IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

STATE OF WASHINGTON, Plaintiff vs. Defendant CCN_____	No. **DRUG DIVERSION COURT** **WAIVER AND AGREEMENT** CLERK'S ACTION REQUIRED (AG)

DRUG DIVERSION COURT WAIVER OF RIGHTS AND AGREEMENT OF THE PARTIES

- **I have been informed and fully understand that I have the following important rights.**
- **I understand that I give up the following important rights by entering Drug Diversion Court:**

1. The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

2. The right to remain silent before and during trial, and the right to refuse to testify against myself;

3. The right at trial to testify and to hear and question the witnesses who testify against me;

4. The right to have witnesses testify for me at trial. These witnesses can be made to appear at no expense to me.

5. With respect to this/these charge(s), I understand that I have a right to contest and object to evidence that the State may present against me and to present evidence on my own behalf. With respect to this/these charge(s), I give up the right to contest and object to any evidence presented against me and to present evidence on my own behalf as to my guilt or innocence. I understand and agree that if I do not comply with the conditions of this agreement, a hearing will be held at which the State will present evidence related to this/these charge(s) including but not limited to the police report and the results of any law enforcement field test. I stipulate that the field test used in this case was accurate and reliable, and is admissible. This stipulation is not an admission of guilt, and is not sufficient, by itself, to warrant a finding of guilt. I understand that the judge will review the evidence presented by the State and will decide if I am guilty or not guilty of this charge based solely on that evidence. I waive my right under Criminal Rule 6.1(d) to written findings of fact and conclusions of law.

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6. I agree to complete the treatment program as instructed by the Court. I agree that I will not change treatment programs without first getting approval of the Court.

7. I agree to sign a waiver allowing the treatment provider to release information regarding my treatment to the Court, defense counsel, prosecuting attorney, and Drug Diversion Court Services staff. This information shall only be used to monitor compliance in this case and for no other purpose.

8. I understand and agree that I am responsible for obtaining a Participant Handbook from the Court and for knowing **all** of the rules and procedures contained in it, including any future amendments of which I am provided written notice.

9. I agree that I will not knowingly associate with any person possessing or using illegal drugs. I also agree that I will refrain from loitering in any area known for drug trafficking, and if ordered by the court, will stay out of specific areas associated with drug trafficking.

10. I understand and agree that I may not possess or use any firearm while I am in Drug Diversion Court.

11. I agree that I will not work with any police agency on any criminal cases or on any case where I may come into contact with illegal drugs. Nothing in this agreement shall prevent me from voluntarily providing information to a police agency regarding my past involvement with illegal drugs.

12. I agree to pay a $100 participation fee on a schedule set by the Court **OR**, in the alternative, to complete 24 community service hours done only for the purpose of satisfying this participation fee. Funds paid are not refundable. (I understand that no one is excluded from participation in Drug Court because of inability to pay participant fees.)

13. I agree to pay any and all restitution owing as a result of the crimes encompassed in these case number(s). I understand that I will not be allowed to graduate from Drug Court or have my case(s) dismissed, unless restitution is paid in full. I further understand that my progress in Drug Court will be affected by my progress in restitution payments. I acknowledge and accept that I may be terminated from Drug Court if I do not satisfy my restitution obligation in a timely manner, whether the failure to pay is willful or not.

    ☐ **No restitution owed** ☐ **Restitution order attached**

14. I understand and agree that any violation of Drug Court requirements such as dirty urinalysis tests, missing treatment sessions, any failure to abide by the terms of this agreement, or commission of a new crime, may result in modification of the treatment program, imposition of a sanction, revocation of my conditional release, and/or termination from the program.

