**In the Iowa District Court for Polk County**

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| **State of Iowa,** *Plaintiff*,v.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, *Defendant*. | **Criminal No:****Waiver of Rights & Written Guilty Plea**  **(Felony Drug)***Defendant is in custody.* |

**Now On** ***\_\_\_\_\_\_\_\_\_*** Defendant comes before the court with attorney \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and submits this Waiver of Rights and Written Guilty Plea.

I understand that I have a choice in maintaining my not guilty plea or entering a plea of guilty. I hereby plead guilty to:

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| --- | --- | --- | --- |
| **Case Number** | **Count** | **Crime** | **In violation of Iowa Code section(s):** |
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***Defendant states and certifies to the Court as follows:***

* I am charged in my true and correct name. I knowingly and intelligently plead guilty to the charge(s) listed above because I am guilty. There have been no promises or threats to get me to plead guilty or to agree to any enhancement. I ask the Court to accept my guilty plea.
* I am of sound mind. I am not under the influence of any illicit drugs or alcohol. I have not used any illicit drugs or alcohol in the past 24 hours. I have not taken any medication(s) other than as prescribed by my doctor in the past 24 hours. 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 guilty plea.
* I am  years of age and I have completed  years of school. My highest level of education is ***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***. I read, write, and speak the English language and if I do not, I have reviewed this written guilty plea with a court-appointed interpreter, who has translated this written guilty plea, the plea agreement, and any other documents related to this matter for me. I have read and understood this document and the plea agreement.
* I have had enough time and opportunity to speak with my attorney and I am satisfied with the advice and services of my attorney (if represented).
* 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.
* I have discussed possible legal defenses with my attorney, including any potential suppression issues. I know of no legal defense to the charge(s), suppression issue(s), or any other reason that would change my decision to enter this written guilty plea.
* I understand that by pleading guilty, I may not be able to vote, hold public office, or possess firearms or ammunition. I further understand that certain convictions can have adverse consequences with housing, employment, federal or state benefits, student loans, and driving privileges in addition to other consequences.
* I have been advised, and understand, that I may maintain my plea of not guilty to all charges. Before the court will accept my plea, the court must be satisfied that I understand my constitutional rights. I understand I have the following rights:
* I have a right to a speedy and public trial by a jury of twelve people;
* Before I could be found guilty, the entire jury of twelve (12) people would have to agree that the evidence proved me guilty, beyond a reasonable doubt.
* I am considered innocent until the State proves my guilt beyond a reasonable doubt through competent evidence;
* I have a right to an attorney to represent me at all proceedings; and if the court determines that I am unable to afford an attorney, one would be appointed at state expense to represent me at all stages of this criminal case. I understand that my attorney is willing to represent me at trial if I desire a trial.
* I have a right to hear the evidence against me from the witnesses and subject them to cross examination;
* I have the right to testify or to refuse to testify, and my refusal would not reflect on my guilt or innocence;
* I have the right to produce witnesses, subpoena them to appear at trial, and have them testify on my behalf.
* Before I could be found guilty, the entire jury of twelve (12) people would have to agree that the evidence proved me guilty, beyond a reasonable doubt.
* The right to have my case tried to a judge instead of a jury, if I timely waive my right to a jury trial.
* By pleading guilty I give up all these rights, I will have no trial and the judge may sentence me up to the legal maximum.

***Enhancements***

* If I am convicted of two or more felony offenses in my lifetime, I may be subject to an enhanced sentence as a habitual felon pursuant to Iowa Code section 902.8 and 902.9(1)(c). Also, depending on the offense to which I am pleading guilty, an enhanced sentence may apply if I am convicted at a later date of a similar offense (includes controlled substance offenses).
* An enhancement applies only if I was represented by (or gave up my right to) an attorney on each earlier conviction.
* 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 earlier convictions. I also understand that I am also waiving my right to a hearing before a judge on the issue of whether I was previously represented by an attorney. I give up those rights, agree I have the convictions, agree that I am subject to the enhancement and describe the convictions below.
* I agree that the conviction(s) listed below are my convictions and that, at the time of each case, I either had an attorney or I knowingly and voluntarily gave up my right to an attorney:

Case Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_ Crime: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Case Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_ Crime: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Case Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_ Crime: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Penalties:***

**Without an enhancement, the *Maximum*** sentence is:

[ ] Incarceration not to exceed FIVE (5) years, a $10,245.00 fine and a 15% surcharge.

