

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF BENTON**

STATE OF WASHINGTON,

*Plaintiff,*

vs.

\_\_\_\_\_

*Defendant.*

NO. \_\_\_\_\_

DRUG COURT PARTICIPATION  
AGREEMENT

I agree to become a participant in the Benton County Adult Drug Court, and by doing so, I understand that I will waive certain rights and that I have certain obligations and responsibilities and will have to follow the orders and requirements given to me by the judge, treatment personnel, and other people involved in the drug court program.

**WAIVER OF RIGHTS, STIPULATIONS, AND AGREEMENTS**  
**(Read and initial each)**

1a. \_\_\_\_\_ I have received and read the drug court participant handbook and have discussed the provisions of the handbook and the drug court policies and procedures with my defense attorney.

1b. \_\_\_\_\_ I understand that I have a right to a speedy and public trial, and the right to have the proceedings against me held in open court. I understand that Adult Drug Court staffing is closed to the general public, and I agree that it is in my best interest, as well as the best interest of the Adult Drug Court, that these staffing meetings are closed. I voluntarily participate in the Adult Drug Court knowing that I and my progress will be discussed at staffing regularly outside my presence, and the presence of the general public.

1c. \_\_\_\_\_ I waive my rights to a speedy trial from the date of entry of the participation agreement and Motion and Order to Transfer to Adult Drug Court forward until such time as either (a) I successfully graduate from Adult Drug Court, or (b) my participation in Adult Drug Court has been denied or terminated and the defendant thereafter appears for further proceedings on the pending charge(s). I also waive my right to a trial by jury; I waive any arguments or objections to the lack of probable cause that led to the initial stop, detention, or arrest of me by law enforcement officials; I waive any arguments or objections to the legality of any search or seizure by law enforcement officials.

1d. \_\_\_\_\_ I stipulate to the **ADMISSION** of the law enforcement reports (including lab reports), which are attached to this agreement and their admission into evidence; I stipulate and agree

that these reports will serve as the sole basis of decision in a non-jury trial on the charges filed against me, which will be conducted if, **AND ONLY IF**, I am terminated from drug court.

1e. \_\_\_\_\_ I agree to sign all releases of information necessary to monitor my progress in the drug court. Such information will not be utilized by the prosecuting attorney for any prosecution but may be considered by the court in determining appropriate incentives or interventions or in deciding my ability to continue participating in drug court.

1f. \_\_\_\_\_ I understand and agree that the court, based upon careful consideration and deliberation by the team of information available to it, will determine if I have failed to comply with drug court rules or requirements and may impose such incentives or interventions as it deems appropriate. I understand that I have a right to a hearing and may ask the court to impose an alternate intervention or ask the court not to impose an intervention. I understand that what I say or what my attorney states on my behalf cannot be used against at a later time.

1g. \_\_\_\_\_ I understand and agree that I may be required to submit to a search, without a warrant, of my person, property, vehicle, place of residence or personal effects and that any narcotics, drugs or other contraband found may be seized, at any time.

**NOTICE OF CONDITIONS AND AGREEMENTS**  
**(Read and initial each)**

2a. \_\_\_\_\_ I understand that the drug court program is a minimum of 16 months, and that I must complete the minimum periods in phases I, II, III, IV, V and VI, all of which have been explained to me, before I can graduate from the drug court program.

2b. \_\_\_\_\_ I agree to appear on time in court on each of my scheduled court dates and remain until excused.

2c. \_\_\_\_\_ I agree to pay, a fee of up to the cost of the testing for each positive/dilute drug test, and restitution as ordered by the court.

2d. \_\_\_\_\_ I understand that restitution on all of my case(s) for Adult Drug Court cannot exceed \$7,500. If my restitution is at \$7,500, I understand that I will be required to pay \$2000 of the restitution prior to graduation from Adult Drug Court. I understand that I will have to sign an restitution order for the total amount of restitution owed on my case(s) as a condition for acceptance to Adult Drug Court. I also understand if I am not able to pay the full restitution amount by the time of graduation, instead of my case being dismissed, it will be amended to a gross misdemeanor, and I agree to plead guilty to the gross misdemeanor. I understand that the recommendation for sentencing will be a two-year deferred sentence. The only condition for the deferred sentence will be to pay the outstanding balance of the original restitution order. At my graduation from Adult Drug Court, a review date will be sent to determine if I have complied with the conditions of the deferred sentence.

