

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
\*\*\*\*\* DIVISION**

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<p><b>UNITED STATES OF AMERICA,</b></p> <p style="text-align:center"><b>Plaintiff,</b></p> <p style="text-align:center"><b>vs.</b></p> <p><b>NAME,</b></p> <p style="text-align:center"><b>Defendant.</b></p>	<p><b>CR **_***_***_***</b></p> <p><b>Group Led Alternative Court Inspiring and Encouraging Recovery (GLACIER)</b></p> <p><b>PARTICIPANT CONTRACT</b></p>
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**INTRODUCTION**

You have been invited by the GLACIER Executive Review Team to participate in the GLACIER program of the District of Montana, a post-plea/pre-adjudication program in which you enter a plea pursuant to the terms of a written plea agreement that is held in abeyance while you complete the program.<sup>1</sup>

Contingent upon approval by the Court and your agreement to participate in the program and abide by the governing terms of the program as set forth herein, you may participate in the GLACIER program to enable intensive treatment, sanction alternatives, and incentives to effectively address the substance abuse issues that appear to be contributing causes for your criminal conduct. Successful

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<sup>1</sup> The Executive Review Team is presently comprised of the GLACIER Judicial Officer, two Assistant United States Attorneys, the Deputy Chief United States Probation Officer, an Assistant Federal Defender, and a CJA Appointed Attorney. *See* Interagency Agreement, ¶ 3.

completion of the GLACIER program leads to dismissal of your charges. If you are terminated from the program, however, a sentence will be imposed by the Court overseeing the GLACIER program based on the guilty plea or pleas previously entered pursuant to the terms of the written plea agreement.

### **GLACIER PROGRAM BASICS**

Participation is entirely voluntary but mandates your commitment to at least 12 months with the possibility that your required participation may be extended up to no more than 24 months. After your guilty plea or pleas and upon acceptance into the GLACIER program, you will be assigned an attorney from either the Federal Defender's office or the Criminal Justice Act (CJA) panel who works in the Division in which your case is venued and who is part of the GLACIER Division Review Team. An Assistant United States Attorney, also within the Division and a part of the Division Review Team, will be assigned to your case as well.<sup>2</sup>

The GLACIER Executive Review Team, through correspondence from the GLACIER Probation Officer, will seek approval for a transfer of your case from the Originating District Judge to the GLACIER Judicial Officer. The

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<sup>2</sup> The Division Review Teams are comprised of a United States District Court Judge or Magistrate Judge (the GLACIER Judicial Officer), a United States Probation Officer, an Assistant United States Attorney, and either an Assistant Federal Defender or a CJA Appointed Attorney.

correspondence will explain the GLACIER Executive Review Team's reasons for recommending participation in the GLACIER program, and a brief summary of the anticipated plea agreement. If rejected, the case will proceed in the usual course before the judge originally assigned to your case. If approved, the Court will execute an Order transferring your case for all purposes to the GLACIER Judicial Officer in the Division in which your case is venued.

Thereafter, the Probation Office will arrange for you to make an initial appearance before the GLACIER Judicial Officer. The initial hearing will be conducted in open court, in the presence of the GLACIER Division Review Team and your original defense counsel. At that time, to proceed further, you will be required to execute this GLACIER contract, and enter a guilty plea to one or more of the criminal charges against you in the case referenced above, if you have not already done so, pursuant to the terms of a written plea agreement. The Court will make a final determination whether to accept your GLACIER contract, your guilty plea(s) and the plea agreement before you can begin participation in the GLACIER program. Once each of these documents are executed before the GLACIER Judicial Officer, and approved by the Court, you are a participant in the GLACIER program.

As set forth herein, by entering this agreement and the GLACIER program, you agree to comply with the directives of your assigned Probation Officer

consistent with your Appearance Bond and the terms of this contract including, but not limited to, an agreement to participate in a drug and alcohol evaluation and in any and all treatment and testing recommended as a result of that evaluation. You agree you will not challenge the drug testing methods and means employed by the Probation Officer nor the results of those tests, which may include urinalysis and sweat patches, provided the results have been confirmed through confirmation testing or an admission. You also may be required to participate in programs designed to address underlying causes of criminal activity. Finally, you must also comply with all conditions of the terms of your post-plea/pre-adjudication written plea agreement.

