxicated, it may confiscate my license until I demonstrate that I can maintain sobriety. I am also subject to Program sanctions if I drive without complying with motor vehicle laws and regulatory requirements.
- \_\_\_\_\_ 20. **Avoiding Triggers.** I agree to take reasonable steps to avoid persons, places, and things that are likely to trigger me to use intoxicating substances. This means that I will avoid knowingly associating with persons who use or possess such substances, avoid places where such substances are commonly kept or sold, and not possess any such substances, paraphernalia, or other items likely to trigger me to use.
- \_\_\_\_\_ 21. **Education and Employment.** I understand and agree that as a part of the Program, I will be required to provide proof that I received a high school diploma or General Education Diploma (i.e. GED). If I do not have a diploma, I will be required to obtain a GED and I will also be required to obtain and maintain full time employment or enroll in post secondary education full time, or a combination of part-time work and part-time post secondary education. These requirements should be regarded as non-negotiable, and will only be modified if the Court determines that an adjustment supports the NADCP best practices. Employment in establishments where the sale of alcohol or marijuana is the primary business will not be permitted under any circumstances. Additionally, employment is prohibited in any adult entertainment industry.
- \_\_\_\_\_ 22. **Health Insurance.** I understand that I must enroll in, or attempt to enroll in, the Oregon Health Plan, or use any health insurance policy I have to defray the costs of my treatment.
- \_\_\_\_\_ 23. **Contact Information.** In addition to the obligations I have to my probation officer, I agree to keep my treatment provider, the Program, and my Attorney advised and updated as to my current address and telephone number(s) at all times, within five (5) days of any move or change of contact information.
- \_\_\_\_\_ 24. **Releases of Information.** The Treatment Court Team (“the Team”) includes (but is not necessarily limited to) representatives from the Lane County District Attorney’s Office, Public Defender Services of Lane County, Lane County Parole and Probation, Eugene Police Department, Lane County Department of Human Services, Emergence (our contracted treatment provider,) the Treatment Court coordinators and a Lane County Circuit Court Judge. I understand that as a condition of my participation in this Program, I will be required to sign releases of all treatment information by the provider(s) (i.e. Emergence) to the members of the Treatment Court Team. I understand that if I withdraw such releases, that withdrawal may disqualify me from further participation in the Program. I understand that the District Attorney shall not use any of the information released under this condition to prosecute me for a drug

possession charge. However, the Court may consider such information in deciding whether to impose sanctions, or terminate me from the Program. I further understand that nothing in this section grants me immunity from prosecution on non-drug-related charges. I also understand that I may be asked to submit additional releases of information during my participation in the Program, and that my refusal to comply with such requests could potentially have a negative impact on my status in the Program.

- \_\_\_\_\_ 25. **Treatment Court Confidentiality.** As a necessary part of their activities, the Team will need to discuss my progress and performance in the Program during meetings as well as by e-mail or other means of communication. These discussions can affect my participation or ability to participate in the Program. The Team can only work effectively if discussions and communications between team members remain confidential. Therefore, those communications will not be shared with me, nor will they be used to prosecute me for any other crime, except to the extent permitted by ORS 3.450.

I therefore acknowledge by initialing above that I have been told that as a condition of my participation in the Program, I will not be entitled to learn the specifics of what each individual said during these discussions. I understand that if I request a copy of my file, any documents or notes regarding or relating to the Team's confidential communications will be redacted unless otherwise authorized by court order. However, if any consensus is reached about me or my case during or as a result of these communications, I will be told what the consensus is and the general rationale used to reach that consensus. I will also be entitled to see all documents that my lawyer files on my behalf and to ask the lawyer the substance of what he or she said or did.

- \_\_\_\_\_ 26. **Costs and Fees.** I agree to pay fees, fines, restitution or other costs ordered by the Court. Treatment fees are \$10 per week. If I am terminated from the Program, any fees ordered are still due and owing, and any funds paid are not refundable.

- \_\_\_\_\_ 27. **Grounds for Termination.** I understand and agree that if I violate this Treatment Court contract, or am arrested for any new crime or receive a criminal or traffic violation, such violations may be grounds for termination from the Program. Certain serious offenses – including but not limited to attempting to fake urinalysis results, absconding from the Program, and providing controlled substances or alcohol to other Program participants – will likely lead to a termination hearing even in the absence of prior violations. If, at any point, I determine that I am unwilling to comply with the conditions of the Program, I have the right to inform the Court of my decision. The Court shall then terminate me from the Program, provided I have been apprised of the legal and other relevant consequences of my decision and made a knowing and voluntary choice. I understand that while the Court cannot sanction me for my termination decision, it may sanction me for other Program-related violations. I understand and agree that if the Court finds that I no longer meet, or did not initially meet, the eligibility criteria for entry into the Program, that finding may be grounds for



termination from the Program.

- \_\_\_\_ 28. **Successful Completion and Graduation.** I understand and agree that upon successful completion of the treatment Program for a minimum twelve-month period, the Court will discharge me and dismiss the related charge(s) as per the initial negotiations in the case. See the Charges related section for further information. However, I understand that if I have other criminal charges pending in any court, I cannot graduate from the Program until those charges have been resolved.
- \_\_\_\_ 29. **Immigration.** I understand that even if I am a legal resident of the United States, if I am not a citizen of the United States, submission of this petition and entry into the Program could trigger negative consequences under federal immigration law, up to and including my removal from the United States, even if I successfully complete the Program. I affirm that I have discussed the potential immigration consequences of submitting this petition and entering the Program with my Attorney.

I have discussed the above waivers and the following stipulation with my Attorney. My Attorney has fully informed me regarding the consequences of this agreement, and the available alternative options. I am freely and voluntarily agreeing to the above waivers consents, and stipulations, after ample opportunity to discuss them with counsel.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Defendant

I certify that I am the Attorney for the above-named Defendant; that I have discussed the matter of this Petition, Agreement and Waiver with the Defendant and advised the Defendant of the constitutional rights described herein; of the agreements described herein; that the Defendant desires to waive these rights and enter into these agreements; that in my opinion the within election is well-founded in law and is not made or filed for the purposes of delay and in support thereof the Defendant will rely upon Article I, Section 11 of the Oregon Constitution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Defendant OSB # \_\_\_\_\_

I certify that I am a Court Certified Interpreter and that I have read this document in full to

Petitioner in \_\_\_\_\_ and that I am confident that Petitioner understands the contents of this Petition.

\_\_\_\_\_  
Court Certified Interpreter

I certify that I am the Attorney for the State; that I have reviewed the matter of this Petition; and that the State does not oppose the entry of the Defendant into the Drug Treatment Court Program at this time.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Assistant District Attorney OSB # \_\_\_\_\_