IN THE IOWA DISTRICT COURT IN AND FOR BUENA VISTA COUNTY

|  |  |  |
| --- | --- | --- |
| STATE OF IOWA, |  | No.  |
| Plaintiff, |  |
|  | **WAIVER OF RIGHTS** |
| v. | **AND** |
|  | **PLEA OF GUILTY** |
| , |  |
| Defendant. |  |

I, the undersigned defendant, have carefully read and fully understand the following:

1. **Pleading Offense**. I am entering a plea of guilty to the following offense(s):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Simple Misdemeanor

[ ]  Serious Misdemeanor

[ ]  Aggravated Misdemeanor

[ ]  Class D Felony

1. **Preliminary matters.**
	1. [ ]  I read, write and understand the English language. I have read and understand this document and the plea agreement.

[ ]  I do NOT read, write or understand the English language. I have reviewed this document and the plea agreement with the assistance of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Following these documents being interpreted to me from English to \_\_\_\_\_\_\_\_\_\_\_, I understand both documents.

* 1. I am «Def\_Age» years of age and I have completed \_\_\_\_\_\_\_\_ years of school. My highest level of education is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
	2. I am of sound mind now. I am not affected by a mental or physical illness, nor am I under the influence of alcohol or drug that renders me unable to knowingly, voluntarily, or intelligently enter this plea. To the extent that I am taking medication as prescribed, those medications do not affect my ability to understand the contents and consequences of this written plea.
	3. I have received, read, and reviewed the trial information and minutes of testimony with my attorney. I understand the nature of the charges against me and what the State would be required to prove.
	4. I have discussed possible legal defense with my attorney, including any potential suppression issues. I know of no legal defense to the charge(s), suppression issues(s), or any other reason that would change my decision to enter this written guilty plea.
	5. I have had enough time and opportunity to meet and speak with my attorney. I am satisfied with their representation and the services they have provided.
1. **Acknowledgment of Waiver of Trial Rights.** I understand that, by pleading guilty, there will not be a trial of any kind. By pleading guilty, I am giving up the following rights:
	1. A speedy and public trial by a jury of twelve (12) people.
	2. A unanimous verdict before I can be found guilty by the jury.
	3. The right to have my case tried to a judge instead of a jury, if I timely waive my right to a jury trial.
	4. An attorney to represent me at all proceedings and if the court determine that I am unable to afford an attorney, one would be appointed at state expense to represent me at all stages of this criminal matter. I understand that my attorney is willing to represent me at trial if I desire a trial.
	5. The privilege against self-incrimination. I do not have to testify at my trial unless I want to, and the prosecution cannot comment on my refusal to testify, nor can the jury consider my silence again me.
	6. The presumption of innocence. At trial, I would be presumed innocent until such a time, if eve, the State established my guilty beyond a reasonable doubt by producing evidence in compliance with the Iowa Law(s) and Rules of Evidence.
	7. Confront and cross-examine witnesses called by the State.
	8. Call witness and present evidence on my own behalf and subpoena witnesses to secure their attendance.
2. **Incarceration and Fine**. I understand that the maximum and minimum punishments for this offense are as follows:

|  |  |  |
| --- | --- | --- |
|  | **Incarceration** | **Fines** |
| **Maximum** | **Minimum** | **Maximum** | **Minimum** |
| **Class D Felony** | Indeterminate term not to exceed Five (5) Years | Indeterminate term not to exceed Five (5) Years | $10,245.00 | $1,025.00 |
| **Aggravated Misdemeanor** | Indeterminate term not to exceed Two (2) Years OR up to one (1) year in jail | 0 Days | $8,540.00 | $855.00 |
| **Serious****Misdemeanor** | One (1) Year in jail | 0 Days | $2,560.00 | $430.00 |
| The fine can not be suspended.  |
| **Simple****Misdemeanor** | Thirty (30) Days in jail | 0 Days | $855.00 | $105.00 |
| **Other, if applicable:** (see App. A for drafting purposes, ONLY) |  |  |  |  |

The above sentence: [ ]  may [ ]  may not be suspended, or judgment may be deferred.

