

**BRAMPTON DRUG TREATMENT COURT
APPLICANT WAIVER AND ACKNOWLEDGEMENT**

DATE: _____

NAME: _____

DOB: _____

ADDRESS: _____

TEL: _____

EMAIL: _____

COUNSEL: _____

TEL: _____

CHARGES:

ORDINARY COURT PROCESS

1. I understand that I am presumed innocent of the charges.

Initial _____ Counsel _____ Interpreter_(if used) _____

2. I have a right to know the evidence of the Crown prior to making any decisions. I have the right to consult a lawyer about my case, review the disclosure and discuss potential defences and weaknesses in the Crown's case prior to making a decision as to how to proceed.

Initial _____ Counsel _____ Interpreter_(if used) _____

3. I understand that I have the right to plead "guilty" or "not guilty."

Initial _____ Counsel _____ Interpreter_(if used) _____

4. I have the right to a trial within a reasonable time. At my trial the Crown must prove my guilt beyond a reasonable doubt. If the Crown proves beyond a reasonable doubt that I am guilty of the offence(s) charged, I will be found guilty and the trial judge will then sentence me.

Initial _____ Counsel _____ Interpreter_(if used) _____

5. If, however, the Crown does not prove my guilt beyond a reasonable doubt, I will be found not guilty and the charges against me will be dismissed.

Initial _____ Counsel _____ Interpreter_(if used)_____

6. If I committed the offence(s) alleged against me, I can choose to plead “guilty.” By pleading guilty, I give up my right to hear or challenge the evidence of the Crown or argue that I should be found “not guilty.” If I choose to plead guilty I understand that I must acknowledge facts that would support a finding of guilt.

Initial _____ Counsel _____ Interpreter_(if used)_____

7. Whether I am found “guilty” following a trial or following a guilty plea, the Judge will decide the appropriate sentence to impose based on the particular facts of my case and the applicable law. Both the Crown and my lawyer will have an opportunity to make submissions in support of their position and I will be given an opportunity to speak to the Judge prior to a decision being made. I understand there is a wide range of sentences from discharges to a period in jail.

Initial _____ Counsel _____ Interpreter_(if used)_____

BRAMPTON DRUG TREATMENT COURT PROCEDURE

8. IF I AM GUILTY OF THE OFFENCES ALLEGED AGAINST ME, instead of proceeding through the normal course and if I qualify, I can choose to plead “guilty” and to participate in the Brampton Drug Treatment Court Program (the “Program”).

Initial _____ Counsel _____ Interpreter_(if used)_____

9. I understand that if I choose to enter and am accepted into the Program, I will be placed on a new bail with specific terms for participation in the Program. These terms will include a requirement that I attend for assessments and as directed by the Court or Services & Housing in the Province (“SHIP”) and Peel Addictions Assessment & Referral Centre (PAARC), or such other service provider working with the Program and to allow the service providers to report my progress to the Court.

Initial _____ Counsel _____ Interpreter_(if used)_____

10. I understand that I will be required to provide my consent to the SHIP and PAARC to allow them to monitor my treatment and progress through the Program and to report my progress to the Court.

Initial _____ Counsel _____ Interpreter_(if used) _____

11. I understand that up to the first sixty (60) days of the Program are a probationary period. If during this time I decide that I do not want to continue in the Program I can leave the Program. I have the decision at that point to either continue with sentencing in front of the Judge that accepted my earlier guilty plea(s); or, I can apply to have my guilty plea(s) struck and my charges will return to the ordinary court process.

Initial _____ Counsel _____ Interpreter_(if used) _____

12. I understand that during this probationary period, if I am deemed unsuitable for the Program by the Court, I can be removed from the Program. Again, I will have the choice to either continue with sentencing in front of the Judge that accepted my guilty plea(s) or I can apply to have my guilty plea(s) struck and return to the ordinary court process.

Initial _____ Counsel _____ Interpreter_(if used) _____

13. I understand that during the probationary period my suitability for the Program will be assessed. I will be required to participate in various interviews and assessments related to my personal background and history of drug/alcohol abuse. If, after the probationary period, I do not continue in the Program; whether that is my decision or the decision of the Court, the information shared as part of this process will be kept confidential and will not be used against me in any context.