[ ] Incarceration not to exceed TWO (2) years, an $8,540.00 fine and a 15% surcharge.

[ ] Jail for 12 months and a fine of $2,560.00 and a 15% surcharge.

[ ] Jail for 6 months and a fine of up to $1000.00 and a 15% surcharge.

**Without an enhancement, the *Minimum*** sentence is:

[ ] Incarceration not to exceed FIVE (5) years, a $1,025.00 fine and a 15% surcharge.

[ ] PCS: My charge requires I serve 48 hours in jail unless suspended by the Court.

[ ] A fine of $855. [ ] A fine of $430 [ ] Minimum fine not applicable (Marijuana 1st Offense)

[ ] This charge ***is*** eligible for a suspended sentence or deferred judgment (if Defendant is eligible for a deferred judgment pursuant to Iowa Code § 907.3) and probation for a period set forth in Iowa Code § 907.7 of:

 [ ] Two (2) to Five (5) Years (Felony) [ ] One (1) to Two (2) Year (Misdemeanor)

**Applicable enhancements** (check the following that apply to the plea):

[ ] Pleading guilty to the **Third or Subsequent Possession Enhancement pursuant to Iowa Code section 124.401(5)**:

The maximum sentence is: Incarceration not to exceed FIVE (5) years and a $10,245.00 fine with a 15% surcharge.

[ ] Pleading guilty to the **Firearms Enhancement pursuant to Iowa Code section 124.401(1)(e):**

The maximum sentence is: Incarceration not to exceed \_\_\_\_\_ years and a $\_\_\_\_\_\_\_ fine with a 15% surcharge.

[ ] Pleading guilty to the **Second or Subsequent Offender Enhancement pursuant to Iowa Code section 124.411:**

The maximum sentence is: Incarceration not to exceed \_\_\_\_\_ years and a $\_\_\_\_\_\_\_ fine with a 15% surcharge.

**CONSIDERING ALL APPLICABLE ENHANCEMENTS AS PLED GUILTY TO BY THE DEFENDANT:**

The **MAXIMUM** sentence is: Incarceration not to exceed \_\_\_\_\_ years and a $\_\_\_\_\_\_\_ fine with a 15% surcharge.

The **MINIMUM** sentence is: Incarceration not to exceed \_\_\_\_\_ years and a $\_\_\_\_\_\_\_ fine with a 15% surcharge.

[ ]  **Minimum sentences.** The offense to which the Defendant has plead guilty, as set forth above, with any applicable enhancement(s) set forth above is subject to a **mandatory minimum** term of incarceration as follows:

[ ]  Defendant is required to serve a mandatory incarceration period of three (3) years prior to being eligible for parole and a $\_\_\_\_\_\_\_ fine pursuant to Iowa Code sections 902.8 and 902.9(1)(c).

[ ]  Defendant is required to serve a mandatory one-third of the maximum indeterminate sentence prior to being eligible for parole pursuant to Iowa Code sections 124.413 and 901.10(1).

[ ]  Pursuant to Iowa Code section 901.10(2), the applicable mandatory minimum sentence may be reduced by one-third if Defendant enters a plea of guilty and is convicted of violating Iowa Code section 124.401(1)(a) or (b), the substance is amphetamine or methamphetamine.

[ ]  **Mandatory sentence.** The offense to which the Defendant has plead guilty, as set forth above, with any applicable enhancement(s), **is NOT eligible** for a probation sentence as it is subject to mandatory incarceration and cannot be suspended or deferred.

[ ]  **Probation eligibility.** The offense to which the Defendant has plead guilty, as set forth above, with any applicable enhancement(s), **is eligible** for a suspended sentence or for a deferred judgment (if the Defendant is eligible to receive a deferred judgement pursuant to Iowa Code section 907.3) and probation for a period set forth in Iowa Code § 907.7 of:

[ ]  Two (2) to Five (5) Years (Felony) [ ] One (1) to Two (2) Year (Misdemeanor).

