

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

STATE OF IOWA,)	
)	
PLAINTIFF,)	CASE NO. _____
)	
VS.)	
)	WRITTEN GUILTY PLEA AND
_____)	WAIVER OF RIGHTS
)	
DEFENDANT.)	

COMES NOW, the Defendant, and states to the Court:

1. I know I have the right to a lawyer and that if I cannot afford to pay a lawyer one will be appointed for me at public expense to represent me at all stages of this criminal case. I am represented by _____, who is authorized by me to appear on my behalf for guilty plea only guilty plea and sentencing. My attorney has told me that he/she/they are willing to defend me at trial if I desire a trial. I am satisfied with the services of my attorney. **Initials** _____
2. I have been advised of my CONSTITUTIONAL and STATUTORY RIGHTS. I have received and read a copy of the Trial Information and Minutes of Testimony. I believe that my attorney is fully informed as to all such matters. My attorney has informed me, counseled me, and advised me at length as to the nature of each accusation against me as set forth in the Trial Information, the elements that the State would be required to prove against me for each charge, and any possible defenses I might have in this case. I agree that the Minutes of Testimony relating to the elements of each charge to which I am entering a guilty plea are substantially true and correct, or I agree that I could be found guilty by a jury at trial of each charge to which I am entering a guilty plea if witnesses testified as set forth in the Minutes of Testimony. I agree that the Court may rely upon the Minutes of Testimony for a further factual basis for my guilty plea. **Initials** _____
3. I have had enough time and opportunity to meet with and/or talk to my attorney. I am satisfied with my lawyer's services and believe that my attorney has done all that my attorney can do to counsel and assist me. There is nothing about the proceedings in this case against me that I do not fully understand. **Initials** _____
4. I am _____ years of age having been born on _____. I have completed _____ years of school. I understand the English language and I am able to read. I am in good health. I am not now under the influence of alcohol or any other drug. I am taking any prescribed medication as directed by my doctor. I have no physical or mental defects that

prevent me from understanding the charge(s) or proceedings. **Initials** _____

5. I understand that in order to establish my guilt of the crimes charged, the State would have to prove beyond a reasonable doubt all of the following elements:

Initials _____

6. I understand that I have the right to maintain my plea of not guilty or enter a plea of guilty. I hereby plead guilty to

in violation of Iowa Code section(s) _____,
a(n) _____ felony/misdemeanor. I acknowledge receipt
of a true copy of the Trial Information and of this Plea of Guilty. **Initials** _____

7. I admit that on or about _____, 20____, I did the following things that
constitute the crime(s) _____

I admit that my actions would satisfy each and every element set forth in paragraph 5
above. **Initials** _____

8. This guilty plea is entered without any agreement with the State's attorney regarding the charge(s) against me or my sentence.

This guilty plea is entered pursuant to Iowa Rule of Criminal Procedure 2.10 based upon an agreement with the State's attorney regarding the charge(s) against me and/or my sentence. I understand the agreement is binding on the Court unless the Court specifically tells me otherwise. **Initials** _____

9. Other than the plea agreement stated below, there is no other agreement that has been used to get me to enter this guilty plea. No one has threatened me or made any promises to me to

get me to enter this plea of guilty. I am pleading guilty voluntarily and with a full understanding of my rights. The terms of the plea agreement are as follows:

Unless otherwise stated above, all associated companion simple misdemeanor charges will be dismissed with costs and restitution assessed to me.

Defendant's Initials _____
Prosecuting Attorney's Initials/Signature (Confirming Agreement) _____

If the prosecuting attorney does not initial or sign where indicated, the State must file an approval confirming the terms of the plea agreement within two working days of the date this plea is filed.

10. I understand that the Court is not bound by the plea agreement and may sentence me up to the maximum sentence provided by law.

I understand that this is a Rule 2.10 plea agreement, which means that if the Court does not accept the plea agreement, I may withdraw my plea of guilty.

Initials _____

11. I know that the **maximum** sentence for each charge for which I am pleading guilty as provided by statute is confinement in the jail/prison for a period of not more than _____ year(s) and fines, penalties and/or surcharges of not more than _____. I know that the **minimum** sentence for each charge for which I am pleading guilty is confinement in jail/prison for a period of _____ and minimum fines, penalties, and/or surcharges of _____.

