

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.

Defendant.

**PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING**

The United States of America (the government), by and through _____,
Assistant United States Attorney for the District of Colorado, and the defendant,
_____, personally and by counsel, _____, submit the
following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to
D.C.COLO.LCrR 11.1.

I. PLEA AGREEMENT

The defendant agrees to plead guilty to _____ of the Indictment [*or Information*]
charging a violation of ___ U.S.C. § ____, _____. [*Insert additional
charges, if any.*]

[Set forth the complete agreement between the parties, including whether the agreement is pursuant to Fed. R. Crim. P. 11(e)(1)(A), (B), or (C), and whether there are agreements regarding departure from the guideline range and the amount of restitution.]

II. ELEMENTS OF THE OFFENSE(S)

[Set forth each essential element required by law for the commission of each criminal offense to which the defendant intends to enter a plea of guilty or nolo contendere.]

III. STATUTORY PENALTIES

[Parties should make every effort to resolve restitution issues prior to entering a plea agreement.]

The maximum statutory penalty for a violation of _____ U.S.C. § _____ is: not more than _____ months imprisonment; not more than \$ _____ fine, or both; not more than _____ years supervised release; \$ _____ special assessment fee; plus _____ restitution. *[If the exact amount of restitution is not known, explain the parties' position on how restitution should be determined.]* *[Insert, if applicable: The minimum statutory penalty is _____ months imprisonment.]*

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. *[Insert if applicable: If the defendant is an alien, the conviction may cause the defendant to be deported or confined indefinitely if there is no country to which the defendant may be deported.]*

A violation of the conditions of probation or supervised release may result in a separate prison sentence.

IV. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties believe are relevant, pursuant to § 1B1.3, for computing the appropriate guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§ 6B1.4(b))

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§ 1B1.3) or to sentencing in general (§ 1B1.4). In "determining the factual basis for the sentence, the court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§ 6B1.4 Comm.)

The parties agree that the government's evidence would show that the date on which conduct relevant to the offense (§ 1B1.3) began is _____.

The parties agree that the government's evidence would be: *[Insert evidence]*

V. SENTENCING COMPUTATION

[Insert, if applicable: Any estimation by the parties regarding the estimated appropriate guideline application does not preclude either party from asking the court to depart from the otherwise appropriate guideline range at sentencing, if that party believes that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the sentencing guidelines. (§ 5K2.0)]

The parties understand that the court may impose any sentence, up to the statutory maximum, regardless of any guideline range computed, and that the court is not bound by any position of the parties. (§ 6B1.4(d)) The court is free, pursuant to §§ 6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, the presentence investigation, and any other relevant information. (§ 6B1.4 Comm.; § 1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§ 6B1.4(b))

- A. The base guideline is § ____, with a base offense level of ____.
- B. *[Insert specific offense characteristics.]*
- C. *[Insert victim-related, role-in-offense obstruction and/or multiple count adjustments.]*
- D. The adjusted offense level would therefore be ____.
- E. The defendant *[should or should not]* receive the adjustment for acceptance of responsibility. The resulting offense level would therefore be ____.
- F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the court. Known facts regarding the criminal history are as follows: *[insert facts]*. Based on that information, if no other information were discovered, the defendant's criminal history category would be ____ .
- G. Assuming the (tentative) criminal history facts of F. above, the career offender/criminal livelihood/armed career criminal adjustments *[would or would not]* apply. *[If any of these adjustments applies, include the final offense level and/or criminal history category.]*
- H. The guideline range resulting from the estimated offense level(s) of *[E. or G.]* above, and the (tentative) criminal history category of *[F. or G.]* above, is ____ months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the

estimated offense level(s) of [E. or G.] above could conceivably result in a range from _____ months (bottom of Category I), to _____ months (top of Category VI). The sentence would be limited, in any case, by the statutory maximum.

I. Pursuant to guideline § 5E1.2, assuming the estimated offense level of [E. or G.] above, the fine range for this offense would be \$ _____ to \$ _____, plus applicable interest and penalties.

J. Pursuant to guideline § 5D1.2, if the court imposes the term of supervised release, that term shall be [*insert if applicable: at least ___ years, but*] not more than _____ years.

[K. *Describe any restitution orders or conditions required by guideline § 5E1.1.*]

VI. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

The parties believe the sentencing range resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.

This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings, or assurances, express or implied. In entering this agreement, neither the government nor the defendant has relied, or is relying, on any terms, promises, conditions, or assurances not expressly stated in this agreement.

Date: _____
_____ [insert name]
Defendant

Date: _____
_____ [insert name]
Attorney for Defendant

Date: _____
_____ [insert name]
Assistant U.S. Attorney