[ ]  **Bond ineligibility.** Bond is unavailable pending sentencing pursuant to Iowa Code section 811.1(1).

* Any sentence imposed from the plea set forth in this petition may be run consecutively or concurrently to any other matter pending before the Court in this jurisdiction or elsewhere at the time of sentencing. I understand sentences served consecutively to each other means one disposition after another for a longer term and sentences served concurrently means dispositions would run at the same time.
* A deferred judgment or conviction under Iowa Code Chapter 124 counts as a conviction and may result in enhanced penalties if I am accused of a crime in the future. A fine and/or jail time will not be imposed if judgment is deferred but a civil penalty will be imposed. I understand that if it becomes apparent prior to sentencing that I am not eligible for a deferred judgment under the law, despite any plea agreement, the Court could not grant my request to defer judgment pursuant to Iowa Code section 907.3 and I may be subject to a criminal conviction on the offense to which I am pleading guilty.
* I will be ordered to submit my DNA to the state DNA database.
* If I am granted probation, I will be required to pay a probation supervision fee of $300.
* I must pay victim pecuniary damages and a surcharge of 15% on any fine imposed.
* If I am on probation or parole, I understand that this written guilty plea is an acknowledgement that I have violated the terms and conditions of my probation or parole. I further understand that the court may revoke my probation or parole and order those terms to be served consecutive to any punishment imposed in this case.

***Restitution:***

* I understand that I may be assessed category “A” restitution, which encompasses monetary damages to crime victims (referred to as pecuniary damages), fines, penalties, and surcharges. I understand that 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 further understand that I may be assessed category “B” restitution, which encompasses 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. I understand that I may ask the court to determine the amount of category “B” restitution payments that I am reasonably able to pay. 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 restitution order, and that if I do not file a completed financial affidavit and prove that 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.

***Firearms:***

* I understand a criminal conviction, deferred judgment, or other adjudication of guilt for a felony offense, or a felony controlled substance violation under Iowa Chapter 124, prohibits me from acquiring or carrying a firearm or a dangerous weapon as I am a felon for the purposes of Iowa Code sections 724.25 and 724.26. In addition, I may be determined to be an “unlawful drug user or addict,” as defined by Iowa Code section 724.8(6) and 18 U.S.C. 922(g)(3). I understand evidence of this criminal conviction, deferred judgment, or other adjudication of guilt for a felony offense may be used against me in subsequent proceedings to establish my ineligibility to possess or acquire firearms or other dangerous weapons under Iowa Code chapter 724 and federal law.

***Immigration consequences:***

* ***If I am not a United States citizen***, a criminal conviction, deferred judgment or my agreement to an enhancement could result in deportation, could affect my ability to re-enter the United States or could have other adverse federal immigration consequences. If I am not a United States citizen, I have consulted with my attorney and considered the immigration consequences that include, but are not limited to, deportation, inability to reenter the United States, mandatory detention in immigration custody, ineligibility for release on bond during immigration proceedings, and increased penalties for unauthorized reentry into the United States. I have been further advised that I should seek an immigration attorney if I have any questions about the impact of this conviction, deferred judgment, or deferred sentence on my immigration status now or in the future.

***Plea agreement:***

* Other than the plea agreement stated below, there are no other agreements that have been used to convince me to enter this written guilty plea. No one has threatened me or made any promises or assurances to me to force me to enter this written guilty plea. I am pleading guilty voluntarily and with a full understanding of my rights. The terms of the plea agreement are as follows:\_\_\_\_\_\_\_\_\_\_

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

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

 **Plea agreement conditioned on court approval.** This written guilty plea is entered pursuant to Iowa Rule of Criminal Procedure 2.10 based upon an agreement with the State concerning the charge(s) against me and my sentence. If, at the time of sentencing, the court does not accept the plea agreement, I may withdraw my plea of guilty.

* **Prosecutor’s affirmation:** The prosecutor has reviewed and approved of this petition and affirms the plea agreement set forth above is accurate. If signature is not affixed, the prosecutor will file separate notice affirming the agreement. This plea should not be accepted unless affirmed by the prosecutor. **Signature:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* I also agree that the State is not bound by the agreement if, between plea and sentencing, probable cause exists to believe I committed a new crime or violated a court order.
* As part of the plea agreement, I agree to pay full court costs & victim restitution for any dismissed counts and/or cases.

