

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, : Case No. CR
 :
 Plaintiff, :
 :
 :
 vs. :
 :
 :
 , : VTC (Veterans Treatment Court)
 : PARTICIPATION AGREEMENT
 Defendant. : AND WAIVER OF RIGHTS
 :

The undersigned Defendant (hereinafter referred to as “Defendant,” “Offender,” or “Participant”) requests that he/she be sentenced to the Butler County Court of Common Pleas Veterans Treatment Court Program (VTC) as part of a community control sentence and/or Intervention in Lieu of Conviction plan, which could be imposed herein. The execution of this agreement does not obligate the Court to sentence the Defendant to community control. Defendant acknowledges that he/she consulted with his/her attorney regarding the legal ramifications of entering into VTC and reviewed both the *Participant Handbook* and this document with his/her attorney.

An Offender may be admitted into VTC through one (1) or more of the following four (4) methods:

- Plea and sentencing;
- Intervention in Lieu of Conviction;
- Probation violation; or
- Judicial Release.

Non-Discriminatory Practices

No offender shall be denied admission to VTC based on race, color, religion, gender, sexual orientation, national origin, ancestry, age, citizenship, marital status, any disability, or their ability to pay any Court-ordered financial obligations such as fines, court costs, etc.

Pursuant to Local Rule 7.04, once Defendant has been ordered to complete VTC, his/her case shall be transferred to the VTC Judge. Any, and all further Court proceedings with respect to that, shall be heard by the VTC Judge. Once entered into VTC, Defendant shall become a Participant.

VTC incorporates a non-adversarial approach while recognizing the distinct role of the prosecutor and defense counsel. Participant understands that by entering into VTC that he/she is waiving certain constitutionally-guaranteed rights which he/she might otherwise be entitled. Those rights include, but are not limited to:

- Waiver of the right to consult with and be represented by an attorney at status review hearings. However, Participant does maintain the right to request the attendance of defense counsel during the portion of the treatment team meeting concerning the participant. Defense counsel will be present at treatment team meetings and status review hearings to represent participants facing a probation violation hearing, graduated sanction, and any participant requesting representation.
- Waiver of any objection to the Judge receiving communication regarding Participant's treatment, progress, and/or rule violations without Participant, or his/her attorney being present;
- Waiver of the right to remain silent and to not incriminate himself/herself at status review hearings with regards to VTC rule violations;
- Waiver of the right to freely associate with other persons, including Participant's spouse or significant other, who, in the sole discretion of the Court, may interfere with or impede the recovery of Participant; and
- Waiver of the right to be searched without probable cause and/or a warrant in regard to VTC staff being able to conduct searches of Participant's person, residence, and/or property (including Participant's cell phone).

Terms and conditions of VTC:

1. Participant agrees to enter into and complete inpatient and/or outpatient substance abuse treatment and counseling, including any aftercare requirements, and to pay the treatment provider for costs not paid by government sources. Participant agrees to respond to and comply with the supervision of the assigned Veterans Justice Outreach Specialist. Participant agrees to report as scheduled for treatment and to participate in all activities of the treatment program, including without limitation:

- a. **OUTPATIENT TREATMENT** – The United States Department of Veterans Affairs (VA) facilitates treatment for all Butler County VTC Participants who are referred to outpatient treatment. The treatment facilities are staffed with appropriately licensed treatment counselors and case managers.

Participant shall be placed in treatment as soon as possible and can expect to be in VTC for a minimum of seventeen (17) months. However, this does NOT guarantee Participant will complete the entire Program in said time period. Time may be extended in the Program if Participant fails to comply with all of the requirements. Participant may earn additional time in the Program if he/she fails to maintain sobriety, obtains new charges, fails to comply with the rules of VTC, or fails to comply with Court orders.

The VTC Program consists of four (4) phases. Phases are the steps in which Participant's performance and progress through VTC are monitored. These phases are used as guidelines that can be modified to meet Participant's specific needs. Participant is required to frequently report to the VTC Judge and other treatment team members for compliance monitoring, assistance with treatment plans, and random alcohol and drug testing.