Initial _____ Counsel _____ Interpreter_(if used) _____

14. I understand that after the probationary period, if I choose to leave the Program, I will be sentenced by the Judge that accepted my guilty plea(s). I WILL NOT BE GIVEN THE OPPORTUNITY TO STRIKE MY GUILTY PLEA(S). I understand that as a result of my participation in the Program the sentencing Judge will have the information about me that has been shared during my participation in the Program.

Initial _____ Counsel _____ Interpreter_(if used) _____

15. I understand that if during the probationary period I do not continue with the Program, the bail I entered into upon my entry into the Program will be cancelled. If I was in custody prior to that, I understand that I may be required to return to custody otherwise; I will be required to enter into a release consistent with the bail in place prior to entering the Program.

Initial _____ Counsel _____ Interpreter_(if used) _____

16. If I enter the Program, having had the opportunity to consult counsel, I voluntarily waive my right to a trial within a reasonable time pursuant to s. 11(b) of the *Charter of Rights and*

Freedoms, for the entire time I am in the Program, should I not successfully complete the Program for any reason. I also agree to delay my sentencing pursuant to s. 720 of the *Criminal Code* which requires a person be sentenced as soon as possible.

Initial _____ Counsel _____ Interpreter_(if used)_____

17. I understand the Program will take many months and often up to a year or more to complete.

Initial _____ Counsel _____ Interpreter_(if used)_____

18. I UNDERSTAND THAT I AM REQUIRED TO BE HONEST AT ALL TIMES WITH THE COURT AND THE VARIOUS SERVICE PROVIDERS. Failing to be honest with the Court and the service providers is one factor considered when examining suitability for the Program both before and after the probationary period.

Initial _____ Counsel _____ Interpreter_(if used)_____

19. I understand that my participation in the Program will require frequent mandatory Court appearances for the purpose of allowing the Court to monitor my progress in the Program. If I miss a Court date, a warrant for my arrest may be issued. In addition to facing arrest, missing of Court appearances can lead to various possible consequences which can include the cancellation of my bail or expulsion from the Program.

Initial _____ Counsel _____ Interpreter_(if used)_____

20. In addition to appearances in Court, I understand I will be required to attend various meetings with SHIP, PAARC and any other service providers designated by the Program. Missing of appointments can lead to various consequences which can include the cancellation of my bail or expulsion from the Program.

Initial _____ Counsel _____ Interpreter_(if used)_____

21. I UNDERSTAND THAT I WILL BE REQUIRED TO PROVIDE TWO URINE SAMPLES PER WEEK FOR TESTING. While abstinence is the goal, I understand that the Court does not expect perfection at all times. If I do use I understand that it is my obligation to be truthful and to report that use to the service providers. I understand that failure to be honest with the Program will lead to sanctions up to and including expulsion from the Program. Further, I understand that I will be required to provide the results of my urine tests on a weekly basis.

Initial _____ Counsel _____ Interpreter_(if used)_____

22. If at any time while I am in the Program I fail to meet any of the requirements of the Program, the Court may:

- a. Require extra attendance at meetings;
- b. Require me to remain at the Court following my Court appearance;
- c. Require me to complete community service hours;
- d. Cancel my bail for up to seven (7) days; and,
- e. Expel me from the Program and sentence me.

Initial _____ Counsel _____ Interpreter_(if used)_____

23. I understand that while I am participating in the Program, members of the Program (the Judge, duty/defence counsel, Crown counsel, treatment providers, evaluators and probation officers) will discuss my case in my absence. My counsel is welcome at these meetings however, in counsel's absence, I understand that Duty Counsel will be present relay the position of my counsel. I agree to this meeting being held in my absence and I understand that the goal of this meeting is to help me in my recovery and is done to allow the Program to provide the maximum amount of help to me.

Initial _____ Counsel _____ Interpreter_(if used)_____

24. If, as a sanction for my actions, the Crown, in consultation with SHIP and PAARC or other service providers, seeks to cancel my bail, the Crown will be required to present the Court with a reason for this sanction. I, in conjunction with either my counsel or duty counsel, will be given an opportunity to explain why this should not happen. If, after hearing from both sides, the Court needs time to make the decision, I understand that I may be required to remain in custody. If the decision of the Court is to cancel my bail, it will be for no more than seven (7) days.