If you successfully complete the GLACIER program, then, as specified in the written plea agreement, your guilty plea(s) will be withdrawn and the criminal charges in your case will be dismissed with prejudice. If you are terminated from the program, you will be sentenced by the Court overseeing the GLACIER program based on the guilty plea(s) previously entered pursuant to the written plea agreement. Although the GLACIER Judicial Officer will appreciate and reward genuine attempts to succeed in the GLACIER program, the sentencing Court may impose a sentence up to and including what would have been imposed if a standard plea were taken, as reflected in the written plea agreement and permitted by law, and based on all information available, including your conduct in the GLACIER

program.

## **GLACIER PROGRAM APPEARANCES**

The time spent in GLACIER court is divided into stages and varies based on each participant's circumstances and progress. From the outset, however, and at a minimum, you will be required to appear before the GLACIER Judicial Officer at least once a month to evaluate your progress. The other members of the Division Review Team will be present and treatment and/or other program providers may be present, as deemed appropriate by the Division Review Team.

Every effort will be made to ensure the time of the appearance does not conflict with your employment, treatment or other programming. Progress reports from the Probation Officer will be provided to the Court and all members of the Division Review Team at least 24 hours prior to your appearance. These reports will describe both successes and problems you have experienced. A copy of the report will be available to you via your assigned counsel. While circumstances, such as inclement weather, may warrant occasional remote appearances by participants, such appearances must be approved in advance by the GLACIER program's Probation Officer and limited to no more than one every three months, given the importance of the group dynamic to the participant's prospect of successfully completing the program.

## **GLACIER PROGRAM TREATMENT AND COUNSELING PROGRAMS**

An important part of the GLACIER program will be your participation in substance abuse treatment and counseling programs and/or other programs addressing underlying causes of criminal activity as determined necessary by the Probation Officer and the other members of the GLACIER Division Review Team.

Treatment and other program providers will be expected to share information regarding your participation and progress in any treatment and counseling programs with all the members of the GLACIER Division Review Team. Treatment and other program providers may also be present at GLACIER court appearances, during which they will be expected to discuss your participation and progress with the GLACIER Judicial Officer, in the presence of all the members of the GLACIER Division Review Team. To enable treatment and other program providers to freely share information regarding your participation and progress in substance abuse treatment and counseling programs and other programs, you will be required to execute a waiver of confidentiality in the form attached as Exhibit A.

## **GLACIER PROGRAM STATEMENT OF CULPABILITY**

Another important part of the GLACIER program is your willingness to provide the government with all information known about the offense or offenses originally charged. The GLACIER Division Review Team's Assistant United

States Attorney and your defense counsel will schedule the meeting after you have been approved for participation in GLACIER. The GLACIER Division Review Team's Assistant Federal Public Defender may also be present at the meeting. Every effort will be made to ensure the time of the requisite meeting does not conflict with your employment, treatment or other programming.

The government agrees that this statement is not for law enforcement purposes, but is instead intended to confirm your sincere intent to achieve sobriety and participate in GLACIER. The fact that you may not have any relevant or other information to provide that is not already known to the government will not preclude a determination by the GLACIER Division Review Team that you have complied with this requirement. Further, as noted below, the government agrees that it will not introduce any statement made by you against you in its case-in-chief in any future prosecution in this case, except in a prosecution for perjury or making a false statement, nor may it be used to file additional charges against you or require further cooperation by you.

#### **LIMITED USE OF STATEMENTS MADE DURING GLACIER PROGRAM APPEARANCES**

Your complete candor with the GLACIER Division Review Team and during your GLACIER court appearances is expected throughout your participation in the GLACIER program. To encourage your candor, the United States Attorney's Office has agreed as follows:

- (A) Except as otherwise provided in subparagraph (B) below, statements made and documents and other information provided by you during and/or in relation to all GLACIER program proceedings, shall not be used:
  - (i) against you in the government's case-in-chief in any future proceedings, including but not limited to determining the applicable guideline range if you are terminated from the GLACIER program;
  - (ii) to file additional criminal charges against you, except as a basis for a prosecution for perjury or making a false statement; or
  - (iii) to compel your cooperation against others previously known or unknown to the government.
  
- (B) Except as set forth in paragraph (A) above, the United States Attorney's Office may use:
  - (i) information derived directly or indirectly from GLACIER program statements for the purpose of obtaining and pursuing leads to other evidence, which evidence may be used for any purpose;
  - (ii) GLACIER program statements and all evidence obtained directly or indirectly from GLACIER program statements to refute or counter at any stage of any GLACIER proceeding any evidence, argument, statement or representation offered by you or on your behalf in connection with that proceeding; or
  - (iii) for impeachment purposes in any future proceedings, including sentencing if you are terminated from the GLACIER program.