Phase I (Orientation Phase)

This phase introduces Participant to VTC and promotes Participant compliance with VTC requirements. During this phase Participant has the most contact with the Court by attending scheduled status review hearings on a weekly basis. While length of stay is based on progression of the individual, the minimum length of stay is thirty (30) days.

Participant requirements for Phase I compliance includes:

- Attending assessments, treatment sessions, appointments, and other activities as scheduled;
- Attending status review hearings on a weekly basis;
- Complying with all Orders given by the Court;
- Attending meetings with case managers and/or probation officers;
- Submitting to random alcohol and drug testing at a minimum of two (2) times per week;
- Cooperating with random home visits;
- Identifying goals (housing, treatment, education, employment, etc.);
- Abiding by the rules of VTC, the VTC *Participation Agreement*, community control, and the laws; and
- Committing no new criminal offenses.

Phase II

After Participant maintains compliance in Phase I, he/she shall begin to address the issues that brought him/her into VTC. During Phase II, Participant shall begin to develop skills to address identified criminogenic needs, improve family relationships, and develop employment, vocational, or educational goals. During this phase Participant shall attend regularly scheduled status review hearings on a bi-weekly basis. While length of stay is based on progression of the individual, the minimum length of stay is ninety (90) days.

Participant requirements for Phase II compliance include:

- Attending treatment sessions, appointments, and other activities as scheduled;
- Attending status review hearings on a bi-weekly basis;
- Comply with all Orders given by the Court;

- Attending meetings with case managers and/or probation officers;
- Continuing to submit negative alcohol and drug testing samples at a minimum of one (1) time per week;
- Taking prescription medication as directed;
- Cooperating with random home visits;
- Engaging in a sober support community and obtaining a peer support person;
- Connecting with a Veteran peer;
- Developing a plan to meet identified goals (housing, treatment, education, employment, etc.);
- Abiding by the rules of VTC, the *VTC Participation Agreement*, community control, and the laws; and
- Committing no new criminal offenses.

Phase III

Once Participant develops stability in Phase II, he/she shall begin to utilize skills learned in treatment and programming to implement goals previously identified. Participant shall continue to improve family relationships and begin to develop long-term employment and housing plans. This phase is important as Participant puts into practice the ability to demonstrate on-going stability. During this phase Participant shall attend regularly scheduled status review hearings once every three (3) weeks. While length of stay is based on progression of the individual, the minimum length of stay is one hundred-eighty (180) days.

Participant requirements for Phase III compliance include:

- Attending treatment sessions, appointments, and other activities as scheduled;
- Attending status review hearings once every three (3) weeks;
- Comply with all Orders given by the Court;
- Attending meetings with case managers and/or probation officers;
- Continuing to submit negative alcohol and drug testing samples at a minimum of one (1) time per week;
- Taking prescription medication as directed;
- Cooperating with random home visits;
- Maintaining involvement with a peer support person and sober support community;
- Maintaining contact with a Veteran peer;
- Implementing the plan to meet identified goals (housing, treatment, education, employment, etc.);
- Making payments towards costs, supervision fees, and/or restitution;
- Abiding by the rules of VTC, the *VTC Participation Agreement*, community control, and the laws; and
- Committing no new criminal offenses.

Phase IV

Phase IV is the final phase of the VTC Program, and it is designed to assist Participant in maintaining structure and stability. Participant shall continue to improve family relationships and implement long-term employment and housing plans. This phase allows Participant the ability to demonstrate on-going stability and prepare for life after the VTC Program. During this phase Participant shall attend regularly scheduled status review hearings once every four (4) weeks. While length of stay is based on progression of the individual, the minimum length of stay is two hundred-ten (210) days.

