

Revised 7/5/12. The following template has been reviewed and approved by the Oregon Department of Justice. DEQ Project Managers are directed to use this template without modification, except as noted. Instructions to the Project Manager and places where text is to be entered are enclosed in parentheses and highlighted. Direct questions about the access agreement to Annette Dietz, Cleanup Program Coordinator, at dietz.annette@deq.state.or.us or (503) 229-6258.

ACCESS AGREEMENT BETWEEN

[PROPERTY OWNER'S NAME]

AND

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

[For commercial property only, insert the facility name and address below]

FACILITY NAME: [Facility Name]

ADDRESS: [Facility Address]

1. [Property Owner's Name] ("Owner") and the Oregon Department of Environmental Quality ("DEQ") enter into this Access Agreement ("Agreement") to facilitate the environmental investigation of, and the performance of removal or remedial actions (as those terms are defined in ORS 465.200 and implementing regulations) at, the property located at [Property Address] ("Subject Property") [If applicable, INSERT "and property adjacent to or in the vicinity of the Subject Property"].
2. Owner gives permission, to the extent of its possessory interest in the Subject Property and premises and appurtenances at the Subject Property, to DEQ and its officers, agents, authorized representatives, employees, and contractors to enter the Subject Property for the purpose of carrying out actions authorized by ORS 465.200 through 465.992, in accordance with the terms of this Agreement.
3. DEQ's actions at the Subject property may include: [Tailor this list to the specific property and the specific scope of activities DEQ intends to undertake]
 - A. Sampling, monitoring and inspecting air, surface water, groundwater, sediment, and/or soil;
 - B. Sampling and inspecting other materials suspected of containing a hazardous substance;
 - C. Constructing one or more groundwater monitoring wells, groundwater extraction wells, soil borings, test pits and/or excavations;
 - D. Installing, using and maintaining other monitoring equipment;
 - E. Removing contaminated soils, sediments, and groundwater;

- F. Treating contaminated soils and groundwater; [NOTE: Where on-site treatment or disposal will occur, this short form Agreement probably will not suffice to address all of the owner's issues]
- G. Maintaining any monitoring well or extraction well installed by DEQ on the Subject Property in accordance with Oregon Administrative Rules (OAR) Chapter 690, Division 240; and
- H. Photographing or videotaping portions of the Subject Property and structures, objects, and materials at the Subject Property as necessary to facilitate environmental investigations or remedial measures.
4. All tools, equipment, and/or other property brought upon the Subject Property by or at DEQ's direction remain DEQ's property.
5. When DEQ determines that continued access to the Subject Property is unnecessary, or upon expiration of this Agreement, whichever is earlier, DEQ will abandon any wells installed by DEQ on the Subject Property in accordance with OAR 690-240-135, remove all tools, equipment, and improvements brought upon the Subject Property, and restore the surface condition of areas disturbed by DEQ activities, to the maximum extent reasonably practicable, to a condition equivalent to the condition existing before DEQ's activities. Except with the written consent of the Owner, no waste or materials generated by DEQ's sampling or other activities may be disposed or discharged at the Subject Property.
6. [Include this paragraph for commercial property only: DEQ will coordinate its activities with Owner and, if applicable, Tenant, to prevent, to the maximum extent reasonably practicable, any impairment of access by customers or business invitees of Owner and Tenant on the Subject Property and any inconvenience to or disruption of Owner's or Tenant's business on the Subject Property due to DEQ's activities.]
7. DEQ will provide Owner and, if applicable, Tenant, at least 72 hours verbal notice before undertaking any sampling or other investigation activity at the Subject Property. Except in an emergency, DEQ will provide Owner and, if applicable, Tenant, at least 30 calendar days' written notice before commencing any excavation or construction, or implementation of a removal or remedial action at the Subject Property. To the maximum extent reasonably practicable, DEQ will coordinate and schedule all activities authorized under this Agreement that might disrupt or interfere with the use of the Subject Property, through:

<u>Owner:</u>	Name:	[Owner Name]
	Address:	[Owner Street Address]
		[Owner City, State, ZIP]
	Telephone:	[Owner Phone]
	Fax:	[Owner Fax]
	E-mail:	[Owner e-mail address]

[If applicable, also include the following:]

Tenant: Name: [Tenant Name]
 Address: [Tenant Street Address]
 [Tenant City, State, ZIP]
 Telephone: [Tenant Phone]
 Fax: [Tenant Fax]
 E-mail: [Tenant e-mail address]

8. DEQ will comply with all applicable federal, state, and local laws at all times while on the Subject Property and, subject to ORS 465.315(3), secure all necessary permits and authorizations in connection with the activities conducted on the Subject Property under this Agreement. Owner agrees to cooperate fully with DEQ as necessary for DEQ to obtain necessary permits and authorizations. DEQ will perform all activities under this Agreement in a manner that will not cause contamination or exacerbate contamination existing at the Subject Property.
9. Owner may observe DEQ while DEQ is undertaking activities at the Subject Property; provided that any observer must have health and safety training consistent with the requirements of the Health and Safety Plan for DEQ's activities. Upon request, DEQ will provide Owner and, if applicable, Tenant a copy of available test data, final sample results and analysis reports, toxicity evaluations and other written reports of any description that arise from DEQ's activities at the Subject Property, unless the record is exempt from disclosure under the Oregon Public Records Law.
10. Nothing in this Agreement constitutes an admission of liability by the Owner regarding any release of hazardous substances at or from the Subject Property.
11. The State of Oregon will, to the extent permitted by Article XI, Section 7, of the Oregon Constitution and by the Oregon Tort Claims Act, indemnify and hold harmless Owner and Owner's officers, employees, agents, and tenants of the Subject Property from and against any and all claims arising solely from acts or omissions related to this Agreement of the State of Oregon or its commissions, agencies, officers, employees, contractors, or agents. This indemnity and hold harmless does not extend to liability for any claim or damages caused by acts or omissions of Owner, its tenants, or its agents, or by a third party, or that are attributable to contamination already existing on, under or from the Subject Property.
12. This Agreement may be assigned by Owner. If Owner makes such an assignment, it will notify DEQ in writing. This Agreement will be binding upon and inure to the benefit of the Parties' respective representatives, successors, and assigns. Paragraph 11 of this Agreement and any other rights or obligations of the Parties under this Agreement that by their nature are continuing rights and obligations survive expiration or termination of this Agreement.

13. This Agreement represents the complete Agreement between the Parties with respect to the subject matter hereof. No modification or waiver of any provision of this Agreement is binding unless made in writing and signed by both parties.

14. The term of this Agreement is two years [Tailor duration to fit the specific scope of DEQ's activities] from the date of the last signature below.

Owner:

Oregon Department of Environmental Quality:

Name: [Owner Representative]

[Insert Name]

Title: _____

Manager, [Insert Section]

Date: _____

Date: _____