

In the Iowa District Court for _____ County

County where you are filing this Waiver

State of Iowa

vs.

Defendant

Case no. _____

**Waiver of Rights & Written Guilty Plea
for Serious or Aggravated
Misdemeanors or Nonforcible Class “D”
Felonies**

On _____, 20___, Defendant, _____, comes before the court with Defendant’s attorney, _____, and submits this Waiver of Rights and Written Guilty Plea.

1. Offense

Initials _____

I am pleading guilty to the following criminal offense(s) (charge/code section/level of offense):

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

Check this box if you have attached a sheet with additional information.

2. Preliminary admissions

Initials _____

A. I am _____ years of age. I have completed _____ years of school. My highest level of education is _____. I have read and understand this document and the plea agreement.

B. 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.

C. I do not have a physical or mental condition that prevents me from understanding the charge(s) or proceedings.

D. I read, write, and understand the English language.

I do **not** read, write, or understand the English language. I have reviewed this written guilty plea with the assistance of _____, a court-appointed interpreter, who has translated this written guilty plea, the plea agreement, and any other documents related to this matter for me.

- E.** I authorize my attorney to appear on my behalf for the guilty plea only guilty plea and sentencing.
- F.** 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.
- G.** 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.
- H.** 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.** 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. Furthermore, if I am pleading guilty to theft (Iowa Code section 714.1) or domestic abuse assault (Iowa Code section 708.2A), this plea of guilty may be considered in determining whether future allegations of theft or domestic abuse assaults are charged as enhanced offenses.
- J.** I am not currently on probation or parole.
 I am currently 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.
- K.** I have had enough time and opportunity to meet or speak with my attorney. I am satisfied with their representation and the services they have provided.
- L.** I am entering this written guilty plea of my own free will. No promises, other than those contained in the plea agreement (if applicable), and no threats have been made to induce me to sign this written guilty plea. This guilty plea is made knowingly, intelligently, and voluntarily.

3. Waiver of trial rights

Initials _____

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 that I am giving up the following rights:

- A.** A speedy and public trial by a jury of twelve people.
- B.** A unanimous verdict before I can be found guilty by the jury.
- C.** The right to have my case tried to a judge instead of a jury, if I timely waive my right to a jury trial.

- D. 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.
- E. The privilege against self-incrimination; I do not have to testify at my trial unless I want to, and the prosecution cannot comment on my refusal to testify, nor can the jury consider my silence against me.
- F. The presumption of innocence; at trial, I would be presumed innocent until such a time, if ever, the State established my guilt beyond a reasonable doubt by producing competent evidence.
- G. Confront and cross-examine witnesses called by the State.
- H. Call witnesses and present evidence on my own behalf and subpoena witnesses (compulsory process) to secure their attendance.

4. Penalties

Initials _____

- A. I am pleading to a class “D” felony aggravated misdemeanor serious misdemeanor. I understand the court may impose the penalties detailed below:

	Incarceration		Fines	
	Maximum	Minimum	Maximum	Minimum
Class “D” Felony	Five (5) Years Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$10,245.00 (Civil Penalty, if judgment deferred)	\$1,025.00 (Civil Penalty, if judgment deferred)
Aggravated Misdemeanor	Two (2) Years Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$8,540.00 (Civil Penalty, if judgment deferred)	\$855.00 (Civil Penalty, if judgment deferred)
Serious Misdemeanor	One (1) Year Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$2,560.00 (Civil Penalty, if judgment deferred)	\$430.00 (Civil Penalty, if judgment deferred)

- B. I understand that if I am pleading guilty to multiple charges, the penalties detailed above could run consecutive to one another. I also understand that the terms of confinement set forth above could run consecutive to sentences in other cases, including cases for which I am on probation or parole.