The above fine: [ ]  may [ ]  may not be suspended.

1. **Additional Surcharges**. I understand that in addition to a term of incarceration and fine, the Court will impose the following additional surcharges:
	1. Pursuant to Iowa Code § 911.1, I will be assessed a 15% crime services surcharge on the total fine imposed, unless the fine or penalty has been suspended.
	2. Pursuant to Iowa Code §911.2A, if I am convicted or receive a deferred judgment for a crime involving Iowa Code §§ 725.1(2), 710A.2, 725.2 or 725.3, I will be assessed a $1,000.00 Human Trafficking Victim Surcharge
	3. Pursuant to Iowa Code §911.2B, if I am convicted or receive a deferred judgment for a crime involving Iowa Code §§ 708.2A, 708.11, 710.2, or chapter 709,I will be assessed a $90.00 Domestic or Sexual Abuse Surcharge.
	4. Pursuant to Iowa Code §911.5, if I am convicted or receive a deferred judgment for a crime involving Iowa Code §§ 714.2(1), (2), or (3), 716.3, 716.4, 716.5, I will be assessed a $500.00 Agricultural Theft Surcharge.
2. **Firearms/Ammunition/Concealed Weapons Permit.** I understand that if I am convicted of a felony or a misdemeanor crime of domestic violation as defined in Iowa Code Section 724.26(2)(c), I am not permitted to possess, ship, transport or receive a firearm, offensive weapon or ammunition in Iowa, unless/until I have been pardoned or had my their civil right concerning firearms restored. I further understand that if I receive a deferred judgment, I may not posses, ship, transport or receive a firearm until I am successfully discharged from probation.
3. **Category A Restitution.** I understand that, pursuant to Iowa Code §§910.1, 910.3, I shall pay all fines, penalties, and surcharges to the Clerk of Court as set forth above. These items will be assessed against me immediately, subject to any restitution plan of payment. Payment of Pecuniary Damages takes priority over other Category A restitution. Category A restitution takes priority over other Category B restitution. I will be responsible for payment of all Category A fines, penalties, and surcharges as defined in §910.2(1)(a)(1) without regard to my reasonable ability to make payments in amounts to be determined.
4. **Category B Restitution**. I understand that, pursuant to Iowa Code §910.2, I will pay (subject to the reasonable-ability-to-pay), in the priority order below, any of the following:
	* 1. Restitution owed to the Crime Victim Compensation Program.
		2. Court costs as certified by the Clerk of Court for this matter or other matters that are dismissed as a result of a plea agreement.
		3. Court-appointed attorney’s fees, not to exceed the amount authorized by the State Public Defender’s office, unless the Court has allowed my attorney to exceed such fees.
		4. Contribution to a local anti-crime organization.
		5. Restitution to the Medical Assistance Program, pursuant to Iowa Code Chapter 249A.
5. **Reasonable Ability-to Pay.** I understand that Category B restitution is subject to a Reasonable-Ability-to-Pay analysis. Pursuant to §910.2A, I am presumed to have a reasonable ability to pay the full amount for Category B and must affirmatively prove by a preponderance of the evidence that I am unable to reasonably make Category B payments. I further understand that I must request a reasonable ability to pay hearing within thirty days of the judgment being entered and submit a financial affidavit, otherwise I will be required to pay the full amount of Category B Restitution and waive any future claim regarding ability to pay, except as otherwise provided by law.