Initial _____ Counsel _____ Interpreter_(if used)_____

25. I understand that grounds for expulsion from the Program include, but are not limited to:

- a. Failure to fully participate in the Program;
- b. Failure to conduct myself with respect for the Court and the service providers;
- c. Repeated lateness to meetings and to Court appearances;
- d. Repeated failure to attend scheduled meetings;
- e. Dishonesty with the Court or the service providers;
- f. New charges which prohibit my participation in the Program; and,
- g. Failure to make reasonable progress in the Program.

Initial _____ Counsel _____ Interpreter_(if used)_____

26. I understand that if I am arrested on any new charge while participating in the Program, I must report this to the treatment providers and to the Court.

Initial _____ Counsel _____ Interpreter_(if used)_____

27. Despite the presumption of innocence, I understand that I can be removed from the Programs as a result of new charges against me.

Initial _____ Counsel _____ Interpreter_(if used)_____

28. I understand that if the Crown, SHIP or PAARC or any other service provider seeks to have my bail cancelled or to have me expelled from the Program, for any reason, the Court will allow me an opportunity to explain why this should not happen. I understand that if I want the Court to postpone making this decision, the Court may still order that I enter and remain in custody while this decision is being made. If, after listening to my explanation, the Court decides to cancel my bail but not expel me from the Program, I can choose to withdraw from the Program and proceed with my sentencing. If I choose to remain in the Program, the Court will consider, within five (5) days, whether to allow me to remain in the Program and whether to restore my bail. If I ever choose to withdraw from the Program or am expelled from the Program for any reason, the time I spent in custody as a result the cancellation of my bail, may be taken into account when a Court decides the appropriate sentence.

Initial _____ Counsel _____ Interpreter_(if used)_____

29. I understand that, if after the 60 day probationary period, I either choose to leave the Program early or I am expelled from the Program, my guilty plea(s) will not be struck and I will be sentenced in accordance with the law by the Judge that took my guilty pleas.

Initial _____ Counsel _____ Interpreter_(if used)_____

30. I understand that in order to receive the benefit of the Program, I must graduate from the Program by meeting all requirements. Upon graduation from the Program the Court will sentence me. The Court will have final determination as to my sentence subject to any mandatory minimum penalty (if applicable). The Court will consider my successful completion of the Program as a mitigating factor in determining a fit and just sentence.

Initial _____ Counsel _____ Interpreter_(if used)_____

31. In making the decision to enter the Program, I:

- a. had an opportunity to consult with a lawyer about the Crown’s evidence against me and the various options I have to address these charges.

Initial _____ Counsel _____ Interpreter_(if used)_____

- b. have reviewed and understand the above acknowledgments in paragraphs 1 – 30.

Initial _____ Counsel _____ Interpreter_(if used)_____

- c. am doing so voluntarily and with the intention of working with the Program to overcome my addiction.

Initial _____ Counsel _____ Interpreter_(if used)_____

- d. understand that by entering the Program I agree to comply with all terms, conditions and rules of the Program.

Initial _____ Counsel _____ Interpreter_(if used)_____

- e. understand that in pleading guilty to the charges alleged, I am giving up my right to a trial.

Initial _____ Counsel _____ Interpreter_(if used)_____

- f. understand that I must acknowledge the facts as presented the Court that demonstrate my guilt in the offences alleged.

Initial _____ Counsel _____ Interpreter_(if used)_____

- g. understand that the decision to plead guilty is mine and mine alone and that nobody is pressuring me to plead guilty.

Initial _____ Counsel _____ Interpreter_(if used)_____

- h. understand that when I am sentenced to the offences for which I have pleaded guilty, the Judge has the final say as to the appropriate sentence.

Initial _____ Counsel _____ Interpreter_(if used)_____

I have read and understood everything on this form. By signing this form, I am indicating that I have voluntarily chosen to participate in the Program and to comply with all the terms and conditions.

Dated this _____ day of _____, 20____ in the Region of Peel.

Applicant

Witness

Translated by: _____

I certify that I am fluent in the English and _____, and that I translated this document to the best of my abilities before being completed by the Applicant.

Translator

Witness

Waiver for Counsel

As counsel, I have faithfully and fully explained the contents of this document to _____.

I understand that if I do not attend either the pre-meeting or the Court appearance I can relay instructions to duty counsel.

I understand that my client's progress through the Program will be discussed in my absence. If steps of consequence are taken against my client, I will be given the opportunity to appear and to provide input prior to decisions being made.

Counsel