I am requesting a deferred judgment and if granted a civil penalty of \$ _____ will be assessed. **Initials** _____

If I am pleading guilty to multiple charges, I understand the terms of confinement set forth above could run consecutively to one another. I also understand that the terms of confinement set forth above could run consecutively to sentences in other cases, including cases for which I am on probation or parole. **Initials** _____

12. I have been advised that the following applicable surcharges for the crime to which I am pleading guilty will be added to the court costs:

- Pursuant to 911.1 Defendant shall pay a 15% crime services surcharge unless the fine or penalty has been suspended.
- Pursuant to 911.2A Defendant shall pay a human trafficking victim surcharge of \$1,000.00 on each violation of section 725.1(2), 710A.2, 725.2 or 725.3.
- Pursuant to 911.2B Defendant shall pay a domestic or sexual abuse related crimes surcharge of \$90.00 on each violation of section 708.2A, 708.11, 710A.2, or chapter 709, or if Defendant is held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.
- Pursuant to 911.5 Defendant shall pay an agricultural theft surcharge of \$500.00.
- If placed on supervised probation there will be a \$300 supervision fee.
- For aggravated misdemeanors and felonies, a DNA sample will be collected by the State.
- Other surcharges: _____

Initials _____

13. I know that by the execution of the plea of guilty I admit that I did commit the crime(s) to which I plead guilty, or admit that I would be found guilty of the crime(s) by a jury at trial, and that I could lose my liberty because of my guilty plea. **Initials** _____
14. I have been advised and know that I may maintain my plea of not guilty to said charges. Before the Court can accept my plea, the Court must be satisfied that I understand my constitutional rights. I understand that I am entitled to enter a plea of not guilty and persist in that plea. If I plead not guilty, I would be entitled to:
- a. A speedy and public trial by jury.
 - b. A unanimous verdict before I can be found guilty by the jury.
 - c. An attorney to represent me at all proceedings; and if the Court determined that I could not afford an attorney, one would be appointed to represent me at State expense.
 - d. The privilege against self-incrimination; I do not have to testify at my trial, unless I want to, and my refusal to testify could not be commented on by the prosecution nor considered against me by the jury.
 - e. The presumption of innocence; at trial I would be presumed innocent until such a time, if ever, as the State established my guilt beyond a reasonable doubt by producing competent evidence.
 - f. Confrontation and cross-examination of witnesses on whose testimony the State relies to obtain a conviction.
 - g. Calling witnesses in my own behalf and the right to subpoena them (compulsory process) to secure their attendance.

h. The right to have my case tried to a judge instead of a jury if I timely waive jury trial.

Initials _____

15. If this is an enhanced charge, I have a right to a separate trial, with the trial rights explained above, on the sole question of whether I have prior convictions. I also have a right to a hearing before a judge to determine and have the State prove I was represented by an attorney or waived my right to be represented by an attorney in the prior cases. I give up those rights, agree I have the prior convictions, agree that I was represented by counsel or waived counsel on those convictions, and agree that I am subject to the enhanced charge.

Initials _____

16. I understand that if I proceed with my plea of guilty, I have waived all of the above rights with exception of my right to counsel at these or any later proceedings and I will not have a trial. **Initials** _____

17. I understand that I have the right of allocution under Iowa R. Crim. P. 2.23(3)(d). Meaning I have the right to make a statement to the Court prior to sentencing in mitigation of punishment. I hereby waive my right of allocution. I hereby request a sentencing hearing and the right of allocution at the hearing. **Initials** _____

18. I understand that I have no absolute right to appeal a guilty plea. If I allege good cause and/or a defect in this plea proceeding, or improper denial of a motion in arrest of judgment, I have 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.

Initials _____

19. I understand that that if I determine to appeal the sentence/judgment, a written notice of appeal must be filed within 30 days. I further understand that a plea of guilty with an agreed-upon sentence may be subject to the Application for Permission to Appeal requirement procedure mentioned above. **Initials** _____

20. I have discussed all possible legal defenses with my attorney, and I know of no legal defense to the charge(s) that would change my decision to enter this guilty plea. **Initials** _____

21. I understand I have the right to a hearing in open court for my guilty plea and for sentencing and that if I were to have that hearing a court reporter would take a transcript of what was said. I am waiving my right to a hearing in open court for my guilty plea and sentencing. I am waiving my right to a hearing in open court for my guilty plea, but I want to appear by teleconference or videoconference for sentencing. I am waiving my right to a hearing in open court for my guilty plea, but I want to appear in person in open court for sentencing.

Initials _____

22. I understand that if I am pleading guilty to a felony I may lose my right to serve on a jury, vote, and own firearms. I may also become ineligible to receive state and federal benefits.

Initials _____

23. KNOWING AND UNDERSTANDING ALL OF MY RIGHTS AND HAVING HAD THEM FULLY EXPLAINED TO ME, I PLEAD GUILTY AS SET OUT ABOVE.

Initials _____

24. I understand that if I wish to challenge this plea of guilty, I must do so by filing a Motion in Arrest of Judgment at least five (5) days prior to the Court imposing sentence, but no more than 45 days from today's date. I understand that by asking the Court to impose sentence immediately that I waive my right to challenge the plea of guilty which I have hereby entered. **Initials** _____

25. I understand that I have the right to the preparation of a pre-sentence investigation report for a felony offense that is not a class A felony and a delay of at least 15 days between the date this plea is entered and the date of sentencing. I understand that if I am sentenced immediately, I lose my right to challenge any defect in this plea or plea proceeding by motion in arrest of judgment and appeal to a higher court, as well as my right to have a judge rely on a pre-sentence investigation report. Knowing the above, I ask the court to sentence me immediately. I ask the court to sentence me at a later date and for the court to order a pre-sentence investigation report. **Initials** _____

26. If I am pleading to a misdemeanor charge, I have discussed my right to be personally present when the Court sentences me, and I demand waive the right to be present at the hearing for entry of judgment and sentencing. Further, if I am offered a deferred judgment, I request it. **Initials** _____

27. I have been advised that a criminal conviction, deferred judgement, or deferred sentence may affect my status under federal immigration laws if I am not a United States citizen. I have been advised that if I am not a citizen this conviction could affect my rights to remain in this country or become a citizen. I have been further advised that I should seek immigration counsel if I have any questions about the impact of this conviction on my immigration status now or in the future. **Initials** _____

28. **Provisions concerning payment of restitution:**

_____ I have privately hired a lawyer or do not wish to have a lawyer.

_____ I have a court-appointed lawyer or public defender.

_____ I understand that I will be assessed restitution. I understand that restitution includes monetary damages to crime victims (referred to as **pecuniary damages**); fines, penalties, and/or surcharges (referred to as **category A restitution**); and repayment of contributions to local anticrime organizations that provided assistance to law enforcement in this case, crime victim compensation program reimbursements, expenses incurred by public agencies pursuant to Iowa Code section 321J.2(13)(b), court costs, court-appointed attorney fees and expenses (including the expense of a public defender), and medical assistance program reimbursements pursuant to Iowa Code chapter 249A (referred to as **category B restitution**). **I understand I will be required to pay in full pecuniary damages, if any, and category A restitution, except for any fines, penalties, or surcharges that are suspended.**

_____ **I understand that I may ask the court to determine the amount of category B restitution payments that I am reasonably able to make.** I understand that I am presumed to have the reasonable ability to make payments for the full amount of category B restitution. I understand that if I do not ask the court to make the determination at the time of sentencing or within 30 days of the issuance of a permanent restitution order, and that if I do not file a completed financial affidavit and prove I am not reasonably able to make payments toward the full amount of category B restitution, I will be ordered to pay the full amount of category B restitution and I will waive future claims regarding my reasonable ability to pay, except as provided by Iowa Code section 910.7.

_____ I agree that I am reasonably able to make payments toward the full amount of category B restitution, even if I do not know yet the total amount of category B restitution that I will be required to pay. I ask for a payment plan in the amount of \$_____ per month for all amounts due, including pecuniary damages and category A and category B restitution.

_____ I do not agree that I am reasonably able to make payments toward the full amount of category B restitution. I ask the court to determine the amount of such restitution that I am reasonably able to pay and ask for a hearing to be held for the court to make the determination. I understand that I must submit a completed financial affidavit and that failure to furnish the completed affidavit waives any claim I have regarding my reasonable ability to pay category B restitution. I understand I am required by Iowa law to affirmatively prove I am not reasonably able to make payments toward the full amount of category B restitution.

_____ I do not agree that I am reasonably able to make payments toward the full amount of category B restitution. I ask the court to make a determination as to my reasonable ability to pay category B restitution based solely on my financial affidavit. I do not want a hearing on the issue and I waive my right to participate in such a hearing. I understand the court may hold a hearing on this issue anyway at the request of the prosecutor.

Initials _____

29. I understand my rights as explained above. My attorney has gone over this plea agreement with me and has offered to assist me with trial if I so choose. My attorney explained the consequences of entering this plea, including the civil, criminal, and immigration consequences that could affect my rights by entering this plea. I understand that if I am presently under probation or parole that this plea may have a detrimental effect on that status of said probation or parole. I understand the consequences of my plea of guilty; I freely and voluntarily plead guilty. My entry of this guilty plea IS contingent upon the Court accepting the plea bargain. **Initials** _____

DATED this _____ day of _____, 20__.

DEFENDANT

I certify that I have consulted with my client in regard to this plea, and that my client has been provided the opportunity to ask any questions that he or she may have in regards to it. It is my opinion that this plea is being entered knowingly and voluntarily as those terms are understood in legal proceedings.

ATTORNEY FOR DEFENDANT