

APPENDIX "G"

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

STATE OF KANSAS,
Plaintiff,

vs.

Case No. _____

_____,
Defendant.

PETITION TO ENTER PLEA AGREEMENT

The defendant represents to the Court:

1. My full true name is: _____, and I am _____ years of age. I requests that all proceedings against me be in my true name;
2. I am represented by a lawyer, his/her name is: _____ of _____;
3. I have received a copy of the Complaint/Information before being called upon to plead. I have read the Complaint/Information and have discussed it with my lawyer. I fully understand every charge against me;
4. I told my lawyer all the facts and circumstances known to me about the charge(s) made against me in the Complaint/Information. I believe that my lawyer is fully informed on all such matters; and
5. I know that the Court must be satisfied that there is a factual basis for the entry of a guilty plea before my plea can be accepted. I represent to the Court that I am entering a guilty plea in connection with the following charge made against me;

COUNT _____

[type charge set forth in Count, including severity level and minimum and maximum months for sentence]

6. My lawyer has counseled and advised me on the nature of each charge, on all lesser included charges, and all possible defenses that I might have in the case;
7. I know that I have the right to plead "Not Guilty" to any offenses charged against me. If I

plead "Not Guilty" I know the United States Constitution guarantees me: (a) the right to a speedy and public trial by a jury; (b) at that trial, and at all stages of the proceedings, the right to the assistance of a lawyer; (c) the right to see and hear all witnesses called to testify against me, and the right to cross-examine those witnesses; (d) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor; (e) the right not to be compelled to incriminate myself by taking the witness stand and if I do not take the witness stand, no inference of guilty may be drawn from such failure; and (f) the right to take an appeal from any conviction after a contested trial;

8. I know that if I enter a guilty plea, I am thereby waiving my right to a trial, and that there will be no further trial of any kind, either before the Court or jury; and further, I realize the Court may impose the same punishment as if I had pled "Not Guilty," stood trial, and been convicted by a jury. I further hereby state and declare that I have been informed by my lawyer that while I do not have a right to appeal a finding of guilty, should I enter a plea of guilty to any charge(s) that I still may retain the right under certain circumstances to appeal any sentence I may receive as a result of my plea of guilty to any charge(s);
9. I know that if I enter a guilty plea, the Court will ask me questions about the offense to which I have plead, and since I will be answering these questions under oath, on the record, and in the presence of my lawyer, that my answers may later be used against me in a prosecution for perjury or false statements;
10. My lawyer informed me that the plea of guilty could subject me to a maximum punishment which, as provided by law, is _____ months imprisonment and a fine not to exceed \$_____ for the offense charged in Count _____ of the Complaint/Information.
11. I have been advised and understand that if I am not a United States Citizen, a conviction of a criminal offense may result in deportation from the United States, exclusion from admission to the United States, and /or denial of naturalization;
12. If I am on felony probation, parole, conditional release, assignment to community services, or post release supervision, my status may be revoked and I may be required to serve time in that case which will be consecutive, that is in addition to any sentence imposed upon me in this case. Further, I understand that should my status be any of those as stated above in this paragraph and the current crime be one for which the sentence is presumptive probation that the presumption of probation is thereby lost due to the reason of my status being either on felony probation, parole, conditional release, assignment to community services, or post release supervision at the time of the commission of the current offense;

13. I declare that no officer or agent of any branch of government (federal, state or local) has promised, suggested, or predicted that I will receive a lighter sentence, or probation, or any other form of leniency if I plead guilty, except as follows: refer to paragraph 15.

If anyone else, including by lawyer, made such a promise, suggestion, or prediction, except as noted in the previous sentence, I know that he had no authority to do so.

I know that the sentence I will receive is solely a matter within the control of the Judge and he/she is not bound by the terms of any plea agreement in regards to sentencing recommendations.

I hope to receive leniency, but I am prepared to accept my punishment permitted by law, which the Court sees fit to impose. However, I respectfully request the Court to consider, in mitigation of punishment, that I have voluntarily entered a guilty plea.

14. I understand that a State probation officer will be assigned to conduct a thorough pre-sentence investigation to develop all relevant facts concerning my case unless the Court finds that there is in the record sufficient Complaint/Information to enable the meaningful exercise of sentencing authority. In determining the sentence to impose, I understand that the Court may take into account all relevant criminal conduct and background characteristics including but not limited to, the recency and frequency of my prior criminal record, whether or not a substantial portion of my income resulted from criminal conduct, my role in the offense, victim-related circumstances, and my acceptance of the responsibility for the offense, may have specific effect on the sentence;

15. My entry of a guilty plea is the result of a plea agreement entered into between the _____ County Attorney, my attorney and myself;

Since my plea is the result of a plea agreement, I hereby state that the terms of said agreement are as follows: [enter terms such as: I will enter a plea of guilty to Count ____ in return for the County Attorney dismissing the remaining charges in Case No. _____ and.]

I [do, do not] know my criminal history;

The State agrees to [enter elements of agreement such as dismiss the remaining charges in the Complaint/Information in Case No. _____ and agrees to _____].

[and/or: The State agrees to recommend the average _____ month underlying sentence, suspended, and will not oppose probation; the State further agrees to dismiss the remaining charges in the Complaint/Information.

Accordingly, the State agrees to stipulate that all three mitigating factors exist pursuant to K.S.A. 21-4705(d)(1), (2) & (3) to warrant a non-prison sanction, namely;

- (1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism;
- (2) The recommended treatment program is available and the offender can be admitted to the program within a reasonable period of time; and
- (3) the non-prison sanction will serve community safety interest by promotion offender reformation.]

The State [will, will not] recommend 60 days confinement as a condition of probation.

16. I believe that my lawyer has done all that anyone could do to counsel and assist me, AND I AM SATISFIED WITH THE ADVICE AND HELP HE/SHE HAS GIVEN ME;
17. My mind is clear, I am not under the influence of alcohol or drugs, and I am not under a doctor's care. The only drugs, medicine or pills that I took within the past seven (7) days are: _____;
18. I have never been confined in an institution for the treatment of mental illness. I have never been adjudicated mentally incompetent. No psychiatrist, physician, or psychologist has ever found me to be mentally ill. I know of no reason why my mental competence at the time of the commission of the alleged offense, or at the present time, should be questioned;
19. I offer my plea of guilty freely and voluntarily, and further state that my plea of guilty is not the result of any force or threats against me, or of any promises made to me other than those noted in this Petition. I further offer my guilty plea with full understanding of all matters set forth in the Complaint/Information and in this Petition;
20. I waive the reading of the Complaint/Information in open Court, and I request the Court to enter my guilty plea; and
21. I swear that I have read, understand and have discussed with my attorney each and every part of this Petition to Enter Plea Agreement, and that the answers which appear in every part of this Petition are true and correct.

Signed in the presence of my attorney, this _____ day of _____,
200____.

[name]
Defendant

Subscribed and sworn to by _____ in my presence this _____
day of _____, 200____.

NOTARY PUBLIC/JUDGE

PREPARED BY:

Insert Attorney's name

APPROVED BY:

Insert County Attorney's name