2e. \_\_\_\_\_ I understand that unless otherwise approved, I will be receiving treatment from Merit Resource Services. If I have an extenuating circumstance that makes treatment through Merit untenable, I will discuss it with Behavioral Health Specialist and my attorney and receive clearance to receive treatment from another care provider.

2g. \_\_\_\_\_ I understand that I must remain drug and alcohol free and participate fully in all substance abuse treatment required by the drug court judge and follow the treatment plan as developed by my treatment provider. I also agree to engage in or utilize all other activities or services, including but not limited to employment or employment training, education, parenting classes, anger management classes, mental health counseling and obtaining stable housing, as may be determined necessary by the drug court judge.

2h. \_\_\_\_\_ I agree to obey all laws and understand that if I engage in any criminal act, I may be charged and prosecuted for a new crime, and that any new charge may cause me to be terminated from drug court.

2i. \_\_\_\_\_ I agree to see the ADC Therapeutic coordinator and/or law enforcement liaison as directed. I understand and agree that they may make home visits at any time. If I am on supervision by the Washington State Department of Corrections, or on any other probation, I agree to comply with all conditions and requirements of my supervision. I agree to notify the coordinator and/or law enforcement liaison prior to any change in my residence or telephone number, and to notify them within 48 hours of any change in my employment. I understand that I must get permission from the drug court judge or ADC Therapeutic coordinator before I leave Benton and Franklin Counties.

2j. \_\_\_\_\_ I understand that I will be randomly drug tested. I agree that I will provide a specimen upon request or within not more than six hours after being advised to do so by telephone. I understand that I will be directly observed when I provide a urine sample, and that I will be required to seal and initial each sample container that I provide. I understand that if I fail to provide a sample, the failure will be considered as having provided a positive (hot) test. I also understand that if I have a positive test in any drug court phase I will be evaluated to determine whether I need additional help or services. Additional help or services may include a higher level (intensity) of treatment such as residential (inpatient) treatment, more intense outpatient counseling, other services, or sanctions.

2k. \_\_\_\_\_ I agree, unless exempted from participation by the court, to participate in 12-step/self-help group meetings such as Narcotics Anonymous (NA) or Alcoholics Anonymous (AA) as directed by the court, and to have a form provided by the court signed at each meeting. These meetings are in addition to what is required by my treatment provider. I understand that if my religious or personal beliefs conflict with religious elements of such groups, the court will exempt me from participation in them and require participation in alternative programs. I also agree to participate in counseling and/or recovery education programs as directed.

2l. \_\_\_\_ I understand that the judge may provide incentives (rewards) for my compliance with drug court rules and requirements and progress in my recovery. The judge may order interventions for my failure to comply with drug court rules and requirements or to make progress in my recovery. Interventions may include but are not limited to: retention in the current phase, return to an earlier phase, increased drug testing, reevaluation and/or an increased level of treatment, and increases in meetings or participation in other programs or services ordered by the court. Interventions may also include community service hours, jail time, or termination from drug court and referral for bench trial.

2m. \_\_\_\_ I understand and agree that once I have elected to remain in drug court at the end of the 28-day opt out period, I may choose to voluntarily terminate from the program, and a bench trial would be heard before the Drug Court Judge. I understand that I will be represented by the assigned Adult Drug Court Attorney at that trial, and the only evidence to be considered by the Court will be the Statement of Defendant on Stipulation to the Reports and the attached police reports that are entered once I decide to opt into drug court. If I am found guilty, the Drug Court Judge will hear recommendations on sentencing within the standard range of the offense based on my criminal history. The judge does not have to follow the recommendations made by either the State or my attorney.

