**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF COLORADO**

**Criminal Case No.**

**UNITED STATES OF AMERICA**

**Plaintiff(s),**

**v.**

**1.**

**Defendant(s).**

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

**PLEA AGREEMENT**

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

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 pursuant to D.C.COLO.LCrR 11.1.

**I. 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(c)(1)(A), (B), or (C), and whether there are agreements regarding departures, variances or other sentencing matters. Also set forth*

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*any agreements regarding forfeiture or restitution.]*

*[If the parties intend to tender any agreement regarding waiver of appellate rights, insert here.]*

**II. ELEMENTS OF THE OFFENSE(S)**

The parties agree that the elements of the offense[s] to which this plea is being tendered are as follows:

*[Set forth each element required by law for the commission of each criminal offense to which the defendant intends to enter a plea.]*

**III. STATUTORY PENALTIES**

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.  *[Insert, if applicable: The minimum statutory penalty is \_\_\_\_\_\_\_\_\_\_\_ months imprisonment.]*

*[Insert, if applicable, any mandatory consecutive term of imprisonment required by law.]*

*[Insert, if the defendant is pleading to multiple counts: The Court will impose a separate sentence on each count of conviction and may, to the extent permitted by law, impose such sentences either concurrently with or consecutively to each other.]*

*[Insert, if applicable, any term of supervised release: at least \_\_\_\_\_ years, but not more than \_\_\_\_\_ years.]*

If probation or supervised release is imposed, a violation of any condition of probation or supervised release may result in a separate prison sentence and additional supervision.

**IV. COLLATERAL CONSEQUENCES**

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, to be denied admission to the United States in the future, and to be denied citizenship.]*

**V. STIPULATION OF FACTS**

The parties agree that there is a factual basis for the guilty plea[s] that the defendant will tender pursuant to this plea agreement. That basis is set forth below. Because the Court must, as part of its sentencing methodology, compute the advisory guideline range for the offense[s] of conviction, consider relevant conduct, and consider the other factors set forth in 18 U.S.C. §3553, additional facts may be included below which are pertinent to those considerations and computations. To the extent the parties disagree about the facts set forth below, the stipulation of facts identifies which facts are known to be in dispute at the time of the execution of the plea agreement.

This stipulation of facts does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have stipulated and which are relevant to the Court’s guideline computations, to other 18 U.S.C. §3553 factors, or to the Court’s overall sentencing decision.

The parties agree that the date on which relevant conduct began is \_\_\_\_\_\_\_\_\_\_.

The parties agree as follows: *[Insert facts and qualifications or disagreements, if any]*

**VI. ADVISORY GUIDELINE COMPUTATION AND 3553 ADVISEMENT**

The parties understand that the imposition of a sentence in this matter is governed by 18 U.S.C. §3553. In determining the particular sentence to be imposed, the Court is required to consider seven factors. One of those factors is the sentencing range computed by the Court under advisory guidelines issued by the United States Sentencing Commission. In order to aid the Court in this regard, the parties set forth below their estimate of the advisory guideline range called for by the United States Sentencing Guidelines. To the extent that the parties disagree about the guideline computations, the recitation below identifies the matters which are in dispute.

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 therefore would be \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

E. *[Insert the parties’ positions on the adjustment for acceptance of*

*responsibility.]* The resulting offense level therefore would be \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

F. The parties understand that the defendant’s criminal history computation is tentative. The criminal history category is determined by the Court based on the defendant’s prior convictions. Based on information currently available to the parties, it is estimated that the defendant’s criminal history category would be \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

G. The career offender/criminal livelihood/armed career criminal adjustments *[would or would not]* apply. *[If any of these adjustments applies, identify the convictions or facts which are believed to trigger the adjustment and include the final offense level and/or criminal history category.]*

H. The advisory guideline range resulting from these calculations is \_\_\_\_\_\_\_ months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the offense level(s) estimated above could conceivably result in a range from \_\_\_\_\_\_\_\_ months (bottom of Category I) to \_\_\_\_\_\_\_\_ months (top of Category VI). The guideline range would not exceed, in any case, the cumulative statutory maximums applicable to the counts of conviction.

I. Pursuant to guideline § 5E1.2, assuming the estimated offense level 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 a term of supervised release, that term is *[insert if applicable: at least \_\_\_\_\_\_ years, but]* not more than \_\_\_\_\_\_\_ years.

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

The parties understand that although the Court will consider the parties’ estimate, the Court must make its own determination of the guideline range. In doing so, the Court is not bound by the position of any party.

No estimate by the parties regarding the guideline range precludes either party from asking the Court, within the overall context of the guidelines, to depart fromthat range at sentencing if that party believes that a departure is specifically authorized by the guidelines or that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the United States Sentencing Commission in formulating the advisory guidelines. Similarly, no estimate by the parties regarding the guideline range precludes either party from asking the Court to vary entirely from the advisory guidelines and to impose a non-guideline sentence based on other 18 U.S.C. §3553 factors. *[Adjust or delete language to account for any Rule 11 (c)(1)(C) agreement or other agreement as to departures or variances.]*

The parties understand that the Court is free, upon consideration and proper application of all 18 U.S.C. §3553 factors, to impose that reasonable sentence which it deems appropriate in the exercise of its discretion and that such sentence may be less than that called for by the advisory guidelines (in length or form), within the advisory guideline range, or above the advisory guideline range up to and including imprisonment for the statutory maximum term, regardless of any computation or position of any party on any 18 U.S.C.§3553 factor. *[Insert if Rule 11(c)(1)(C) agreement: However, because this plea agreement is made pursuant to Rule 11 (c)(1)(C), the Court is bound by the parties’ agreement once the Court accepts the plea agreement. Alternatively, if the Court determines that it intends to impose a sentence different from that agreed to by the parties as part of this agreement, the Court must first give the parties an opportunity to withdraw from this agreement before it may impose any such different sentence.]*

**VII. ENTIRE AGREEMENT**

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]

**Revised: 04/25/2012**