Participant requirements for Phase IV compliance include:

- Attending treatment sessions, appointments, and other activities as scheduled;
 - Attending status review hearings once every four (4) weeks;
 - Comply with all Orders given by the Court;
 - Attending meetings with case managers and/or probation officers;
 - Continuing to submit negative alcohol and drug testing samples at a minimum of one (1) time per week;
 - Taking prescription medication as directed;
 - Cooperating with random home visits;
 - Maintaining involvement with a peer support person and sober support community;
 - Maintaining contact with a Veteran peer;
 - Maintaining the plan to meet identified goals (housing, treatment, education, employment, etc.);
 - Making payments towards costs, supervision fees, and/or restitution;
 - Abiding by the rules of VTC, the *VTC Participation Agreement*, community control, and the laws;
 - Committing no new criminal offenses; and
 - Graduation from the VTC.
- b. RESIDENTIAL TREATMENT – Participant can be recommended for residential treatment at the time of assessment, sentencing, probation violation, judicial release, or any other time during VTC. Residential treatment shall be coordinated through the Cincinnati VA Medical Center, but if deemed necessary, Participant may be required to complete treatment through the River City Correctional Center, the Monday Program, or the Community Correctional Center (CCC). Participant shall be given jail time credit for time served while in River City, Monday and/or CCC.

2. Compliance Testing

- a. Participant shall submit to random, frequent, and observed urine screens if requested by a member of the VTC team. If Participant fails to submit a urine

specimen, tampers with the urine specimen, submits the sample of another, dilutes his/her specimen, or fails to produce a sufficient quantity of urine needed for analysis, then he/she shall be immediately sanctioned as if the urine screen produced a positive result. Should Participant deny any use when confronted regarding a positive urine screen, the specimen shall be sent to a certified outside laboratory for testing by GC/MS. Participant may be subject to a probation violation hearing or an Intervention in Lieu of Conviction revocation hearing if the GC/MS results are positive. Participant shall also submit to testing of his/her breath or blood as required by any member of the VTC team.

- b. Participant may be ordered to wear an Electronically Monitored House Arrest (EMHA) bracelet, which may include active GPS monitoring. Participant's costs shall be a fifty dollar (\$50.00) installation fee and up to ten dollars (\$10.00) per day. If ordered, Participant shall have a land line phone installed at his/her residence and at his/her cost. The Judge maintains discretion to waive fees if the participant is indigent.
 - c. Participant may be ordered to wear a Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelet. Participant's costs shall be a fifty dollar (\$50.00) installation fee and up to ten dollars (\$10.00) per day. If ordered, Participant shall have a land line phone installed at his/her residence and at his/her cost. The Judge maintains discretion to waive fees if the participant is indigent.
3. Participant shall connect with a Veteran Peer.
 4. Participant agrees to voluntarily report to the VTC team any violations of Program rules, including Participant's use of illegal drugs and/or alcohol.
 5. Participant shall pay a probation supervision fee of thirty-five dollars (\$35.00) per month for the duration of the term of community control. None of the thirty-five dollar (\$35.00) probation supervision fee shall be used as part of the treatment costs. The Judge maintains discretion to waive fees if the participant is indigent.
 6. Participant shall obtain and maintain full-time employment unless otherwise waived by the Court.
 7. Participant shall comply with any additional community control requirements the Court may impose.
 8. VTC incorporates ongoing judicial interaction with each Participant. Therefore, Participant shall attend all scheduled Court appearances, including regular status review hearings.
 9. Participant shall obtain and carry with him/her at all times a pocket calendar. Participant shall write the dates for all scheduled treatment sessions, probation/case manager appointments, drug screens, and work/school/GED class schedules in said pocket calendar. Participant shall make said pocket calendar available for inspection by any member of the VTC team at any time.

