

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

STATE OF IDAHO  
Plaintiff,

v.

\_\_\_\_\_  
Defendant.

Case No. \_\_\_\_\_

Guilty Plea Advisory

Idaho Criminal Rule 11(e)

**TO BE FILLED OUT BY THE DEFENDANT**

Defendant's Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

**STATEMENT OF CONSTITUTIONAL RIGHTS  
(Please initial each response)**

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elect to have a trial, the State may not call you as a witness or ask you any questions. If you do decide to testify the State will be permitted to ask you questions and anything you say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent as to the elements of the crime(s) to which I am entering this plea. \_\_\_\_\_

2. The waiver of your right to remain silent applies to your plea of guilty to the crime(s) in this case. Unless otherwise stated in your plea agreement, even after pleading guilty, you still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). Unless otherwise stated in your plea agreement, you can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. \_\_\_\_\_

I understand that as a term of my plea agreement, I have waived my right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. \_\_\_\_\_

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the Judge for an attorney. You may be required to pay for the cost of this representation. \_\_\_\_\_
4. You are presumed to be innocent. You will be found guilty if: 1) you plead guilty in front of the Judge; or 2) you are found guilty at a jury trial. I understand that by pleading guilty I am waiving my right to be presumed innocent. \_\_\_\_\_
5. You have the right to a speedy and public jury trial before twelve persons. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. You are not required to do so, however. The State must convince all of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am **waiving** my right to a speedy and public jury trial.  
\_\_\_\_\_

6. You have the right to question (confront) the witnesses testifying against you. This occurs during a jury trial. At trial, the State must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call witnesses of your choosing to testify on your behalf. If you do not have the funds to bring those witnesses to court, the State will pay the cost of bringing your witnesses to court and will compel their attendance by the use of the subpoena power of the court.

I understand that by pleading guilty I am waiving my right to question (confront) the witnesses against me, and present witnesses and evidence in my defense. \_\_\_\_\_

7. The State has the burden of proving you guilty beyond a reasonable doubt.  
I understand that by pleading guilty, I am waiving my right to require the State to prove my guilt beyond a reasonable doubt. \_\_\_\_\_

**QUESTIONS REGARDING ABILITY TO ENTER PLEA**

**(Please answer every question. If you do not understand a question, consult your attorney before answering.) Please check the correct answer**

1. Do you read and write the English language? YES\_\_\_ NO\_\_\_  
If not, have you been provided with an interpreter to help you fill out this form? YES\_\_\_ NO\_\_\_  
Do you want an Interpreter? YES\_\_\_ NO\_\_\_
2. What is your true and legal name? \_\_\_\_\_
3. What was the highest grade of school you completed? \_\_\_\_\_
4. If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES\_\_\_ NO\_\_\_
5. Are you currently under the care of a mental health professional? YES\_\_\_ NO\_\_\_
6. Have you ever been diagnosed with a mental health disorder? YES\_\_\_ NO\_\_\_  
If so, what was the diagnosis and when was it made?  
\_\_\_\_\_
7. Are you currently prescribed any medication? YES\_\_\_ NO\_\_\_  
If yes, what medications are you taking at this time?  
\_\_\_\_\_  
If you answered "yes," have you taken your prescription medication during the past twenty-four (24) hours? YES\_\_\_ NO\_\_\_
8. In the last forty-eight (48) hours, have you taken any medication or drugs, including over the counter, or have you consumed any alcoholic beverages which you believe affect your ability to understand these questions or to make a reasoned and informed decision in this case? YES\_\_\_ NO\_\_\_
9. Are you under the influence of any alcohol, drugs, or other medication at this time? YES\_\_\_ NO\_\_\_
10. Are you capable of understanding these proceedings? YES\_\_\_ NO\_\_\_
11. Do you claim that you are mentally incapable of understanding these proceedings or what it means to plead guilty to a crime? YES\_\_\_ NO\_\_\_
12. Is there anything going on in your life that affects your ability to enter a voluntary guilty plea? YES\_\_\_ NO\_\_\_

13. Are you having any difficulty in understanding what you are doing by filling out this form? YES \_\_\_ NO \_\_\_

14. Is there any other reason that you cannot make a reasoned and informed decision in this case? YES \_\_\_ NO \_\_\_

If yes, what is the reason?

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### PLEA AGREEMENT

15. Is your guilty plea the result of a plea agreement? YES \_\_\_ NO \_\_\_

If so, what are the terms of that plea agreement? (If available, a written plea agreement must be attached hereto as "Addendum 'A'")

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16. If a written plea agreement was done, have you read the plea agreement? YES \_\_\_ NO \_\_\_

17. Do you understand your plea agreement? YES \_\_\_ NO \_\_\_

18. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea agreement:

a. I understand that my plea agreement is a non-binding plea agreement. This means that the Court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence. The Court is not bound by the agreement, if the District Court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. I understand I do not have the right to withdraw my guilty plea if the Court chooses not to follow the agreement. \_\_\_\_\_

b. I understand that my plea agreement is a binding plea agreement. This means that if the judge accepts this agreement, I will not be allowed to withdraw my plea of guilty and proceed to a jury trial. \_\_\_\_\_

19. Has your attorney or anyone else forced or coerced you in any way into accepting this plea agreement? YES \_\_\_ NO \_\_\_

20. Have any other promises been made to you that have influenced your decision to plead guilty? YES \_\_\_ NO \_\_\_

21. Has anyone told you what your sentence will be? YES \_\_\_ NO \_\_\_

If so, what have you been promised?