6. **Payment Due upon Judgment.** I understand that all fines and costs, unless otherwise ordered, shall be paid on the day imposed. Payment of any fines, surcharges, court costs, restitution, or court-appointed attorney’s fees may be paid on-line by going to www.iowacourts.gov, at the Clerk of Court’s office or at the County Attorney’s office. If a payment is more than 30 days past due, the Clerk of Court will turn the matter over to begin collection efforts. In addition, Defendant’s motor vehicle registration will be held, or suspension of Defendant’s driver’s license, or both, may be initiated. The State of Iowa may intercept any state income tax refund due to Defendant, any vendor amounts due Defendant by the State of Iowa, or monetary amounts held by the Clerk of Court and payable to Defendant, even if installment payments are current. Unless Defendant fully complies with all the requirements ordered in this judgment, including payment of the restitution, fine, surcharges, and court costs within the required time, Defendant may be ordered to appear in person before this court and show cause why Defendant should not be held in contempt of court. If Defendant is held in contempt of court, a jail term may be imposed.
7. **Jail Fees.** I understand that the «Cs\_JurisdictionDescription» County Jail (or other approved facility) may seek a civil judgment against me for fees incurred as a result of time served in connection to this matter. I understand that this is a separate civil action and is not part of this case.
8. **DNA Profiling.** I understand that if I am convicted of an offense outlined in Iowa Code §81.2 and §901.5(8A)(a), I will be ordered to submit a physical specimen for DNA profiling.
9. **Collateral Consequences.** I understand that the following are collateral consequences of pleading guilty to this crime:
	1. I understand that pleading guilty may result in deportation or other adverse immigration consequences if I am not a citizen of the United States. \*\*See Immigration Consequence Advisory below.
	2. I understand that a conviction of the charged offense(s) may be the basis to increase the length of sentence or the level of the offense for a later crime I am alleged to commit.
	3. A conviction may result in the loss and/or denial of federal or state benefits.
	4. I understand that if I am on parole or probation, this plea of guilty may be grounds for revocation and/or other consequences related to probation or parole.
	5. A conviction of any offense may also affect professional licensure.
10. **Sex-Related Offense.** I understand that I am pleading guilty to a sex-related offense. I understand that there are additional penalties associated with such an offense. I understand that I will be subject to the following additional penalties:
	1. **Sex offender Registry.** Within five (5) days from the date of judgment, I shall register with the county sheriff pursuant to Iowa Code §692A.104 OR within five (5) days of release from custody or placement on probation, parole or work release, and shall complete all necessary sex offender registry forms as directed and shall pay the $25 sex offender registration fee pursuant to Iowa Code §692A.110(1). Pursuant to Iowa Code §692A.104(2)-(7), I understand that it is my duty to notify the county sheriff of any changes of address in Iowa or any other state within five (5) days of said change.
	2. **Civil Penalty.** Pursuant to Iowa Code § 692A.110 (2), 602.8105(2)(h), I will be assessed a civil penalty in the amount of $260.
	3. **Special Sentence.** Pursuant to Iowa Code §903B.2, in addition to the sentence imposed in this matter, I shall be under supervision as if on parole for a term of TEN (10) Years.
11. **Plea is of own free will.** I affirm that my plea is knowing and voluntary. No one made any promises or inducements to make me plead guilty, other than the plea agreement described below. The decision to plead guilty is my decision and not anyone else’s decision.
12. **Entirety of Plea Agreement.** The entire agreement between the State and this defendant is outlined in the document titled, “Plea Agreement”.
13. **Terms of Probation.** I understand that, if a term of probation is ordered, I have seven (7) days from the date the judgment is entered to contact the Third Judicial District Department of Correctional Services (DOC) and sign a probation agreement. The address and phone number for DOC is as follows:

**Third Judicial District of Correctional Services**

720 Western Ave.

Sheldon, Iowa 51201

Ph: (712) 324-5387 Fx: (712) 324-5366

1. **Failure to Contact DOC/ Sign Agreement.** I understand that if I fail to contact DOC within seven (7) days of the entry of the judgment order, fail to sign a probation agreement as ordered above, or fail to abide by the terms of the probation agreement or any term of the judgment, may result in being found to be in contempt of court and/or may be a basis to revoke my term of probation and impose sentence.
2. **State of Mind.** I was of sound mind at the time the crime was committed.
3. **Plea of Guilty.** I now state to the Court that I am, in fact, GUILTY of the charge of:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Simple Misdemeanor

[ ]  Serious Misdemeanor

[ ]  Aggravated Misdemeanor

[ ]  Class D Felony

I confirm that no threats or promises have been made to induce me to enter my plea of guilty other than the plea agreement, if any.

1. **Factual Basis.** The present charge against me was committed by me on the \_\_\_\_ day of \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_, in this county by my doing the following:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[ ]  I have been previously convicted, as stated in the Minutes of Testimony.

1. **Minutes used for Factual Basis.** I agree that the Court may determine whether there is a factual basis for this plea of guilty by examining the Minutes of Testimony attached to the Trial Information, by reviewing the investigative reports of law enforcement agents who have investigated the offense, or by asking me or my counsel to recite and summarize the material facts that would be offered at trial.
2. **Request for Court to accept plea.** I hereby request the Court to accept this plea of guilty.
3. **NOTICE: Immigration Consequences Advisory.** If you are not a citizen of the United States, whether or not you have lawful immigration status, your guilty plea or admission of guilty may result in detention, removal (deportation), exclusion from the United States, or denial of naturalization or other immigration benefits pursuant to federal law, depending on the specific facts and circumstances of your cases. In some cases, detention and deportation will be required. Your lawyer must investigate and advise you about these immigration consequences before you plead guilty or admit guilt to any offense. Upon request, the Court will allow you (and your lawyer if you have one) additional time to consider the appropriateness of the guilty plea in light of this advisory. You should tell your lawyers or the Court if you need more time. You are not required to disclose your immigration or citizenship status to the Court.

**\_\_\_\_\_ Acknowledgement of Immigration Consequences Advisory**. I have either sought the advice of the potential negative immigration consequences of my guilty plea or have affirmatively chosen to not seek such advice. I understand I cannot challenge this plea in the future based on my decision to knowingly and voluntarily not seek legal advice as to the potential negative immigration consequences of my guilty plea.

1. I understand that failure to abide by the terms of the judgment may result in contempt of court.
2. **NOTICE: In-Court Plea and Sentencing.** I understand that I have the right to a hearing in open court for my guilty plea and sentencing where a court reporter makes a transcript of what is said.

**\_\_\_\_\_ Waiver OF RIGHT TO in-CoURT PLeA-TAKING.** I hereby waive my right to a hearing in open court for entry of my guilty plea.

**\_\_\_\_\_ Waiver OF RIGHT TO in-CoURT SENTENCING.** I hereby waive my right to a hearing in open court for entry of sentencing.

1. **NOTICE: Right of Allocution.** I understand that I have a right of allocution which allows me to address the Court personally and make a statement in mitigation of my punishment in this case, as provided by Iowa Rule of Criminal Procedure 2.23(3)(d). I further understand that if I am represented by counsel in this case, my attorney may address the Court on my behalf and make a statement in mitigation of my punishment in this case.

**\_\_\_\_\_ Waiver of Right of Allocution**. I hereby waive my right of allocution.

1. **NOTICE: Motion in Arrest of Judgment & Delay of Sentencing.**
	1. I understand I have the right to have a sentencing date not less than fifteen (15) days after the filing of this plea of guilty.
	2. I understand I have the right to file a motion in arrest of judgment at least five (5) days prior to sentencing, and no later than forty-five (45) days after a plea of guilty, whichever is earlier, to challenge this plea of guilty.

**\_\_\_\_\_ Waiver OF RIGHT TO Sentencing at a later date.** I hereby request the Court sentence me immediately or at the earliest available date, and I waive any time to which I may be entitled for sentencing at a later date.

**\_\_\_\_\_ Waiver of right to file a Motion In Arrest of Judgment.** I hereby request the Court sentence me immediately or at the earliest available date. I hereby waive my right to file a motion in arrest of judgment.

1. **Presentence Investigation Report.** I understand that if I enter a plea of guilty to a felony, a presentence investigation report (PSI) must be ordered by the Court, pursuant to Iowa Code section 901.2, and that I cannot waive the preparation of a PSI. I understand that I have a right to have the court use the PSI when determining my sentence in this case. The report would contain information and background about myself, including information about my family, employment, education, substance use or mental health treatment, military services, prior criminal history and other social history. The report would also include information from the Iowa Department of Correction regarding my rehabilitative needs and services available to address those needs.

[ ]  I ask the Court to order a PSI and sentence me at a later date.

[ ]  I waive the use of a PSI for purposes of sentencing and ask the court to sentence me immediately.

[ ]  Not applicable.