10. Participant shall abstain from the use or possession of any illegal drugs, alcohol, or synthetic cannabinoids (including, but not limited to, Spice or K2) while in the Program. Participant shall not be in any establishment primarily engaged in the sale of alcoholic beverages.
11. Participant shall inform the VTC team of any and all prescriptions obtained by Participant the next business day after receipt of said prescription. Participant shall inform the VTC team of any and all over-the-counter medications that he/she may be using. It is Participant's responsibility to confer with a pharmacist or medical professional to see that any medication, whether prescribed or over-the-counter, is not mood altering or addictive and that it does not contain alcohol. Use of any such medication, irrespective of whether it is prescribed or obtained over-the-counter, could result in the termination of Participant from VTC based on an individual determination.
12. Participant shall sign an authorization for release of information form to provide for communication of confidential information, participation/progress in treatment, and compliance with the provisions of relevant law, including the "Health Insurance Portability and Accountability Act of 1996." 42 U.S.C. 300gg-42, as amended, and sections 2151.421 and 2152.99 of the Revised Code.
13. Participant shall inform the VTC team of any changes in employment within twenty-four (24) hours of the occurrence of the change. A change in address must be approved by the assigned probation officer prior to the change.
14. Participant shall not associate with anyone known to be actively involved in the sale or use of illegal drugs. Participant shall not become romantically or sexually involved with another VTC Participant.
15. Participant shall adhere to a dress code for all VTC appointments:
 - No short shorts or mini skirts;
 - No spaghetti straps, tank tops, halter tops or strapless tops/dresses;
 - No tops or dresses with cleavage exposing any portion of the breast;
 - No skin tight or baggy pants, skirts, or shorts;
 - No see through and/or sexually suggestive clothing; and
 - No clothing that makes reference to drugs and/or alcohol.

For status review hearings, Participant shall be dressed in clean and neatly groomed clothing. Any noncompliance with the dress code may result in Participant being asked to leave and face a possible sanction.

16. Participant shall comply with the following Substance Abuse Monitoring protocols:

You will be required to submit to an instant urine screen to ensure you are negative of all substances. You will then be entered into the PassPoint ocular scan and passive breath test system for a baseline test result. You will also be assigned a color group. You will

be randomly selected by the PassPoint system to report for a scan/test at a minimum of two (2) times per week while in Phase 1 and a minimum of one (1) time per week while in the remaining phases. In addition to the minimum required number of tests, the participant may randomly be selected for more frequent scans/tests.

Your responsibilities include the following:

- Call the PassPoint ocular scan system voicemail daily between 6:00 a.m. and 8:00 a.m.;
 - If the participant has been selected, the participant is to report to the Butler County Department of Court Services located at 824 South Martin Luther King Jr. Blvd., Hamilton, Ohio at their designated time that same day to submit to the PassPoint ocular scan;
 - Submit an instant urine screen if upon PassPoint ocular scan and passive breath test the PassPoint system determines the participant is a high risk for substance use;
 - Provide information regarding prescription medications to the assigned probation officer.
17. At the time of a positive drug test (which may include a test taken at admission to the Program), the treatment team may consider an adjustment in treatment and/or the possibility of sanctions. Any change in the case plan and/or sanctions are enforced and reinforced by the Judge.
18. Participant shall be subject to sanctions which may be imposed by the Court in furtherance of treatment. Sanctions shall be imposed by the Court as a result of noncompliance or a rule violation by Participant. Participant is aware the Court shall be alerted to all such infractions. Participant noncompliance shall be governed by immediate and graduated sanctions that range in severity depending on the seriousness of Participant's noncompliance or rule violation.

Prior to a participant receiving a sanction the following will occur:

- The public defender will meet with each participant that the VTC Judge has determined may receive a sanction prior to their status review hearing.
- The public defender will explain to the participant the alleged noncompliance, the possible sanction(s) they may receive and their right to have a hearing and be represented by counsel at that hearing.
- The participant, with counsel, may knowingly and voluntarily waive their right to a hearing. If so, the VTC Judge will proceed with imposition of sanction during the status review hearing.
- If the participant does not waive their right to a hearing, a sanction hearing will be scheduled on the next scheduled VTC docket.
- At the sanction hearing the defendant will either be represented by the public defender or private counsel, if they choose.