***Factual basis:***

* I admit that on or about ***\_\_\_\_\_\_\_\_\_\_*** in Polk County, Iowa, I did the following:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* I agree that a jury could find me guilty on each charge for which I am pleading guilty if the witnesses testified as set forth in the minutes of testimony.  The court may rely on the minutes of testimony for a further factual basis for my guilty plea.

***Additional rights:***

* I understand that I have the following rights as to entry of this plea and as to sentencing:
* **Personal presence and allocution.** The right to be personally present and to have a record made of my plea and sentencing proceedings and the right to make a statement in open court at sentencing through allocution.
* **Presentence investigation report (PSI).** The right to have a presentence investigation performed and used at sentencing. 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 abuse or mental health treatment, military service, prior criminal history, and other social history. The report would also include information from the Iowa Department of Corrections regarding my rehabilitative needs and services available as well as a sentencing recommendation. I understand that the report could contain favorable information that could result in a lesser sentence.
* **Delay and motion in arrest of judgment.** The right to a 15 delay between plea and sentencing. To get an immediate sentence, I would give up any right to appeal or challenge this plea or my agreement to any enhancement. To challenge this plea, I would have had to file a Motion in Arrest of Judgment within forty-five (45) days of entry of my plea but no later than five (5) days before sentencing. I understand that if I do not timely file a motion in arrest of judgment, I will not be able to challenge any defects in the plea proceeding.
* **Appellate rights.** I understand that by submitting this written guilty plea, I no longer have an absolute right to appeal my conviction. In order to appeal, I now need to establish good cause. If I choose to appeal, a notice of appeal must be filed within 30 days of sentencing, or I will not be able to appeal my conviction.

***Waiver of rights for plea and sentencing:***

* I understand that I have the above rights and I **waive** the following rights and request the Court proceed as set forth below (if checked):

** Presence at plea.** The right to be personally present at the plea proceeding. **** I authorize my attorney to appear on my behalf for the plea proceeding.

** Presence at sentencing.** The right to be personally present at the sentencing proceeding. **** I authorize my attorney to appear on my behalf for the sentencing proceeding. **** I request to appear by interactive audiovisual system for sentencing.

****  **Immediate sentencing.** I ask the court to sentence me immediately. In doing so, I understand that I am waiving my right to challenge this guilty plea (motion in arrest of judgment) and waive my right to a 15 day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

** Allocution and record.** The right to make a formal record and statement (allocution) before the Court at sentencing and instead specifically request the Court proceed on this matter in writing pursuant to the authority granted by the Iowa Rules of Criminal Procedure and ask the Court to adopt the joint agreement and recommendation of the parties as set forth in this written petition to plead guilty.

**Defendant’s Certification**

**I have had the opportunity to discuss this Waiver of Rights and Written Guilty Plea with my attorney and ask questions (if represented). I understand the contents and consequences of this written guilty plea as explained above. I also understand that by pleading guilty, I am giving up the rights set forth above and that there will not be a trial on this offense(s). I am pleading guilty because I am in fact guilty of the offense(s) detailed in this petition. I knowingly, intelligently, and voluntarily enter this written guilty plea and request that the court accept it consistent with the terms set forth herein. I have read and understand all of the statements above and that all of the statements are true and correct.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Defendant Date**

**Counsel’s Certification**

**I certify, as an officer of the court, that I have had ample opportunity to confer with my client. I have provided my client with the opportunity to ask any question that they may have. I have explained the contents of this written guilty plea, their waiver of rights, the minimum and maximum punishments, the plea agreement, the collateral consequences for a conviction of these offenses, and the possible defenses and strategies. I have investigated these offenses, which includes reviewing discovery material related to this matter, and I am not aware of any legal reason why the court should not accept this waiver of rights, plea agreement, and petition to plead guilty. I further certify that after discussing these matters with my client, I believe they knowingly, intelligently, and voluntarily executed this waiver of rights and written guilty plea and request the court accept it, consistent with the terms set forth herein.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Defendant’s Attorney Date**