The government's agreements above are limited to the United States Attorney's Office for the District of Montana and do not bind any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authority. Moreover, the government's agreement in subparagraph A is limited to

GLACIER program statements, including statements obtained during the requisite statement of culpability, and does not apply to any statements made or documents or other information provided by you prior to your participation in GLACIER or made after your termination from GLACIER, whether oral, written, or recorded.

### **GLACIER PROGRAM SUPERVISION VIOLATIONS AND SANCTIONS**

The GLACIER program's Probation Officer is charged with overseeing your supervision and monitoring your compliance with treatment. In preparation for GLACIER court appearances, the GLACIER Probation Officer will prepare a GLACIER Progress Report for the Division Review Team. The report will inform the Court and the parties of your conduct on supervision.

The GLACIER program anticipates that you may struggle during treatment and that noncompliant behavior, including relapse, will result in some level of sanctions. Sanctions, however, are intended to help you succeed in the program.

Sanctions may include, but are not limited to:

- Additional education or writing assignments (for example, write out an explanation for noncompliant behavior and describe a plan to correct it);
- Order to participate in community service;
- Order to participate in community treatment/counseling program(s);
- Judicial reprimand delivered during GLACIER court proceedings in front of other GLACIER program participants;

- Order to return to GLACIER program proceedings to observe for a half or full day;
- Curfew restriction for up to 30 days;
- Increase in frequency of progress hearings before the GLACIER Judicial Officer;
- Order to complete a term of home confinement (with conditions that may include alcohol monitors and standard location monitoring);
- Order to complete a term of up to 30 days at a residential reentry center;
- Order to complete a term at a residential drug treatment facility;
- Order to spend up to 7 days in jail; and
- Termination from GLACIER program. If you are terminated, the government may move the Court to detain you pending sentencing.

Factors that will influence the type of sanction employed include the seriousness of the violation, the number of violations, and the amount of time you have remained compliant, either before a first violation or between violations. In addition, an important factor will be whether you voluntarily disclose the violation. Dishonesty on your part will result in enhanced sanctions. Depending on these factors, any of the sanctions listed above, including termination from the GLACIER program, will be available to the GLACIER Judicial Officer. If appropriate, any or all of the available sanctions may be ordered more than once during your participation in the GLACIER program.

Sanctions imposed should be completed by your next GLACIER court appearance unless the GLACIER Judicial Officer allows you more time. You may also be required to report on performance of the sanction at your next GLACIER court appearance.

The GLACIER Probation Officer need not wait until your next scheduled court appearance to address problems with supervision. If you fail to abide by directives of your Probation Officer or if the Probation Officer believes you have committed other violations of your supervision, the GLACIER Probation Officer has the discretion to: (1) contact you directly to address the violation; (2) reach a proposed method of addressing the violation through discussions with members of the Division Review Team, including the GLACIER Judicial Officer; or (3) request the issuance of a warrant for your arrest by the GLACIER Judicial Officer.

When expedited action is appropriate and the parties agree on the resolution, the agreed upon sanction or adjustment in treatment can be imposed through a modification without an appearance before the GLACIER Judicial Officer. The Probation Officer's GLACIER Progress Report will inform the GLACIER Judicial Officer regarding whether you properly completed the sanction or modification imposed. Failure to complete the ordered modification may result in additional sanctions, including, but not limited to, termination from the program.

If you wish to contest the alleged violation(s), you may do so. A request for

a hearing on whether you committed the alleged conduct will not automatically result in termination from the GLACIER program. The only issue at the hearing, however, is whether you committed the alleged conduct; it is not an opportunity for you to explain the conduct. The GLACIER Assistant Federal Defender or CJA Appointed Attorney will assist you at the adversarial hearing and the GLACIER Judicial Officer will ultimately decide whether the allegation is true. As noted above, however, you cannot contest the methods and means of drug and alcohol testing or the results of those tests.

Finally, the GLACIER program is a voluntary program. Therefore, when faced with any sanction, you will always have the option of requesting termination from the GLACIER program and proceed to sentencing before the GLACIER Judicial Officer.