2n. \_\_\_\_ I understand that I may be terminated from drug court because of serious violations, persistent non-compliance or because new charges have been filed against me, and that if I am so terminated my case be set for a termination hearing to be heard by the Drug Court Judge presiding over the court, and I will be represented by assigned Adult Drug Court Attorney for this hearing. If I am terminated from the program, a bench trial will be held on my pending charge (s) at which the law enforcement reports attached to the Statement of Defendant on Stipulation to the Reports will be the only evidence considered by the court. If I am found guilty, the Drug Court Judge will hear recommendations on sentencing within the standard range of the offense based on my criminal history. The judge does not have to follow the recommendations made by either the State or my attorney.

2o. \_\_\_\_ I understand that as a participant in the Adult Drug Court I will be required to complete a community service project including at least 120 hours of community service prior to my graduation.

2p. \_\_\_\_ I understand that if I am terminated from the Adult Drug Court program, and I will not receive the benefit of having the charge(s) pending against me dismissed.

2q. \_\_\_\_ I understand that I am volunteering for the Adult Drug Court program.

2r. \_\_\_\_ I understand that I must get approval to work in environments in which the primary business involves alcohol or substances of abuse or in which alcohol or substances of abuse play a significant role. Environments such as casinos, bars, strip clubs, marijuana dispensaries, head shops, and wineries are not generally approved work locations.

## PARTICIPANT'S RIGHTS

- 3a. While I am in the drug court program, the prosecution of the pending criminal case(s) against me will be stayed or placed on hold.
- 3b. If I successfully complete the drug court program, my pending criminal case(s) will be dismissed with prejudice. If I am charged with a DUI or Felony DUI, I understand that my charges will be amended down to Negligent Driving in the First Degree instead of being dismissed when I complete the program.
- 3c. I can talk to a lawyer at any time, and if I cannot afford a lawyer, I can ask the Court to appoint a lawyer to give me legal advice.
- 3d. If the court determines that I have failed to comply with drug court rules or requirements, the court will explain to me, during my court appearance, my failure to comply, the basis for its determination that I failed to comply, and the intervention required by my failure. In the event the court determines that non-compliance requires an intervention that includes in-patient treatment, community service, work crew, electronic monitoring, house arrest or incarceration, I may, upon being advised of such an intervention, request a hearing before the court.
- 3e. If the court determines that termination of my participation in drug court may be necessary, I will receive a written notice that explains why termination is being considered and I may request a hearing be held to determine whether my participation in drug court should be terminated. The procedure as stated in 2m will be followed if a termination hearing is granted.
- 3f. If I am terminated from the drug court program, (a) nothing I have said or acknowledged concerning my drug use while in the drug court program can be used against me in court; (b) positive drug tests while I was a participant in drug court cannot be used against me in court; and (c) evidence found in searches conducted under the authority of my drug court waiver can be used against me in court only if (a) the drug court team determines that it should be, or (b) the evidence relates to a class A felony, violent offense or a sex offense.
- 3g. I will not be required to provide information about other people involved in illegal drug activity as a condition to remaining in the drug court program.
- 3h. I will not be required to admit to any additional criminal activity beyond the facts originally stipulated as a condition to remaining in the drug court program.
- 3i. Within 28 days following my acceptance into drug court I may withdraw from the drug court program (opt out) and have all my rights restored.

I HAVE READ (OR HAVE HAD READ TO ME) ALL OF THIS PARTICIPATION AGREEMENT. I UNDERSTAND ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AND HEREBY FREELY AND VOLUNTARILY AGREE TO THEM.

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

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Attorney for Participant

\_\_\_\_\_  
\_ADC Therapeutic Coordinator

Approved for entry:

\_\_\_\_\_  
\_ Deputy Prosecuting Attorney

\_\_\_\_\_  
Judge/Commissioner

I am fluent in the language, \_\_\_\_\_ and I have translated this entire document for the Defendant from English into that language. The Defendant has acknowledged his/her understanding of both the translation and the subject matter of this document. I certify under penalty of Perjury, under the laws of the State of Washington, that the foregoing is true and correct.

\_\_\_\_\_  
Interpreter