

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

State of Oregon

Case No: _____

v.

**REQUEST TO ENTER
CONDITIONAL DISCHARGE
PROBATION AGREEMENT AND
WAIVER OF RIGHTS**

Defendant

*Drug Enforcement Misdemeanor
Conditional Discharge*

Defendant's Mailing Address:		
Street	City	State ZIP
Date of Birth: _____/_____/_____ Month Day Year	Phone #: _____	SID# (if known): _____
Level of Education: _____	Aliases: _____	Defense Attorney Name: _____

Read this entire packet carefully. You are charged with a drug enforcement misdemeanor (DEM).

You are eligible to participate in the DEM conditional discharge program only if you are charged with a DEM and file the *Request to Enter Conditional Discharge* with the court within 30 days of your first appearance in court, unless the court finds there is good cause to allow a later date.

The district attorney may object to your entry into the conditional discharge program. After hearing the reasons for the objection, the court may deny your entry if the program would not serve your needs or the protection and welfare of the community.

REQUEST AND WAIVER OF RIGHTS

I ask the court to defer further proceedings under ORS 475.752 to 475.980 for the charge(s) of a Drug Enforcement Misdemeanor (DEM) and acknowledge the following:

1. I agree to be under a probation period of 12 months, subject to early termination or extension by the court. I also agree to abide by the terms and conditions of the *Probation Agreement*.
2. I agree that the controlled substance was the substance alleged in the charge.
3. I waive my rights with respect to each DEM charge:
 - The right to a speedy trial and trial by jury;
 - The right to present evidence on my own behalf;
 - The right to confront and cross-examine witnesses;
 - The right to contest evidence presented against me, including the right to object to hearsay evidence; and
 - The right to appeal from a judgment of conviction resulting from an adjudication of guilt, unless the appeal is based on an allegation that the sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.
4. I understand that the court may impose sanctions of up to a total of 30 days of imprisonment upon finding that I have violated the terms and conditions of probation. A probation officer may also impose sanctions.
5. I understand that upon violation of a term or condition of the probation agreement, the court may impose a sanction or may resume the criminal proceedings and may find me guilty of the charge that is the subject of this agreement in accordance with the waiver of rights in this document. I may not contest the sufficiency of the evidence establishing my guilt of the charge.
6. At the end of the probation period, if the court has not received notice of successful completion of the probation, the court shall issue an order requiring me to appear and show cause why the court should not enter an adjudication of guilt. At the hearing, the court may: (a) order a new period of probation to allow me to fulfill the terms and conditions of the probation agreement, or (b) enter an adjudication of guilt.
7. I understand that if I am unsuccessful in the conditional discharge program and found guilty and convicted of a DEM, the court will impose an initial term of up to 18 months of probation, but I may request 180 days of jail instead. The court may extend probation for up to five years.
8. I understand that if the court receives notice from the district attorney or a supervising officer that I have fulfilled the terms and conditions of the probation agreement, the court will discharge me from probation and dismiss the charge(s) that is the subject of the agreement and conditional discharge program.

PROBATION AGREEMENT

I agree to abide by the general conditions of probation under ORS 137.540 (1) which are:

- a) Pay fines, restitution or other fees ordered by the court.
- b) Submit to testing for controlled substance, cannabis, or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.
- c) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
- d) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
- e) Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency and inform the parole and probation officer of any change in employment.
- f) Permit the parole and probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.
- g) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
- h) Obey all laws, municipal, county, state and federal.
- i) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
- j) Not possess weapons, firearms, or dangerous animals.
- k) Report as required and abide by the direction of the supervising officer.
- l) If recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer if:
 - o I am under supervision for a sex offense under ORS 163.305 (Definitions) to 163.467 (Private indecency);
 - o I was previously convicted of a sex offense under ORS 163.305 (Definitions) to 163.467 (Private indecency); or

- I was previously convicted in another jurisdiction of an offense that would constitute a sex offense under ORS 163.305 (Definitions) to 163.467 (Private indecency) if committed in this state.
- m) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.
- n) If required to report as a sex offender under ORS 163A.015 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction), report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:
 - When supervision begins;
 - Within 10 days of a change in residence;
 - Once each year within 10 days of the probationer's date of birth;
 - Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
 - Within 10 days of a change in work, vocation or attendance status at an institution of higher education.
- o) Submit to a risk and needs assessment as directed by the supervising officer and follow reasonable recommendations resulting from the assessment.

I agree to abide by the special conditions of probation which are:

- Submit to polygraph examination by a qualified polygraph examiner designated by the Court or probation officer.
- Not use or possess controlled substances except pursuant to a medical prescription.
- Abstain from the use of intoxicants.
- Defendant shall be subject to the imposition of structured sanctions up to a total of 30 days, pursuant to ORS 137.593 and 137.595.
- Within 24 hours you are to report to Jackson County Community Justice, 1101 West Main St, Medford OR, 97501.

Before signing this document, make sure you are aware:

1. That you have consulted with your lawyer (unless you waive counsel) about the charge(s) in the case, including possible defenses and legal challenges you may have in this case.
2. You have the following rights at trial: (1) to have a jury trial or, if you choose not to have a jury trial, the right to have a trial by a judge; (2) to see, hear, and question all people who testify against you; (3) to remain silent about all facts of the case; (4) to call witnesses and enter evidence; (5) to testify; (6) to have the jury told, if you do not testify, that it cannot hold that decision against you; and (7) to require the district attorney to prove your guilt and all sentence enhancement facts to a jury or court beyond a reasonable doubt.
3. In addition to the agreement, understand that there may be other significant consequences by entering the program, including, but not limited to deportation/removal and exclusion from future entry into the United States, or denial of naturalization, if you are not a United States citizen.

DECLARATION

Other than what is contained in this petition, I affirm that no one has promised me anything to enter the DEM conditional discharge program. I also affirm that no one has threatened me or forced me to enter the program.

I have read and understand all the information in this packet.

I am signing this request and entering the DEM conditional discharge program voluntarily, intelligently, and knowingly with full understanding of all matters set forth in the charging instrument and in this request.

Defendant Signature _____ Date _____

Defense Attorney Signature _____ Date _____

Interpreter Signature _____ Date _____
(if applicable)