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

STATE OF OREGON, Plaintiff,	)	*PETITION, AGREEMENT & WAIVER*
	)	*REQUESTING TO ENTER LINCOLN*
vs.	)	*COUNTY 17th JUDICIAL DISTRICT*
	)	*DRUG COURT PROGRAM*
_____Defendant.	)	Case No. _____

General Obligations

1. I do freely and voluntarily state as follows:

   a. I either read, or had read to me, each section of this document;
   b. I understand each of the rights which I have chosen to waive or give up as required in order for me to participate in the Lincoln County Drug Court Program, and do hereby waive those rights;
   c. I am a resident of Lincoln County, Oregon, and will notify the Drug Court Judge and my probation officer if and when I cease to be a Lincoln County resident;
   d. I promise that I will carry out each and every agreement and obligation set forth below;
   e. If I am represented by an attorney, I advise this court I have consulted with my attorney concerning the options available to me in this case. I hereby Petition this Court to permit me to enter into the Drug Court Program of the 17th Judicial District.

AGREEMENTS AND OTHER CONDITIONS

Drug Court Orientation

I will attend, as scheduled, an orientation/evaluation session with Megan Bostwick-Terry, Drug Court Coordinator, and Rob Eoff, the probation officer assigned to Drug Court participants.

Transfer of Case to Drug Court

If I am accepted into Drug Court, the Drug Court Judge will thereafter handle all aspects of my case, even though I may have pled guilty or been convicted before a different judge.

Assessments and HIPAA Qualifying Releases

I will participate in an assessment as directed by the Lincoln County Drug Court probation officer, which assessment shall be scheduled by the probation officer and take place at the offices of the Lincoln County Health and Human Services [hereinafter LCHHS];

After assessment, I agree to comply with the directions given by the evaluator, which includes my referral to a counseling provider or treatment outlet which is participating in the Lincoln County Drug Court Program.

Release of Information

HIPAA-Qualified Release to be Signed. I understand I will be presented with a release form by my

prospective treatment provider. I have been informed and understand that I must sign this release document so that all treatment information collected by treatment provider(s) can be released to the Lincoln County Circuit Court Drug Court Judge, my probation officer, the Lincoln County District Attorney and my attorney.

Participation Requirements

I must enroll in the treatment recommended and/or scheduled by my probation officer and/or the treatment provider. I must diligently pursue the treatment and successfully complete the treatment as scheduled.

I must enroll not only in alcohol/drug treatment, but also any other psychological and/or behavioral treatment or counseling recommended by my treatment provider and/or my probation officer when that person reasonably determines that additional treatment or counseling would be beneficial to me and would assist me in attaining and/or maintaining sobriety.

I must comply strictly with the conditions of my probation or diversion agreement [as the case may be].

Unless I am on a statutory felony diversion, my participation will be scheduled to last for the term of my probation. Although the Drug Court Judge will have the authority to shorten or lengthen the term of my probation [depending on my progress and compliance with all terms of my participation and probation], I will be required to participate in Drug Court for a minimum of one year.

Appearances before Drug Court Judge

I understand that I will be required to appear before the Drug Court Judge on pre-determined dates and times. During Level 1, attendance is weekly; during Level 2, every other week; and during Level 3, every four weeks. The frequency of my required appearances will depend on my treatment provider's assessment of my progress, or lack thereof, in Drug Court. There is no prescribed length of any of the three levels.

I understand that my failure to appear at *any* scheduled hearing may result in my being arrested.

Effect of Successful Completion

I understand that if I successfully complete my participation in Drug Court and comply with the conditions of my probation for the specified duration of probation, I will earn the dismissal of the charge[s] to which I have pled guilty in this case__if__ I am on a conditional discharge or a diversion agreement. If I am on probation, the Drug Court Judge may terminate the probation early, but is not required to do so. If I am allowed to enroll in Drug Court following a conviction, successful completion of Drug Court will not result in the conviction being vacated or set aside.

No Use of Intoxicants - Notice to Counselor & Probation Officer

I will not use or possess any controlled or mind-altering substance, including but not limited to alcohol, and that I will immediately notify my treatment provider[s] and probation officer if I come into possession of any drug which by State or Federal Law requires a prescription. In addition, to help me to remain abstinent from intoxicants, I am not permitted to enter any business which serves alcohol by the drink at any time.

I must furnish urine and/or other bodily substances as requested by my probation officer for the purpose of determining whether I have used or consumed intoxicants. I understand these tests will occur

frequently, that they will be random, and that the collection of the samples will be observed. I agree that I will be required to pay for the costs of urinalysis **if** the sample comes back as positive or dilute.

Presence of My Attorney During Drug Court

No matter who has represented me prior to the time I enter Drug Court, Daniel Taylor will become my attorney while I participate in Drug Court and he, or his designee, will attend all Drug Court sessions.

Authority of Judge to Order Drug Court Participant to Appear

I agree that if I either fail to comply with the terms of my probation, or to fulfill the treatment program requirements, or if I violate any agreement or condition set forth in this document, I will be subject to sanctions by my probation officer and/or subject to arrest on a bench warrant due to the District Attorney's filing of a motion to revoke probation. The results of this type of hearing are set forth below.