1. **Work Release/Alternative Confinement**. If I am being sentenced to a determinate term of incarceration in a county jail, I hereby request pursuant to Iowa Code section 356.26 that the Court permit me to serve my sentence on work release or by other alternative confinement arrangements as may be available in order to work, including attending to family needs, seek employment, attend an education institution, or receive medical treatment. I understand that any plea agreement with the State is conditioned upon any order being subject to the approval and terms of the Buena Vista County Jail. I need an accommodation for the following reasons:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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2. **NOTICE: Right of Appeal.** I understand that I have no right of appeal of a guilty plea. However, if I allege good cause and/or a defect in this plea or improper denial of a motion in arrest of judgment, I have thirty (30) days to file a written Application for Permission to Appeal and an Application to Authorize a Transcript to be Prepared at State Expense. The appellate courts will determine whether my application is granted or denied or under what conditions it will proceed, if any.

**DEFENDANT CERTIFICATION:** I ask the court to accept my plea of guilty. I certify that my plea is knowingly and voluntary and that there is a factual basis for my plea. I waive my ability to file a Motion in Arrest of Judgment, as well as my right of Allocution. I affixed my initials in the blank space at the beginning of each paragraph to acknowledge that I read, understood, and agreed to the content of each paragraph.

Defendant’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant’s Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTORNEY CERTIFICATION**: As an Officer of the Court, I hereby certify that I have consulted with my client in regard to this plea and that I have provide my client with sufficient opportunity to ask any questions he/she may have. I have advised my client of all their legal rights and have adequately researched the issues presented. To the best of my knowledge, and in my professional opinion, this plea is made knowingly and voluntarily and the plea is supported by a factual basis.

Attorney Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_

**PERSONAL CONTACT INFORMATION**

I understand that if I am unable to pay all amounts listed above in full on the date judgment is entered, I need to provide the Clerk of Court with a current address. I state that my current contact information is

Address:

Phone:

Email:

Employer:

I further understand that if the above information changes between now and the date all amounts owed are paid in full, it is my responsibility to update my address with the Clerk of Court. I understand that failure to do so may result in further Court action.

Signed on this day of , \_\_\_\_\_\_ .

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant

**Appendix A**

**Non-Traditional Sentencing Offenses**

**(For Drafting Purposes Only)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Offense** | **Incarceration** | **Fines** | **DJ, DS, SS?** |
| **Max.** | **Min.** | **Max.** | **Min.** |
| Driving While Revoked, a Serious Misdemeanor,in violation of ICS 321J.21 | 1 year  | 0 | $1,000 | $1,000 |  |
| The fine shall not be suspended |  |
| Driving While Suspended,a Simple Misdemeanor,in violation of ICS | 30 days | 0 | Yes | $250.00 |  |
| Assault on a Peace Officer,a Serious Misdemeanor,in violation of ICS | 1 year |  | No |  |  |
| Supplying Alcohol To A Minor,a Serious Misdemeanor,in violation of ICS | 1 year |  |  | $500.00 |  |
| The fine shall not be suspended. |  |
| Possession of Marijuana,First Offense,a Serious Misdemeanor,in violation of ICS 124.401(5) | 6 months | 2 days |  | $0 |  |
| Possession of Marijuana,Second Offense,a Serious Misdemeanor,in violation of ICS 124.401(5) | 1 year | 2 days |  |  |  |
| Possession of Marijuana,Third Offense,a Serious Misdemeanor,in violation of ICS 124.401(5) | Indeterminate term of incarceration not to exceed two (2) years or 1 year in jail | 2 days |  |  |  |
| Possession of Controlled Substance,First Offense,a Serious Misdemeanor,in violation of ICS 124.401(5) | 1 year | 2 days |  |  |  |
| Possession of Controlled Substance,Second Offense,An Aggravated Misdemeanor,in violation of ICS 124.401(5) | Indeterminate term of incarceration not to exceed two (2) years or 1 year in jail | 2 days |  |  |  |
| Possession of Controlled Substance,Third Offense,A Class D Felony,in violation of ICS 124.401(5) | Indeterminate term of incarceration not to exceed five (5) years |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |