

EXHIBIT A

NO. [REDACTED]

THE STATE OF TEXAS § IN THE COUNTY CRIMINAL COURT
VS. § AT LAW NUMBER [REDACTED]
[REDACTED] § OF HARRIS COUNTY, TEXAS

AGREEMENT FOR HARRIS COUNTY DISTRICT ATTORNEY'S DIVERT PRETRIAL INTERVENTION

PARTIES

- 1. The State of Texas is represented by the undersigned assistant district attorney of Harris County, Texas.
- 2. [REDACTED] is represented by [REDACTED], Attorney at Law.

INTENTION OF THE PARTIES

- 3. The District Attorney of Harris County, Texas believes that justice and the future safety of the public are best accomplished by halting the prosecution of this case and providing Defendant with an opportunity to accept responsibility for his or her actions by satisfactorily making whole the victim, and the community at-large, after which time this charge will be dismissed and subject to future expunction.
- 4. Defendant desires to accept responsibility for his or her arrest-related conduct, make restitution to the victim and the Harris County community, demonstrate behavior change and self-learning related to drinking and driving, conduct himself or herself in accordance with the laws of the State of Texas, and seek expunction of the records in this case in the manner agreed to by the prosecutor.

TERMS

- 5. The following terms have the meaning set forth below.
 - 5.01 *Defendant* means the defendant in this case.
 - 5.02 *Attorney of Record* means the attorney representing the defendant according to the records of the court.
 - 5.03 *Prosecutor* means an Assistant District Attorney of Harris County, Texas.
 - 5.04 *Department* means the Harris County Community Supervision and Corrections Department.
 - 5.05 *Community Supervision Officer* means a supervision officer employed by the Harris County Community Supervision and Corrections Department.
- 6. Term of DIVERT Pretrial Intervention. The DIVERT Pretrial Intervention begins on December [REDACTED] and ends on [REDACTED] 2010, unless:
 - 6.01 Defendant's conduct causes the DIVERT Pretrial Intervention to terminate as stated by this Agreement; or
 - 6.02 The Parties agree otherwise in a writing which is signed by both parties.

REPRESENTATION OF DEFENDANT

- 7. My name is [REDACTED] This is my true name, and I have never used or been known by any other name.
- 8. a. I am a citizen of the United States of America _____ (Defendant initials if applicable); or
b. I am an Alien lawfully in this country under the Visa Waiver Program (VWP) / pursuant to an Immigrant / Nonimmigrant Visa, category _____ number _____ that expires on the ____ day of _____, 20____, a copy of which is attached to this Agreement. _____ (Defendant initials if applicable)
My status expires on the ____ day of _____, 20____. (Defendant Initials if applicable)
- 9. I am a Texas resident, or I am in compliance with the immigration laws of the United States of America, _____ (Defendant initials if applicable) and my principal residence is within the State of Texas, namely, (street, city, state, zip)

10. I am not currently under indictment or charged by complaint or information with a felony, or a misdemeanor for which the punishment is confinement in jail or the penitentiary, other than in this case.
11. I have never been arrested for an offense punishable by confinement in a county jail, or state penitentiary, other than in this case.
12. I have never been arrested, charged, or adjudicated delinquent in a juvenile proceeding nor have I participated in a juvenile probation or any juvenile diversion program.
13. I am entering this Agreement voluntarily, and only after my attorney has explained it to me, and answered my questions, if any.
14. **Payment of Fees and/or Costs. (Please initial by each condition indicating that you have read and understand each condition after discussing each with your attorney)**

_____ 14.01 I agree to pay the following sums during the term of my diversion as set forth below:

_____ 14.02 **Monthly Supervision Fee.** *A monthly supervision fee of \$60 payable to the Harris County Community Supervision and Corrections Department during each month I participate in the diversion program. This fee is due on your first reporting with your assigned community supervision officer.*

_____ 14.03 **District Attorney's Office Fee.** *A one-time payment of \$160 to be paid along with my first \$60 monthly supervision fee referenced in 14.01 above, payable at the rate of \$25 per month beginning no later than 60 days from the date this agreement is signed, to reimburse the Harris County District Attorney's Office for the cost of personnel dedicated solely to support implementation of this Agreement. This fee is due on your first reporting with your assigned community supervision officer.*

_____ 14.04 **Testing and Monitoring Equipment.** *The monthly cost of leasing an ignition interlock device, at-home breath testing device, or similar equipment, and electronic monitoring equipment from any vendor on the list of approved vendors beginning not later than 7 days after the date this agreement is signed, and every month thereafter until permitted to remove the device. The installation cost of an ignition interlock system is at least \$59 and the leasing cost of an ignition interlock system is \$59 per month.*

_____ 14.05 **Counseling, Treatment, Education.** *All programming costs and fees listed in my proposed plan, and any additional costs for similar services that may be indicated based upon my behavior or additional evaluations.*

_____ 14.06 **Urinalysis.** *The cost of analyzing a urine specimen. Current cost at least \$25 per month.*

_____ 14.07 **Identification Card.** *Pay the fee for a Department-issued identification card. Current cost at least \$12.50.*

_____ 14.08 **Literacy Assessment.** *Pay the cost of administering and scoring a literacy test.*

_____ 14.09 **Counsel.** *The cost for appointed counsel, if unrepresented.*

15. **Program Conditions. (Please initial by each condition indicating that you have read and understand each condition after discussing each with your attorney)**

_____ 15.01 I agree to the following conditions of HCDA's DIVERT Pretrial Intervention:

_____ 15.02 **Material Misrepresentation.** *I will be truthful in my responses to questions asked by any individual related to my participation in this program. And, if I have misrepresented a fact, or circumstance in this Agreement, or if during the period this Agreement is in effect I misrepresent a fact, or circumstance that could have affected, or could affect the outcome of this Agreement, the prosecutor will file a motion asking the court to continue my plea proceeding, find me guilty, and assess our agreed upon punishment.*

_____ 15.03 **Regular Reporting.** *I will report to the Department as directed by the Prosecutor or my Community Supervision Officer.*

_____ 15.04 **Cancellation or Rescheduling Appointments.** *I will contact my community corrections officer as soon as I know I will not be on time for my appointment, and I agree to appear for my appointment the following business day.*

_____ 15.05 **Attend Orientation.** *Attend the DIVERT Pretrial Intervention Orientation Meeting on the fourth Thursday of the Month at 6pm on the 20th floor of the Harris County Criminal Justice Center, located at 1201 Franklin, Houston, Texas, in the Ceremonial Courtroom, except during the months of November and December when the Orientation Meeting will take place during the third Thursday of the month due to the holiday season.*

- _____ 15.06 **Follow The Law.** I will follow the laws of this state, any other State, the United States, and any political subdivision of these jurisdictions during this diversion period, and will immediately inform my Community Supervision Officer in writing if I am arrested or charged with an offense including a traffic violation.
- _____ 15.07 **Appear in Court.** I will appear in this court as directed by the court or by the Department. Notice of my appearance date may be mailed to me at the above home address unless I have given written notice of a new home address to the Department, in which event written notice to the new address shall be sufficient. If I do not appear in this court as directed I understand a warrant will be issued for my arrest.
- _____ 15.08 **Changing Jobs or Changing Home Address.** I will notify my Community Supervision Officer in writing within 3 days of changing my place of employment, or residence.
- _____ 15.09 **No Alcohol, Drugs or Controlled Substances.** I will not use, possess, or consume any controlled substance, dangerous drug, marijuana, prescription drug not lawfully prescribed to me, or introduce any form of alcohol into my body.
- _____ 15.10 **No Alcohol Premises.** I will not enter, remain, or be present on the premises of any place where alcoholic beverages are primarily sold, except for the purposes of employment with the permission of my community supervision officer.
- _____ 15.11 **Friends and Acquaintances.** I will not associate with persons charged with a misdemeanor or felony; persons on probation or parole; or visit persons housed in any county jail, state jail, or penitentiary in this state or any other state, unless such association is the result of my participation as a condition of the DIVERT Pretrial Intervention.
- _____ 15.12 **Limited Travel.** I will remain within the State of Texas, and return to my home as provided by this agreement, unless I receive prior permission from my Community Supervision Officer. If I am not in full compliance with the terms and conditions of this agreement then my travel within the State of Texas may be further restricted by my Community Supervision Officer.
- _____ 15.13 **Travel Permit.** I will request a travel permit from my Community Supervision Officer not less than 48 hours before my planned travel outside of the State of Texas, and I understand that I may not travel outside of the State of Texas without written approval.
- _____ 15.14 **Fingerprint and Photo.** I will submit myself to be photographed and fingerprinted by a representative of the Harris County Community Supervision and Corrections Department as directed.
- _____ 15.15 **Urine Specimen.** Submit to random urine specimen analysis tests at the request of the Community Supervision Officer; prior to submitting a specimen, submit proof of any medication prescribed for me in the form of a prescription bottle, copy of a prescription, or medical chart entry; allow the Community Supervision Officer to search my person; and observe me submit my specimen.
- _____ 15.16 **Take a Breath or Blood Test.** Submit to a breath test, or blood test at the request of a Texas Peace Officer or as directed by Community Supervision Officer.
- _____ 15.17 **Driver's License and Insurance.** Once my Texas driver's license is no longer suspended, I will possess a valid Texas driver's license and *current* proof of financial responsibility within seven days of the end of my suspension. I will not operate a motor vehicle without possessing a valid Texas driver's license or an occupational license.
- _____ 15.18 **Perform Community Service.** Between the 6th and 9th month of my diversion term, or earlier if approved by my Supervising Officer, faithfully participate in and complete a total of 16 hours of community service at a location approved by the Department and designated by my Community Supervision Officer.
- _____ 15.19 **Literacy Assessment.** If directed by my Community Supervision Officer, I will submit to an evaluation of my educational skill level. If it is determined that I have not attained the average skill of students who have completed the sixth grade in public schools in this State, I shall participate in a program that teaches functionally illiterate persons to read. If I am non - English speaking, I will participate in *English as a Second Language (ESL) Program* until I reach a corresponding level. I will comply with all program rules, regulations and guidelines until successfully discharged or released by further order of the Court. On each reporting date, I will submit written verification of my enrollment, attendance and/or successful completion of the program.

- 15.20 **Alcohol and Drug Evaluation.** If directed by my Community Supervision Officer, I will submit to an alcohol/drug evaluation administered by the community supervision department. If indicated by test results, enroll and successfully complete Treatment Alternative to Incarceration Program (TAIP) any class as directed to do so by my supervision officer.
- 15.21 **Counseling.** If directed by my Community Supervision Officer, I will attend counseling for alcohol, drug, and co-occurring mental health conditions as necessity is indicated by program test results.
- 15.22 **Support My Dependents.** Pay child support, and alimony, if any, as ordered by a court of competent jurisdiction.
- 15.23 **Pay Fines, Fees, and Costs.** Pay any fines, fees, costs, or other amounts owed to The State of Texas, or any county, municipality, or political subdivision of this State.
- 15.24 **Curfew.** *If directed by my Community Supervision Officer, I may be required to remain in my residence each night from 10 p.m. until 5 a.m. Sunday through Saturday unless an addendum to this Agreement provides an exception.*
- 15.25 **DIVERT Education Course.** I will enroll and successfully complete the DIVERT Education Course as directed to do so by my Community Supervision Officer. *The cost of the course is at least \$60.*
- 15.26 **Ignition Interlock Device.** Within 7 days from today I will have installed on my personal automobile, an ignition interlock device *with a camera* that shall remain on said vehicle(s) for at least 6 months, or until I am otherwise instructed by my Community Supervision Officer. If my license is currently suspended and I do not have a current occupational license or I do not drive a personal automobile, I will have a portable in-home breath testing device, or Secure Continuous Remote Alcohol Monitoring (SCRAM) device installed not later than 7 days after the date this agreement is signed, and every month thereafter until permitted to remove the device. *The cost of a SCRAM device is at least \$435 per month, which may be paid in installments over the first year of the program. The leasing cost of an ignition interlock system is \$59 per month. The leasing cost of an in-home testing device may cost \$59 per month.*

16. Conduct Resulting in Termination of DIVERT Pretrial Intervention. (Please initial by each condition indicating that you have read and understand each condition after discussing each with your attorney)

- 16.01 I agree that if, during the term of my diversion, I engage in any of the conduct listed in this paragraph the district attorney will have sufficient cause to file a request asking the judge to find I violated this agreement and immediately proceed to adjudicate my guilt and assess punishment.
- 16.02 I committed a Class "B," Class "A" misdemeanor, or felony offense;
- 16.03 I operated a motor vehicle on which an ignition interlock device *was not installed unless specifically permitted to do so in an addendum to this agreement, or the conditions of diversion;*
- 16.04 The results of a urinalysis or alcohol breath test reflect that I ingested either alcohol, or a drug for which prior written authorization was not received;
- 16.05 I refused to allow a Community Supervision Officer either alone or accompanied by a peace officer of the State of Texas to visit me at my place of employment, training or education, or in my home;
- 16.06 I failed to appear in court after receiving notice from the court to be present on a specific date, time, and place;
- 16.07 I failed to participate in, or successfully complete a program or condition listed in this Agreement, or the conditions of diversion;
- 16.08 I willfully refuse to pay restitution, a program or service fee, or cost when I have the financial ability to do so.

_____ 16.09 I chose to work or move to another county, state, territory, or foreign county in violation of the terms of this Agreement.

17. **Incentives.** (Please initial by each condition indicating that you have read and understand each condition after discussing each with your attorney)

_____ 17.01 I agree that complying with this Agreement and the conditions of my diversion will entitle me to a reduction in my level of supervision and allow me to more fully participate in lawful activities with family, friends, co-workers, and others.

_____ 17.02 **Categories 1 and 2.** Those falling into this SALCE category will have an initial supervision period of 12 to 18 months.

17.021 If I appear on time for all my scheduled meetings, appointments and activities during the first 90 days of DIVERT Pretrial Intervention, the state will request the judge permit me to substitute a personal bond for the surety bond or cash bond in the court's file, and order the district clerk to return the cash bond funds, or enter an order releasing the bail bondsman from liability on his bond;

17.022 If, after 3 months, I have complied with the terms of my electronic monitoring and/or home curfew, the prosecutor will reduce or eliminate the curfew period;

17.023 If, after 6 months continuous use, my ignition interlock activity log reflects I have not attempted to drive with alcohol in my system, or during hours when I was required to remain at home, the prosecutor will agree to removal of the device from my vehicle;

17.024 If, after 6 months, the results of random testing for alcohol and drugs are consistently negative, the prosecutor will consider modifying this provision of the Agreement;

17.025 If, after 6 months, I have successfully complied with all the conditions of my Agreement, the prosecutor will agree to allow me to report to my Community Supervision Officer by mail (meaning that once mail-in reporting is instituted, I will be permitted to mail my monthly report to my Community Supervision Officer for the 1st and 2nd months I am on mail-in status and that I will report in person the 3rd month. If in compliance, I will be allowed to repeat this reporting pattern for the next 3 months and so on thereafter unless instructed otherwise by my Community Supervision Officer).

_____ 17.03 **Categories 3, 4, and 5.** Those falling into this SALCE category will have an initial supervision period of 12 to 24 months.

17.031 If I appear on time for all my scheduled meetings, appointments and activities during the first 90 days of DIVERT Pretrial Intervention, the state will request the judge permit me to substitute a personal bond for the surety bond or cash bond in the court's file, and order the district clerk to return the cash bond funds, or enter an order releasing the bail bondsman from liability on his bond;

17.032 If, after 6 months, the results of random testing for alcohol and drugs are consistently negative, the prosecutor will consider modifying this provision of the Agreement;

17.033 If, after 6 months, I have complied with the terms of my electronic monitoring and/or home curfew, the prosecutor will reduce or eliminate the curfew period;

17.034 If, after 9 or more months, I have successfully complied with all the conditions of my Agreement, the prosecutor will agree to allow me to report to my Community Supervision Officer by mail (meaning that once mail-in reporting is instituted, I will be permitted to mail my monthly report to my Community Supervision Officer for the 1st and 2nd months I am on mail-in status and that I will report in person the 3rd month. If in compliance, I will be allowed to repeat this reporting pattern for the next 3 months and so on thereafter unless instructed otherwise by my Community Supervision Officer).

17.035 If, after 12 months continuous use, my ignition interlock activity log reflects I have not attempted to drive with alcohol in my system, or during hours when I was required to remain at home, the prosecutor will agree to removal of the device from my vehicle;

REPRESENTATIONS OF THE HARRIS COUNTY DISTRICT ATTORNEY

18. In consideration of the foregoing representations of Defendant, the prosecutor agrees that if, at the conclusion of the period of diversion, she believes Defendant is in compliance with this agreement she will move to dismiss the above entitled and numbered cause.
 - 18.01 The motion will be filed with the clerk of the court not more than 90 days, or less than two weeks before the case is set on the Court's docket.
 - 18.02 The motion shall allege Defendant is in compliance with the terms of the Agreement.
19. The Prosecutor, further agrees not to oppose a valid petition for expunction provided that, during the two years following dismissal of this cause, (1) Defendant commits no offense other than a fine-only traffic violation, and (2) does not file a petition for relief under Chapter 55, Texas Code of Criminal Procedure.
20. If the Prosecutor believes Defendant violated this Agreement, she shall file a Notice of Intent to Seek Disposition.
 - 20.01 The notice will contain sufficient facts to inform Defendant and defense counsel of the reason the notice is filed.
 - 20.02 The Notice will be filed with the clerk of the court not more than 21 days after receipt of the Violation Report.
 - 20.03 A copy of the Violation Report will be mailed to the defendant's attorney of record.
 - 20.04 If the defendant fails to appear when notified to appear when instructed by the Court Coordinator of the court in which this case is pending, his bonding company, or his attorney of record, the Court will issue an arrest warrant.
21. In addition to seeking disposition, the Prosecutor will re-file any case previously dismissed prior to entry into the Program.

AMENDMENT OF THIS AGREEMENT

22. Amendments to this Agreement must be in writing, signed by Defendant, Defense Counsel, and a Prosecutor.

DISCLAIMER

23. The defendant acknowledges that he may not be eligible for an expunction upon the completion of this agreement and the dismissal of this case. The defendant agrees that this case will be controlled by the terms of the Code of Criminal Procedure, article 55.01, and, if he is eligible under the terms of that statute for expunction, he will not seek expunction of his criminal record for two years from the date that he successfully completes this diversion and the case is dismissed from the docket of this court.

SIGNATURES

I, [REDACTED] Defendant herein, swear or affirm that I have reviewed this Agreement with my attorney who has explained it to me in terms that I understand, and that my statements in paragraphs 7 through 13 are true and correct and that this Agreement represents the total agreement between me and the State of Texas.

Defendant

SUBSCRIBED AND SWORN TO before me this _____ day of _____.

Seal _____

Person Administering Oath

I have read and explained this Agreement to the defendant, and I am satisfied that the defendant understands the contents and is voluntarily and knowingly entering into it in good faith.

Attorney for Defendant (Signature)

Name (Print)

State Bar of Texas No. Harris County SPN

Address

City _____ State ____ Zip Code _____

Office Phone: _____

Email: _____

Agreed to, and approved by, _____ Assistant District Attorney for Harris County, Texas.

Assistant District Attorney
Harris County, Texas

NO. [REDACTED]

THE STATE OF TEXAS

§

IN THE COUNTY CRIMINAL COURT

VS.

§

AT LAW NUMBER [REDACTED]

[REDACTED]

§

OF HARRIS COUNTY, TEXAS

PLEA OF GUILTY: HARRIS COUNTY DISTRICT ATTORNEY'S DIVERT PRETRIAL INTERVENTION

Comes now [REDACTED] defendant, in this case, and prior to entering a plea represents to the Court the following: I am a citizen, or legal resident of the United States; I am mentally competent and understand that I am charged with the misdemeanor offense of Class B Driving While Intoxicated which is punishable by confinement in the Harris County Jail not to exceed 180 days, a fine not to exceed \$2,000.00, or both; that I have: the right: to a jury trial; to compel witnesses to testify on my behalf; to confront and cross-examine my accusers; to be arraigned and have the charge read to me in open court; to remain silent; that anything I say can be used against me; to have ten days after the appointment of any attorney before entering a plea; to a speedy trial; to withdraw my plea of guilty and the right to appeal in the event the judge does not follow the agreement between myself and the assistant district attorney.

After consulting with my attorney I intentionally and knowingly accept the prosecutor's offer of 30 days in the Harris County Jail and a fine of \$750.00 which may be assessed by the Judge if I fail to successfully complete the HCDA's DIVERT Pretrial Intervention. I understand the Judge has the discretion to suspend the imposition of the sentence and place me on Community Supervision as provided by law. Further, I understand that if the judge imposes the agreed punishment, and if I am not a citizen of the United States my plea of guilty may result in my deportation, exclusion from admission to this country, or denial of naturalization under federal law.

