

BRAMPTON ADDICTIONS PROGRAM

“Waiver”

I understand that I am charged with the following criminal offence(s) of: [LIST BELOW]

The normal course of a criminal charge

- 1) I understand that I am presumed to be innocent of these charges.

- 2) I understand that in the normal course of a criminal proceeding, a court may decide to release me on bail until the completion of the process. If I am denied bail at the initial hearing, I have the right to appeal the decision refusing me bail. I also understand that if it is believed that I have disobeyed any conditions of my bail, I may be arrested and a court may cancel my bail. When my bail is cancelled, I have the right to re-apply for bail. I have a right to be represented by a lawyer at any hearing into whether I should be released on bail.

- 3) I understand that in the normal course of a criminal proceeding I have a choice to plead “not guilty” or “guilty” to any offence with which I am charged. If I choose to plead “not guilty”, I will have a trial where the Crown must prove that I am guilty of the charge beyond a reasonable doubt or else the charge will be dismissed.

- 4) I have a right to know in advance of the trial what evidence the Crown has against me. I understand that I have the right to speak with a lawyer about the case in order to review any defences to the charge and whether there are any weaknesses in the Crown’s case, which could result in acquittal.

- 5) If the Crown proves beyond a reasonable doubt that I committed the offence, I will be found guilty. If, on the other hand, I choose to plead “guilty”, and admit the facts without the calling of evidence, I will give up my rights to hear or challenge the witnesses or argue that I should not be found guilty and I will be found guilty.

- 6) If I am found guilty, a court will decide what sentence to impose upon me based on the law and on what is said by the prosecutor and my lawyer. When deciding on the appropriate sentence, a court may decide, if appropriate, to send me to jail, to grant me a discharge, to sentence me to a conditional sentence of imprisonment in the community, to place me on probation, impose a fine, or impose some combination of dispositions. A court must impose a sentence that in the judge’s view is most appropriate, taking into account the circumstances of the offence, as well as other aggravating and mitigating factors.

- 7) I am entitled to a trial within a reasonable time.
- 8) If I am found guilty and sentenced, I have the right to appeal against the conviction, the sentence or both the conviction and sentence.

The alternative course of a criminal charge – The Brampton Addictions Program

9) Instead of choosing to proceed through the normal course, I may choose to plead guilty and to participate in the Brampton Addictions Program (referred to as “the Program”). No one may force me to participate in the Program. It is entirely up to me whether I choose to do so.

10) I understand that the Program will take many months, and often up to a year to complete. I understand that for the first 30 days of the Program, I have a right to withdraw from it. During those first 30 days, I may be expelled from the program if I am deemed not suitable for it. If it is determined during the first 30 days that I am not appropriate for the Program, I understand that I may apply to have my plea struck. I understand that the Crown will not oppose an application to strike the pleas brought within this 30 day period. If my plea is struck I understand my matters will be adjourned to the regular court system. After 30 days, I may NOT apply to have my plea struck, **even if** I withdraw from the program or am expelled from it.

11) If I am accepted, there is no fixed time limit for the completion of the Program. It is up to the Court to decide if and when I have successfully completed the Program. By choosing to participate in the Program, I agree to waive my right pursuant to s.721 of the Criminal Code to be sentenced as soon as possible. I also agree to waive my rights under s. 11(b) of the *Charter of Rights and Freedoms* – i.e., the right to a trial within a reasonable time – for the period of my participation in the Program, should I not successfully complete the Program, or if I am expelled from the Program.

12) If I choose to participate in and complete the Program, I understand that I am giving up my right to plead “not guilty” to the charge against me.

13) In making this decision I have:

[CHOOSE ONLY ONE OF THE FOLLOWING. BY CROSSING OUT THE OPTION YOU ARE NOT CHOOSING]

(a) had an opportunity to consult with a lawyer about the Crown’s evidence against me,

[OR]

(b) only been able to consult with a lawyer based on a summary of the Crown’s evidence against me,
but nevertheless

14) I am prepared to give up my rights to plead “not guilty” and to have a trial.