15. **In considering the consequences of my entry into this waiver and agreement I understand that if I am terminated from Drug Diversion Court:**

COUNT I_____

The crime with which I am charged carries a sentencing range of ____to____ months with a maximum penalty of five/ten (5/10) years in prison and a $10,000/$20,000 fine. Disputed

COUNT II_____

The crime with which I am charged carries a sentencing range of ____to____ months with a maximum penalty of five/ten (5/10) years in prison and a $10,000/$20,000 fine. □ Disputed

COUNT III_____

The crime with which I am charged carries a sentencing range of ____to____ months with a maximum penalty of five/ten (5/10) years in prison and a $10,000/$20,000 fine. □ Disputed

a. I believe that the standard range(s) as set forth above, unless otherwise noted, accurately reflect(s) my criminal history known at this time. If I am convicted of any additional crimes between now and the time I am sentenced on this charge, I am required to tell the sentencing judge about those new convictions. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, this agreement is binding on me and I cannot change my mind even though the standard sentencing range and prosecuting attorney's recommendation may increase.

b. In addition to sentencing me to confinement for the standard time, the judge will order me to pay $500 to a victim's compensation fund. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and incarceration, lab, and attorney fees. In addition, the judge may place me on community supervision, community placement or community custody, impose restrictions on my activities, require rehabilitative programs, treatment requirements, or other conditions, and order me to perform community service.

c. The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the State or I can appeal the sentence.

d. In addition to confinement, the judge will sentence me to a period of community supervision, community placement or community custody:

- For crimes committed prior to July 1, 2000, the judge will sentence me to: community supervision for a period of up to one year; or

- to community placement or community custody for a period of up to three years or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. _____

- For crimes committed on or after July 1, 2000, the judge will sentence me to the community custody range which is from _____ months to _____ months or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer, unless the judge finds substantial and compelling reasons to do otherwise. During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will result in the Department of Corrections transferring me to a more restrictive confinement status or imposing other sanctions. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. _____

e. The judge may sentence me as a first time offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence may include as much as 90 days of confinement and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph 15.b.The judge may also require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. _____

f. The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001) or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). (Effective for sentences imposed on or after October 1, 2005, the court may sentence me to a prison based alternative.) This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph 15.b.. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range. Effective for sentences imposed on after October 1, 2005, the judge may sentence me to a residential chemical dependency treatment-based alternative. This sentence could include a term of community custody for one-half of the midpoint of the standard range or two years, whichever is greater, on the condition that I enter and remain in residential chemical dependency treatment for three to six months, plus all of the conditions described in paragraph 15.b. During community custody, I will be required to undergo substance abuse assessment and participate in treatment as provided by the Department of Corrections. At a treatment termination hearing scheduled three months before the expiration of the term of community custody, the judge could impose a term of total confinement equal to one-half of the midpoint of the standard sentence range followed by a term of community custody. During confinement, I would be required to undergo substance abuse assessment and participate in treatment as provided by the Department of Corrections. Any term of community custody imposed upon me under the special drug offender sentencing alternative must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay $30.00 per month to offset the cost of monitoring and require other conditions, including affirmative conditions.

g. If I am not a citizen of the United States, I understand that a finding of guilty on this/these offense(s) is grounds for deportation. I also may not be allowed to enter the United States, or be denied naturalization according to the laws of the United States.

h. If found guilty, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

i. If found guilty, I understand that I will be ineligible to vote until that right is restored in a manner described in RCW 10.64 [2005 Wash. Laws 246 1] If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, 3, RCW 29A.04.079, 29A.08.520.

j. If I am found guilty of a drug offense that involves a motor vehicle, I understand that my driver's license or privilege to drive will be suspended or revoked.

k. If I am found guilty of a violation of the state drug laws, I understand that my eligibility for state and federal food stamps, welfare, housing, and education benefits will be affected. 20 U.S.C. 1091 (r) and 21 U.S.C. 862a.

16. I freely and voluntarily enter into this agreement.

17. No one has threatened to harm me or any other person to get me to enter into this agreement.

18. No person has promised me anything to get me to sign this agreement except as written in this document.

19. Upon successful completion of Drug Court, Including the full satisfaction of any restitution obligation, all criminal charges pending against me under this (these) cause number(s) will be dismissed with prejudice.

My lawyer and I have reviewed and discussed all of the above paragraphs 1 through 19.I understand them all and do hereby knowingly give up these rights and enter into these agreements with the State

Dated: _____ _____
Deputy Prosecuting Attorney

_____ _____
Defendant Attorney for Defendant

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