Possible Outcomes for Noncompliance

(1) Modification of one or more terms of the treatment program, including, but not limited to, a return to a more intensive stage of participation;

(2) The imposition officer of a structured sanction by my probation officer, including, but not limited to, jail, work crew and/or community service;

(3) The imposition of penalties by the Drug Court Judge, including, but not limited to:
   - (a) Jail time;
   - (b) Community Service Work;
   - (c) Work Crew;
   - (d) Other Sanctions upon which my continued participation in the Drug Court Program will be conditioned; and/or
   - (e) Any other sanction authorized by Oregon law for a probation violation.

     Even when penalties in (a) through (e) are imposed, I may still be allowed to continue in the Drug Court.

(4) Termination from the treatment program, which would result in a termination of a conditional discharge or a diversion agreement, which would thereby result in a judgment of conviction for the offense[s] to which I plead guilty in this case. The judgment of conviction may contain any lawful penalties.

Criteria for Involuntary Termination of Drug Court Participation

[1] Failure to comply strictly with the treatment requirements set by the Defendant=s treatment provider[s] and/or with the requirements and/or agreements set forth in this document.

[2] Noncompliance with any term of probation.

[3] The filing of a new criminal charge against me would be grounds for the Drug Court Judge to terminate me from the Drug Court Program.

I understand that, within 3 days of any such arrest, I must report the fact of that arrest or citation to the following person or agencies *in writing*:

(a) The Drug Court Judge;
(b) The Drug Court Probation Officer;
(c) My Treatment Provider or Counselor; and
(d) My Attorney.

Enrollment in The Oregon Health Plan:
I understand it is an obligation of my participation in the Lincoln County Drug Court Program to immediately and continuously attempt to enroll in and hopefully succeed in obtaining participant status in The Oregon Health Plan. I agree that I must use my best efforts when working toward qualification and acceptance in The Oregon Health Plan.

If I have available to me another health insurance policy which might provide payment for the costs of my treatment, I agree to immediately and diligently seek such payment.

If I am billed by my treatment agency for treatment services, I will immediately notify my Attorney as well as the Drug Court Judge of any such occurrence or billing.

Dated this _____ day of _____ , 20_____.

_____
Defendant

By my signature below, I acknowledge to this Court that I understand that which I have read, or had read to me, of the foregoing Petition, Waivers, Stipulations and Agreements, as well as those rights which I must waive or give up.

By my signature below I advise this court that I have read, or had read to me, this Petition. I knowingly and voluntarily give up the rights recited above. My decision to enter into the Lincoln County Drug Court Program is given to this Court after deliberate consideration and thought. It is my belief this program is one designed to help me deal with my drug use, help me develop the tools to facilitate my continuing freedom from drug use and so in the end improve the quality of my life, the quality of life of those in my family, as well as to help me to become a productive and contributing member of my community.

Dated this _____ day of _____ , 20_____.

_____
Defendant

ORDER

IT IS THE ORDER OF THIS COURT THAT DEFENDANT'S PETITION WHEREIN THE DEFENDANT ASKS THIS COURT TO AUTHORIZE DEFENDANT'S ENTRY INTO THE LINCOLN COUNTY DRUG COURT PROGRAM WILL BE AND IS HEREBY:
[ ] DENIED [ ] GRANTED.

IT IS THE FURTHER ORDER OF THIS COURT THAT THE DEFENDANT APPEAR IN THE LINCOLN COUNTY CIRCUIT COURT, COURTROOM 303, ON THE _____ DAY OF _____, 20____, AT WHICH TIME DEFENDANT'S PROBATIONARY SENTENCING OR ENTRY OF DIVERSION OR DEFERRED SENTENCE WILL OCCUR.

IT IS FURTHER ORDERED THAT DANIEL TAYLOR IS APPOINTED TO REPLACE THE DEFENDANT'S FORMER COUNSEL IN THIS CASE.

DATED THIS _____ DAY OF _____ , 20____.

_____
THOMAS O. BRANFORD
CIRCUIT COURT JUDGE /DRUG COURT JUDGE

CERTIFICATION OF COUNSEL

BY MY SIGNATURE HEREUNDER I CERTIFY TO THIS COURT I AM DEFENDANT'S ATTORNEY OF RECORD IN THIS MATTER.
I FURTHER CERTIFY TO THIS COURT THAT I HAVE DISCUSSED WITH MY CLIENT THE FACTS OF THIS LITIGATION, AS WELL AS THIS PETITION, WAIVER AND AGREEMENT, AND HAVE ADVISED THE DEFENDANT OF HIS/HER RIGHTS AS GUARANTEED BY OREGON LAW AND THE OREGON AND FEDERAL CONSTITUTIONS. IT IS MY OPINION MY CLIENT'S ELECTION TO PARTICIPATE IN THE LINCOLN COUNTY DRUG COURT PROGRAM TO BE WELL-FOUNDED IN LAW AND IN KEEPING WITH THE DEFENDANT'S BEST INTERESTS.

DATED THIS _____ DAY OF _____ , 20____. _____
ATTORNEY FOR DEFENDANT

CERTIFICATION OF DISTRICT ATTORNEY

BY MY SIGNATURE HEREUNDER I CERTIFY I AM COUNSEL FOR THE STATE OF OREGON, THAT I HAVE REVIEWED THE FACTS IN THIS CASE AND STATE FOR THE RECORD AND THIS COURT THAT THE STATE OF OREGON DOES NOT OPPOSE DEFENDANT'S PARTICIPATION IN THE LINCOLN COUNTY DRUG COURT PROGRAM.

DATED THIS _____ DAY OF _____ , 20____. _____
DEPUTY DISTRICT ATTORNEY