C. I have been advised of the following surcharges and collateral consequences that may apply for the crime(s) to which I am pleading guilty:

- (1) Pursuant to Iowa Code section 911.1, I shall pay a 15% crime services surcharge on the total fine imposed, unless the fine or penalty has been suspended.
- (2) Pursuant to Iowa Code section 911.2A, I shall pay a human trafficking victim surcharge of \$1,000.00 for each violation of sections 725.1(2), 710A.2, 725.2, or 725.3.
- (3) Pursuant to Iowa Code section 911.2B, I shall pay a domestic or sexual abuse related crimes surcharge of \$90.00 for each violation of sections 708.2A, 708.11, 710A.2, or chapter 709, or if I am held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.
- (4) Pursuant to Iowa Code section 911.5, I shall pay an agricultural theft surcharge of \$500.00 for each violation of section 714.2(1)–(3) or sections 716.3, 716.4, or 716.5 if I damaged, defaced, altered, or destroyed agricultural property.
- (5) If placed on supervised probation, there will be a \$300 supervision fee.
- (6) For aggravated misdemeanors and felonies, a DNA sample will be collected by the state.
- (7) Other: _____

Check this box if you have attached a sheet with additional information.

5. Plea agreement

Initials _____

A. 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:

Check this box if you have attached a sheet with additional information.

- B.** **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.
- No agreement.** This written guilty plea is entered without any agreement with the State concerning the charge(s) against me or my sentence.

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.

Prosecuting attorney’s signature/initials*: _____

6. Factual basis **Initials** _____

A. I understand that I have the choice in maintaining my not guilty plea or enter a plea of guilty. I hereby plead guilty to (charge/code section/level of offense):

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

Check this box if you have attached a sheet with additional information.

B. I admit that on or about _____, 20____, in _____ County, I did the following:

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

Check this box if you have attached a sheet with additional information.

C. 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.

*If the prosecuting attorney does not sign or initial 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.

D. If this is an enhanced charge, I admit the following:

- (1) I understand that I have the right to a separate trial on the issue of whether I have prior convictions that increase the sentence in this case. I also understand that I would be entitled to the same trial rights explained in section 3.
- (2) I understand that I have the right to a hearing before a judge to determine, and have the State prove, whether I was represented by an attorney or waived my right to be represented by an attorney in the prior case(s).
- (3) By entering this written guilty plea, I understand that I am waiving my right to a separate trial on the issue of identity. 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.
- (4) Prior convictions.

i. I admit that on or about _____, 20____, in _____
County, in case number _____, I was convicted of
_____. At the time, I
Description and level of offense
was represented by _____.
Name of attorney who represented you

ii. I admit that on or about _____, 20____, in _____
County, in case number _____, I was convicted of
_____. At the time, I
Description and level of offense
was represented by _____.
Name of attorney who represented you

Check this box if you have attached a sheet with additional information.

7. Post-plea rights

Initials _____

A. Motion in arrest of judgment and sentencing. I understand that if I wish to challenge this written guilty plea, I must do so by filing a motion in arrest of judgment at least 5 days prior to the court imposing sentence and no later than 45 days from today’s date. 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. I further understand that I have the right to a 15-day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

- I ask the court to sentence me at a later date.
- I ask the court to sentence me immediately. In doing so, I understand that I am waiving my right to challenge this guilty plea 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.

B. Presentence investigation report. 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.

- I ask the court to order a PSI and sentence me at a later date.
- I waive the use of a PSI for purposes of sentencing and ask the court to sentence me immediately.

C. Personal presence. I understand that I have the right to a hearing in open court for my guilty plea and sentencing where a court reporter makes a transcript of what is 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 interactive audiovisual system 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.

D. Allocution. I understand that pursuant to Iowa Rule Criminal Procedure 2.23(2)(d)(3), I have the right to make a statement to the court prior to sentencing in mitigation of punishment.

- I waive my right of allocution.
- I request a sentencing hearing and the right of allocution at the hearing.

E. Immigration consequences. I have been advised that if I am not a United States citizen, a criminal conviction, deferred judgment, or deferred sentence may affect my status under federal immigration laws. 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.

F. 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.

G. Restitution.

- (1) **Category “A” 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.**
- (2) **Category “B” restitution.** 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.
- (3) **Reasonable ability to pay.** 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.

Defendant’s Certification

I have had the opportunity to discuss this Waiver of Rights and Written Guilty Plea with my attorney and ask questions. 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 Section 1 of 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.

_____, 20____
Month Day Year Defendant’s signature

Continued on next page

Defendant’s Attorney’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.

_____, 20____
Month Day Year Attorney’s signature

Name of attorney’s law firm, if applicable

Attorney’s mailing address

_____, _____, _____
Attorney’s city Attorney’s state Attorney’s ZIP code

(_____) _____
Attorney’s phone number

Attorney’s email address

Additional email address, if applicable