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### APPELLATE RIGHTS

22. Is this a conditional guilty plea in which you are reserving your right to appeal any specified adverse ruling? YES\_\_\_ NO\_\_\_

What rulings have you reserved the right to appeal?

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23. If it is not a conditional guilty plea do you understand that by pleading guilty you are waiving your right to appeal any ruling made by the judge prior to entering your guilty plea? YES\_\_\_ NO\_\_\_

24. Have you waived your right to appeal your sentence as part of your plea agreement? YES\_\_\_ NO\_\_\_

Under what condition can you appeal your sentence?

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### POTENTIAL SENTENCE

I am charged with the crime(s) of:

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I understand the Minimum & Maximum - Fine and Imprisonment:

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25. If you plead guilty to more than one crime do you understand that your sentences for each crime could be ordered to be served either **concurrently** (at the same time) or **consecutively** (one after the other)? YES\_\_\_ NO\_\_\_

26. Do you understand that if you plead guilty and you commit crimes in the future, this conviction could be considered in the future case and could cause more severe penalty in the future case? YES\_\_\_ NO\_\_\_

### ADDITIONAL CONSEQUENCES OF A GUILTY PLEA

27. Are you currently on probation or parole? YES\_\_\_ NO\_\_\_
- If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole (**WHICH MEANS THAT ANY SUSPENDED SENTENCE COULD BE IMPOSED AND ANY PAROLE REVOKED**)? YES\_\_\_ NO\_\_\_
28. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, and/or denial of an application for United States citizenship? YES\_\_\_ NO\_\_\_
29. Does the crime to which you will plead guilty require you to register as a **sex offender**? I.C. § 18-8304. YES\_\_\_ NO\_\_\_
30. Are you aware that if you plead guilty you may be required to pay **restitution** in this case? I.C. §19-5304. YES\_\_\_ NO\_\_\_
31. Are you pleading guilty to a crime for which you may be required to pay the **costs of prosecution and investigation**? I.C. § 37-2732 (k), I.C.R. 33(d)(2). YES\_\_\_ NO\_\_\_
- If so, have you and the State agreed upon the amount of this reimbursement? YES\_\_\_ NO\_\_\_
- If you have, what is the amount? \_\_\_\_\_
32. Have you agreed to pay restitution as a condition of your plea agreement? YES\_\_\_ NO\_\_\_
33. Do you understand that you cannot withdraw your guilty plea even if the restitution amount is determined to be higher than you thought it might be or should be? YES\_\_\_ NO\_\_\_
34. Is a license suspension required as a result of a guilty plea in this case? YES\_\_\_ NO\_\_\_
35. Do you understand that if you plead guilty you will be required to submit a DNA sample and right thumbprint impression to the State? I.C. § 19-5506. YES\_\_\_ NO\_\_\_
36. Are you pleading guilty to a crime for which the Court could impose a civil penalty for a crime of violence of up to \$5,000, payable to the victim of the crime? I.C. § 19-5307. YES\_\_\_ NO\_\_\_
37. Do you understand that if you plead guilty to a felony, you will lose your right to **vote** in Idaho during the period of your sentence? Id. Const. art. 6, §3. YES\_\_\_ NO\_\_\_
38. Do you understand that if you plead guilty to a felony, you will lose your right to **hold public office** in Idaho during the period of YES\_\_\_ NO\_\_\_

your sentence? Id. Const. art. 6, §3.

39. Do you understand that if you plead guilty to a felony, you will lose your right to **perform jury service** in Idaho during the period of your sentence? Id. Const. art. 6, §3. YES \_\_\_ NO \_\_\_
40. Do you understand that if you plead guilty to a felony and or to a misdemeanor crime of domestic violence you will lose your right to purchase, possess, or carry **firearms**? I.C. § 18-310, 18 U.S.C. § 922(g)(9). YES \_\_\_ NO \_\_\_
41. Do you understand that by pleading guilty to a felony, you run the risk that if you have new felony charges in the future, you could be charged as a Persistent Violator? I.C. §§ 19-2514, 37-2739. YES \_\_\_ NO \_\_\_

### RELATIONSHIP WITH YOUR ATTORNEY

42. Have you had sufficient time to discuss your case with your attorney? YES \_\_\_ NO \_\_\_
43. Have you had adequate time to fill out this form? YES \_\_\_ NO \_\_\_
44. Have you had adequate access to your attorney's assistance in filling out this form? YES \_\_\_ NO \_\_\_
45. Your attorney can obtain various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called "discovery." Have you had the opportunity to review the discovery provided by your attorney? YES \_\_\_ NO \_\_\_
46. Do you want your attorney to take any further action in this case? YES \_\_\_ NO \_\_\_
47. If you are not a citizen of the United States, have you talked to your attorney about the impact of your guilty plea on deportation, on your legal status in the United States and on obtaining United States citizenship? YES \_\_\_ NO \_\_\_
48. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES \_\_\_ NO \_\_\_
49. Are you satisfied with your attorney's representation? YES \_\_\_ NO \_\_\_

If not, please state why you are dissatisfied?

