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

|  |  |
| --- | --- |
| **State of Iowa,***Plaintiff*,v.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**,*Defendant*. | **Criminal No:****Petition to Plead Guilty to OWI***Defendant is in custody.* |

**Now On** \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant is charged with ***Operating a Motor Vehicle While Intoxicated (OWI)*** in violation of Iowa Code § 321J.2 and is represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

***Defendant states 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 am satisfied with the advice and services of my attorney. I ask the Court to accept my guilty plea.
* I am of sound mind. I am not under the influence of any drug, medication or alcohol that would hurt my ability to make decisions.
* I understand the nature of the charge against me and that:
* I am considered innocent until the State proves my guilt beyond a reasonable doubt;
* I have a right to a speedy and public trial by jury and the right to be represented by an attorney at that trial;
* If I cannot afford an attorney, the Court will appoint one at the State’s expense;
* 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 people would have to agree that the evidence proved me guilty, beyond a reasonable doubt.
* 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.
* 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 give up those rights, agree I have the convictions, agree that I am subject to the enhancement and describe the convictions below.
* Without any enhancement, the minimum sentence is: 2 days in jail & a $1250 fine
* Without any enhancement, the maximum sentence is: 365 days in jail & a $1250 fine.
* WITH the enhancement, the minimum sentence is: OWI 2d: 7 days in jail & a $1875 fine.

 OWI 3rd: 30 days in jail & a $3125 fine.

* WITH the enhancement, the maximum sentence is: OWI 2d: 2 years in prison & a $6250 fine.

 OWI 3rd: 5 years in prison & a $9375 fine.

* I have the prior convictions; further, I agree that at the time of each conviction, 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: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

* 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. Consecutive means one disposition after another for a longer term and concurrently mean dispositions would run at the same time.
* If I am granted probation, I will be required to pay a probation supervision fee of $300.
* A deferred judgment counts as a conviction and may result in enhanced penalties if I am accused of another such charge in the future.
	+ A fine and/or jail time will not be imposed if judgment is deferred but a civil penalty *will* be imposed.
* If I have more than one previous license revocation pursuant to § 321J.2, subsection 8, within a twelve-year period immediately preceding the commission of this offense, I will be ordered to submit my DNA to the state DNA database.
* I must pay victim pecuniary damages and a surcharge of 15% on any fine.
* The law presumes I can pay the following (if applicable to my case): court costs, my legal defense expenses, crime victim assistance costs, any required contribution to a local anticrime organization, and restitution to the medical assistance program pursuant to chapter 249A. These types of payments are called ***Category B Restitution***. I will be ordered to pay Category B Restitution unless within 30 days I request a finding by the court -- and prove -- that I do not have a reasonable ability to pay (RATP) some or all ***Category B Restitution***. To do so I must file an Affidavit of Financial status sworn under penalty of perjury. I will be subject to cross-examination on this affidavit.
* ***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.
* The plea agreement is . 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.
* The Court is not bound by the plea agreement and may give me the maximum sentence allowed by law, including any enhanced sentence.
* As part of the plea agreement, I agree to pay full court costs & victim restitution for any dismissed counts and/or cases so I give up the right to request a reasonable ability to pay (RATP) determination as to court costs in any such cases.
* I admit I did the following:
* I understand that I have the following rights and I give up each of the rights below:
* The right to have a record made of my plea and sentencing proceedings.
* The right to have a presentence investigation performed and used at sentencing. (N/A to serious misdemeanors)
* The right to make a statement of allocution at sentencing.
* The right to a delay between plea and sentencing. To get an immediate sentence, I 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 no later than 5 days before sentencing. I give up the right to file a Motion in Arrest of Judgment and ask for immediate sentencing.
* By pleading guilty I give up any right to appeal this case unless I can show good cause for an appeal. To challenge my plea later, I would have to show that there is a defect in the proceedings and that but for the defect, I would not have plead guilty.

**** (If checked) The right to be present at the plea proceeding.

**** (If checked) The right to be present at the sentencing proceeding.

**My signature below means I read and understood all of the statements above and that all of the statements are true and correct.**

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

**Defendant Defendant’s Attorney**