- 15) I am willing to give up these rights in order to try and benefit from the Program.
- 16) By choosing to participate in the Program, I choose to plead “guilty” and accept responsibility for each offence on which the Crown proceeds. I admit in fact that I did what the Crown says I did in the evidence or summary of the evidence.
- 17) If I choose to participate in the Program, I understand that I must first qualify for, and be accepted into, the Program. I understand that I will be released on a Brampton Addictions Program bail to attend for an assessment with the case manager and/or drug treatment provider. I understand that my bail depends upon my being found appropriate for the Brampton Addictions Program.
- 18) I understand that this means I will have to participate in an interview concerning my personal background and history of drug and/or alcohol abuse and that I may have to undergo drug and/or alcohol testing. I understand that if I am not accepted into the Program, then everything I have said or done during this application process will be kept confidential and can never be used against me in court. I further understand if it is determined that I am not appropriate or I decide to withdraw from the Program, my Bail may be revoked or varied, and I may reapply for bail in the appropriate court.
- 19) In order to receive the legal benefit of the Program, I must complete the Program to the satisfaction of the Court. The Court will postpone the sentencing decision until I have successfully completed the Program. If I successfully complete the Program to the satisfaction of the Court, the Court’s finding of guilt will remain and I will be sentenced. The Court--as always--will have the final determination of any sentence, but may be bound by a minimum mandatory penalty (if applicable). The Court may consider the completion of the Program in possibly mitigating or reducing what would otherwise be the appropriate sentence.
- 20) If, on the other hand, I fail to successfully complete the Program, the Court will simply decide the appropriate sentence in the normal course. If I fail to complete the Program and am sentenced in the normal course, nothing I have said to any of the counsellors while participating in the Program nor any of my drug and/or alcohol screening results will be used by the Crown against me.
- 21) My participation in the Program will require frequent mandatory court appearances for the purpose of monitoring my progress in the Program. I understand that if I miss any court dates, a warrant for my arrest may be issued and, at my next court appearance, my bail may be cancelled and I may be expelled from the Program.
- 22) If I choose to participate in the Program, I understand I may be required to leave urine screens. I understand the results of these screens will be provided to the Court and any treatment provider.

23) I understand that subject to my right to request one retesting of any disputed urine screen, I agree to accept the validity of the urine screen results.

24) If I dispute any subsequent urine screens, I may be expelled from the Program and sentenced for the offence(s) to which I have pled guilty.

25) The Program may also require me to attend regularly for counselling and drug and/or alcohol screening (such as urinalysis). The results of any screening or any statements made during the counselling sessions may be reported to the Court, which monitors my progress in the Program.

26) If I fail to fulfill the requirements of the Program, such as missing a urine screen, or not attending the counselling sessions as required, the Court may:

- a. increase the number of times I am obliged to attend for treatment, counselling or drug and/or alcohol testing;
- b. extend the treatment period under the Program;
- c. cancel/vacate my bail pursuant to section 523 or 524 of the *Criminal Code*; and/or
- d. expel me from the Program and sentence me.

27) I understand that while I am participating in the Program, members of the Program team (the Judge, duty/defence counsel, Crown counsel, treatment providers, evaluators and probation officers) will discuss my case in my absence prior to each attendance in the Brampton Addictions Court. I am satisfied that duty counsel or my lawyer will represent my interests. I agree to this in order to obtain maximum help from the Program.

28) If the Crown, in consultation with the Case Manager (Elizabeth Fry Peel or their designate), presents the Court with a reason for canceling my bail or expelling me from the Program, 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 in the meantime I remain in custody, pursuant to section 524 of the *Criminal Code*. If after listening to my explanation the Court decides to cancel my bail but not to expel me from the Program, I may choose to withdraw from the Program and proceed with my sentencing in the normal course. On the other hand, if I choose to remain in the Program, the Court will consider, within 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 if I am ever expelled from the Program, any time which I spend in custody as a result of the Court canceling my bail, may be taken into account when a court decides on the appropriate sentence.

29) Neither the results of drug and/or alcohol screening or any statements about my use of drugs or alcohol that I make during counselling sessions may be used by the Crown to prosecute me for breaching my bail or for any other offence. However, if there are other conditions

imposed upon me by my bail, I must abide by those conditions or else face the possibility of a charge of failing to comply with my bail. I may also be charged with “failing to appear” if I do not attend Court as required.

30) I understand that as a condition for being allowed to participate in the Program, I must at all times keep my treatment providers and the Court advised of my current address during my participation in the Program.

31) I understand that if I am arrested on any new charge while participating in the Program, I must report this to my treatment providers and the Court. It will then be up to the Court to decide whether to cancel my bail and/or expel me from the Program.

32) I understand that my involvement in the Program may be the subject of study by persons involved in the evaluation of the Program. While any such study must respect my right to privacy, I may be asked to participate in follow-up studies during and after my completion of the Program. By signing this form, I willingly agree to participate in a study seeking to evaluate the Program. I also agree to release to the persons involved in the study, a copy of my criminal record and a list of all pending criminal charges. All indentifying information about me that is collected or used for the purposes of the study will remain confidential.

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 of the terms and conditions.

Dated this day of _____ **in Peel Region**

WITNESS

APPLICANT

Counsel/Duty Counsel providing advice: _____

(Name, Address, Telephone No.)

Translated by me _____, a person fluent in the English and _____ languages before being signed by the applicant.

- Original to: • the Court
- Copies to: • Elizabeth Fry Society of Peel Case Manager
- Treatment Provider
- Crown Attorney/Federal Prosecutor
- Bail Program
- Probation Officer
- Counsel/Duty Counsel
- Applicant