\_\_\_\_\_

\_\_\_\_\_

50. Do you understand that by pleading guilty you will waive (or give up) any defenses, both factual and legal, that you believe you may have in this case? YES \_\_\_ NO \_\_\_

### IF YOUR GUILTY PLEA IS THE RESULT OF A PLEA AGREEMENT REACHED THROUGH MEDIATION:

51. Did you voluntarily enter mediation? YES\_\_\_ NO\_\_\_
52. Did anyone force you, or coerce you, to enter into the plea agreement in the mediation? YES\_\_\_ NO\_\_\_
53. Were you satisfied with the conduct of the mediation? YES\_\_\_ NO\_\_\_

**ENTRY OF PLEA**

54. Are the answers throughout this form your own answers? YES\_\_\_ NO\_\_\_
55. Are you entering your plea freely and voluntarily? YES\_\_\_ NO\_\_\_
56. Are you admitting to all the elements of the crime(s) to which you are pleading guilty? YES\_\_\_ NO\_\_\_
57. Or are you pleading guilty because you are entering an Alford Plea? YES\_\_\_ NO\_\_\_
58. If you are entering an Alford Plea, do you understand that the Court will consider you just as guilty as if you enter a non-Alford plea? YES\_\_\_ NO\_\_\_
59. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue(s) with your attorney? YES\_\_\_ NO\_\_\_
60. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES\_\_\_ NO\_\_\_
61. Do you need any additional time before you enter your guilty plea(s)? YES\_\_\_ NO\_\_\_
62. Do you understand that if the Court accepts your guilty plea(s) that you may not be able to withdraw your plea(s) at a later date? YES\_\_\_ NO\_\_\_
63. Is there anything else you want to tell the court about why you are pleading guilty? YES\_\_\_ NO\_\_\_
64. Have you discussed the elements of the offense(s) for which you are charged with your attorney? YES\_\_\_ NO\_\_\_

I have answered the questions on pages 1-7 of this Guilty Plea Advisory Form truthfully, I understand all of the questions and answers herein, I have had the opportunity to discuss each question and answer with my attorney, and I have completed this form freely and voluntarily **WITH A COMPLETE UNDERSTANDING OF THE CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WITH KNOWLEDGE OF THE POTENTIAL CONSEQUENCES OF THIS PLEA.** Furthermore, no one has forced me or threatened me to plead guilty.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_



Typed/Printed Name

I have reviewed this form with the Defendant.

\_\_\_\_\_

Dated

\_\_\_\_\_

Signature of Attorney

**POST PLEA RIGHTS**

A presentence investigation will be ordered by the Court unless both you and the State waive that report and the Court approves that waiver. If waived, you will not be eligible for probation. The Court may order evaluations as part of this investigation **AND THESE REPORTS WILL BE USED TO DETERMINE YOUR SENTENCE. Unless you have waived the right to remain silent as part of your plea agreement, you have the right to remain silent during all proceedings and interviews from now until sentencing WHICH INCLUDES THE PRESENTENCE INVESTIGATION AND ANY COURT ORDERED EVALUATIONS.**

The information in the presentence interview and any evaluations (which will include any statements you make in these processes) will be used by the Court in determining your sentence. In particular if you are ordered to undergo a psychosexual evaluation (which can include a polygraph examination), a domestic violence evaluation, a substance abuse evaluation or a mental health examination (which can include a psychological or psychiatric examination) you will be asked extensive questions and your answers to those questions may be used against you during sentencing.

- 1. Have you discussed the right to remain silent with your attorney? YES \_\_\_ NO \_\_\_
- 2. Do you understand the nature of this right? YES \_\_\_ NO \_\_\_
- 3. Do you understand that you may waive this right? YES \_\_\_ NO \_\_\_
- 4. Have you waived any of this right in your plea agreement? YES \_\_\_ NO \_\_\_
- 5. Do you have any questions concerning either this right or the waiver of these rights? YES \_\_\_ NO \_\_\_
- 6. Have you discussed with your attorney your rights regarding your attorney's attendance and presence during the presentence investigation or these various evaluations? YES \_\_\_ NO \_\_\_
- 7. Do you want the Court to order any particular evaluations to assist the Court in determining your sentence in this case? YES \_\_\_ NO \_\_\_

If yes, which evaluations and why?

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

I ACKNOWLEDGE THE FOREGOING POST PLEA RIGHTS.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Typed/Printed Name