I am satisfied that the attorney representing me today in court has thoroughly reviewed the facts of my case, completed the pretrial discovery, and researched the law applicable to my case, and I have fully discussed the case with my attorney. With a full understanding of my rights, I hereby knowingly, intelligently, and voluntarily waive: the arraignment and the reading of the information; the right of trial by jury; the right to remain silent; the right to confront and cross-examine my accusers; the ten-day waiting period for trial after the appointment of counsel; any further time to prepare for trial to which I or my attorney may be entitled; my right to a speedy trial; and the right to withdraw this plea of guilty; and to appeal. In open court I freely and voluntarily enter my plea of guilty to the offense charged in the information and agree to the above punishment if found guilty; and request the Court accept my plea, approve the terms of the agreement between me and the District Attorney of Harris County, Texas; and reset my case to December 17, 2010.

DATE: _____ DEFENDANT: _____

I have consulted with the defendant whom I believe to be competent and to whom I have fully explained all of the matters contained in this instrument.

Name of Counsel

Counsel for Defendant (Please sign)

The undersigned assistant district attorney, on behalf of the State of Texas, consents to and approves the defendant's waiver of trial by jury.

Assistant District Attorney

After consulting with the defendant and informing the defendant of the nature of the charges, all rights and the consequences of the plea of guilty, the defendant waived arraignment and with the advice of counsel, decided not to contest this case. The Court finds that the defendant is competent and that the plea was entered only after the defendant knowingly, intelligently and voluntarily waived the right to a trial by jury and all other rights set out above. I accept the plea, approve the agreement and withhold further consideration of this matter pending further motion of either party hereto.

DATE: _____

JUDGE: _____

IGNITION INTERLOCK INSTALLATION FORM

HARRIS COUNTY DISTRICT ATTORNEY'S OFFICE

CASE #:		
SPN #:		
DOB:		
DL #:		

DEFENDANT: _____

This device is being required as a condition of: (check one)

- BOND/BAIL
 PROBATION
 OCCUPATIONAL LICENSE
 ALR
 PAROLE
 DIVERT

It is required this December _____, that the above named defendant shall have an Ignition Interlock installed on the vehicle listed below and shall abide by the Ignition Interlock Program Rules.

Additional Requirement: **X PHOTO ID IGNITION INTERLOCK**

PROGRAM LENGTH: 6 – 12 MONTHS **Term of Probation/Parole:** N/A

The Defendant will have the Ignition Interlock installed in their vehicle by December _____. _____ Initial

The Defendant will only operate a vehicle equipped with an Interlock Device. _____ Initial

The Defendant will not attempt to adjust, tamper with, or circumvent the Ignition Interlock System. _____ Initial

The Defendant will have unit calibration performed at intervals specified by the service provider.
Any Non-Compliance will be reported directly to the Court and/or Monitoring Authority. _____ Initial

The Defendant will pay the monthly lease of \$59.00 and any other fees for the device as long as it is in their possession. _____ Initial

Authorizing Authority's Signature: _____ **Printed Name:** _____

Court #/ Division: _____ **Telephone Number:** _____

Attorney Name: _____ **Telephone Number:** _____

Send Reports To: **DIVERT VIOLATIONS** Department: **HCCSCD** Email: divert_violations@csc.hctx.net

THE SECTION BELOW SHOULD BE FILLED OUT ON THE DATE OF INSTALLATION:

Defendant Signature	Print Defendant Name	Yr/Make/Model/Color of Vehicle	VIN #
Defendant Phone #	Street Address/ Apt #	City and State	Zip Code
Work Phone #	Signature of Installer	Print Installer Name	Date installed
Type Device Installed: Photo ID Camera			

Please call one of the accepted Ignition Interlock vendors below to set up an installation appointment.
You must bring this form, identification, and proof of address to your installation appointment.

SMART START[®] 4850 Plaza Drive, Irving, Texas 75063 1-800-880-3394 or 972-621-0252 Fax 972-929-6638	EZ Interlock – John Burns 609 Houston Ave., Houston, TX 77007 Phone: 713-223-4424 Fax: 713-223-4996
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