### **TERMINATION FROM THE GLACIER PROGRAM**

Termination from the GLACIER program prior to successful completion of its requirements may be voluntary or involuntary. Cause for involuntary termination from the GLACIER program includes, but is not limited to, the commission of new law violations, repeated drug use, a chronic pattern of refusal to cooperate with a treatment or other program provider, repeated refusals to cooperate with the GLACIER program's imposed sanctions, or failing to participate in the GLACIER program in a meaningful manner. While final

decisions regarding involuntary termination from GLACIER will be made by the GLACIER Judicial Officer, substance use within six months of graduation from the program will result in termination from the GLACIER program.

Whether you are involuntarily or voluntarily terminated from the program, your case will be set for sentencing before the Division's United States District Court Judge (Court) and you may be detained unless the Court finds that there is a condition or combination of conditions that reasonably assure your appearance for sentencing and adequately protect the community. The Court will not provide the benefit of dismissal with prejudice that your plea agreement would have required had you successfully completed the GLACIER program. Prior to sentencing, the Court may order the preparation of a Presentence Report. When imposing a sentence, the Court may consider all conduct that has taken place during your participation in the GLACIER program, including any failures, sanctions imposed, and successes achieved.

### **GRADUATION AND BENEFITS**

Your successful completion of the GLACIER program will be determined by the GLACIER Judicial Officer and the other members of the Division Review Team. Successful completion of the program is subject to the minimum requirement that you demonstrate at least six months of continuous sobriety before graduation. Upon successful completion, you will be permitted to withdraw your

previously entered guilty plea(s), and the criminal charges previously pending at the time of those plea(s) will be dismissed with prejudice.

**AGREEMENT TO PARTICIPATE**

**Participant:**

I, \_\_\_\_\_, have read, or someone has read to me in the language I best understand, this Contract and the plea agreement that would be a condition of my participation in the GLACIER program. I have discussed this Contract and the plea agreement with my attorney, and I understand its terms. I have also discussed with my attorney the GLACIER program and I understand that program. I voluntarily agree to participate in the GLACIER program subject to the terms set forth in this Contract and the plea agreement. I understand I can revoke my voluntary participation in the GLACIER program at any time and have my criminal case set for sentencing before the GLACIER Judicial Officer.

\_\_\_\_\_  
**Typed Name**  
Participant

\_\_\_\_\_  
Date

**GLACIER Assistant Federal Public Defender:**

I, \_\_\_\_\_, Assistant Federal Public Defender, representing the Participant in connection with the GLACIER program, have discussed the GLACIER program, the plea agreement that would be a condition of participation in the GLACIER program, and this Contract with the Participant and the Participant's attorney in the underlying criminal matter. I believe that the Participant understands the GLACIER program, the terms of the plea agreement that would be a condition of participation in the GLACIER program, and the terms of this Contract, and that the Participant's agreement to participate in the GLACIER program subject to the terms of this Contract and the plea agreement that would be a condition of participation in the GLACIER program is knowingly and voluntarily made.

\_\_\_\_\_  
**Insert Name**  
Assistant Federal Public Defender

\_\_\_\_\_  
Date

**GLACIER Assistant United States Attorneys:**

We, \_\_\_\_\_, Assistant United States Attorneys representing the United States Attorney’s Office for the District of Montana in the GLACIER program, agree to the terms of this Contract on behalf of the U.S. Attorney’s Office and accept the above-named Participant into the GLACIER program subject to the terms of this Contract and the plea agreement that would be a condition of the Participant’s participation in the GLACIER program.

\_\_\_\_\_  
Insert Name  
Assistant United States Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Insert Name  
Assistant United States Attorney

\_\_\_\_\_  
Date

**GLACIER Probation Officer:**

I, \_\_\_\_\_, the Probation Officer assigned to the GLACIER program, accept the above named Participant into the GLACIER program subject to the terms of this Contract and the plea agreement that would be a condition of the Participant’s enrollment in the GLACIER program.

\_\_\_\_\_  
Insert Name  
U.S. Probation and Pretrial Services Officer

\_\_\_\_\_  
Date

**GLACIER Judicial Officer:**

Subject to acceptance of the Participant’s guilty pleas and plea agreement, the Court hereby accepts the above-named Participant into the GLACIER Program subject to the terms of this Contract and the plea agreement that would be a condition of the Participant’s enrollment in the program.

\_\_\_\_\_  
Insert Name  
United States District Judge

\_\_\_\_\_  
Date