The following are common types of infractions:

- Failure to attend status review hearings;
- Failure to attend treatment assessment and/or appointments;
- Failure to follow VTC rules;
- Failure to comply with Orders given by the Court;
- Failure to take prescription medication as directed;
- Failure to keep scheduled appointments with the probation officer, case managers, or any other treatment team member;
- Noncompliance with other requirements of the individualized plan;
- Failure to have his/her calendar at all VTC appointments;
- Noncompliance with random alcohol and/or drug screens, or testing positive for alcohol and/or drugs;
- Failure to comply with the VTC *Participation Agreement*;
- Failure to comply with curfew as established by the treatment team;
- Failure to maintain confidentiality outside of treatment groups;
- Failure to improve troublesome behavior;
- Failure to complete community service hours;
- Failure to meet employment and/or vocational goals as determined by the individualized plan; and
- Failure to keep other appointments as scheduled, such as those for public benefit aid, health care benefits, housing assistance, etc.

The following are common types of sanctions:

- Warnings and admonishments from the Judge;
- Increasing frequency of alcohol and/or drug testing;
- More frequent status review hearings;
- Refusing specific requests, such as permission to travel;
- Denying additional expanded privileges, or rescinding privileges previously granted;
- Increasing supervision contacts and monitoring;
- Issuing a no contact order with identified individuals;
- Individualized sanctions such as writing essays, reading books, or performing other activities to reflect upon acceptable behavior;
- Imposition of suspended fines;
- Ordering community service;
- Ordering corrective thinking classes;
- EMHA (Electronic Monitored House Arrest) or SCRAM (Secure Controlled Remote Alcohol Monitoring) bracelets;
- Escalating periods of jail time;
- Filing of probation violation or Intervention in Lieu revocation; and
- Unsuccessful termination from VTC.

19. Failure by Participant to attend a scheduled status review hearing, treatment, urine screen, or probation appointment may result in the issuance of a warrant for his/her arrest.
20. Participant agrees to maintain confidentiality in reference to information shared during status review hearings and/or treatment sessions regarding other VTC Participants.
21. Participant agrees to abide by the rules of community control and be supervised by the Butler County Adult Probation Department.
22. If incarcerated in the Butler County Jail, participant agrees to comply with, participate in, and complete (if applicable) the Jail Based IOP Program operated by Community Behavioral Health, Inc.
23. In order to successfully complete VTC, Participant shall demonstrate compliant behavior with the rules of VTC and the VTC *Participation Agreement*, successfully complete all treatment and programming, abstain from alcohol and/or drugs for at least ninety (90) days prior to graduation (as evidenced by negative urine screens), and subsequently pay his/her other Court-ordered financial obligations, including Court costs, supervision fees, and restitution (if applicable).
24. Participant understands that noncompliant behavior with the rules of the VTC *Participation Agreement* may result in a probation violation hearing or an Intervention in Lieu of Conviction revocation hearing. At said hearing, Participant may have the conditions of his/her community control or the conditions of his/her Intervention in Lieu of Conviction modified. Modifications may include, but are not limited to, commitment to a Community Based Correctional Facility (CBCF), revocation of Participant's Intervention in Lieu of Conviction, termination from VTC, and/or revocation of Participant's community control. The VTC Judge has final discretion in determining termination from the specialized docket. Before being unsuccessfully terminated from the program the following will occur:
 1. There will be a Notice of Alleged Violations filed with the Court by the Probation Officer;
 2. A probable cause hearing will be held before a Judicial Magistrate;
 3. If probable cause is found a formal Probation Violation hearing will be set before the VTC Judge. The participant will be represented by defense counsel.

PLEASE NOTE: Upon entering the Butler County Veterans Treatment Court, participant's information will be disclosed to the Supreme Court of Ohio for purposes of statistical reporting. If participant has a substance use disorder diagnosis for which they are receiving treatment, the Supreme Court of Ohio will provide participant's information to the Ohio Automated Rx Reporting System (OARRS) maintained through the State of Ohio Board of Pharmacy. All reporting will cease upon participant's exit from the program.

Participant acknowledges that he/she has read and understands this agreement, freely and voluntarily relinquishes the rights discussed herein, and agrees to abide by all the rules and conditions of VTC.

Signature of Participant

Date

Signature of Participant's Attorney

Date