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2 **IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY**
3 **MENTAL HEALTH COURT**

4 STATE OF OREGON,

Plaintiff,

5 Vs.

6 _____,

7 Defendant

Case No.

CHARGE(s):

**PETITION TO ENTER PLEA OF
GUILTY OR NO CONTEST**

**AND ORDER PERMITTING THE
SAME**

8
9
10 The above named Defendant respectfully represents to the Court as follows:

11 1. My true name is _____.

12 2. I am ___ years of age; my date of birth is _____.

13 _____ I read, write and understand the English language.

14 _____ I do not read, write and understand the English language, however I have
15 had the assistance of a qualified interpreter for this case and plea.

16 3. I request all proceedings against me to be had in the name which I have hereby declared
17 to be my true name.

18 4. I am represented by counsel and the name of my attorney is _____. I have
19 received a copy of the complaint/information/indictment before being called upon to
20 plead and have read the same, discussed it with my attorney and fully understand all
21 charges made against me.

22 5. I have told my attorney all the facts and surrounding circumstances as known to me
23 concerning the matters mentioned in the complaint/information/indictment and
24 believe that my attorney is fully informed as to all such matters. My attorney has since
25 informed me and has counseled and advised with me at length as to the nature and
26 cause of each accusation against me as set forth in the
27 complaint/information/indictment and as to any possible defenses I might have in this
28 case.

6. My attorney has advised me as to the maximum punishment which the law provides for
the offense charged in the complaint/information/indictment as follows:

Count 1: \$ Fine Year(s) Imprisonment

I have also been advised, if I am pleading to a felony, that under Oregon Sentencing
Guidelines the potential period of incarceration is determined by relating the crime

1 severity of the crime of conviction to the criminal history scale. I have also been advised
2 that is the court finds substantial and compelling reasons may impose either more or
3 less time than is called for in the presumptive grid block range. An upward durational
4 departure from presumptive incarceration term shall not total more than double the
5 maximum duration of the presumptive incarceration term. I also have been advised as
6 to the possibility of consecutive sentences being imposed.

7 7. I understand that I am not required to plead guilty or no contest and may plead not
8 guilty if I choose. If I plead not guilty, I understand I am entitled to a speedy trial
9 before a jury of my peers; that I have the right to call witnesses in my behalf and at no
10 expense to me, and that any such witnesses so called would be compelled to appear and
11 testify; that I have an absolute right to confront any witness that would testify against
12 me and cross examine such witness; that I need not take the witness stand or give any
13 testimony against myself; that the sole burden of proof is upon the State of Oregon to
14 establish my guilt which must be established beyond a reasonable doubt and to a moral
15 certainty; that I have a right to the assistance of a lawyer for my defense at all stages of
16 the proceedings, including a lawyer at State expense if I cannot afford one. I
17 understand that by pleading guilty I give up these rights.

18 8. I also understand that a prior criminal record could not be used against me except for
19 impeachment purposes; that any admissions, statements or confessions which I may
20 have made or any evidence obtained by virtue of a search and seizure of my property
21 may well be inadmissible against me in evidence unless my constitutional rights have
22 been safeguarded, which rights have been explained to me I understand that if I would
23 like to speak to an attorney concerning my constitutional rights that the Court will grant
24 me time for that purpose.

25 9. I declare that no officer or agent of any branch of government nor any lawyer or any
26 other person has made any promise to me, or within my knowledge to anyone else, that
27 I would receive a lighter sentence or any other form of leniency by pleading guilty or no
28 contest with the exception that:

[Enter plea agreement terms]

10. Upon successful completion of the Mental Health Court program, the plea agreement is
as follows: _____ **[disposition of charges]**.

11. If I am unsuccessful and as a result, terminated from the Mental Health Court program
prior to successful completion, the plea agreement is as follows: _____ **[disposition
of charges]** _____.

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12. I fully understand that the actual sentence is up to the Court, no matter what any recommendations may be.
 13. I believe that my attorney has done all that anyone could do to counsel and assist me and that there is nothing about the proceedings in this case against me which I do not fully understand. I am satisfied with the advice and help my attorney has given me.
 14. I know that the Court will not permit anyone who claims to be innocent to plead guilty and with that in mind and because I am guilty and make no claim of innocence, I wish to plead guilty and respectfully request the Court to accept my plea of guilty. Or, if I am pleading no contest, I am saying that I do not contest that the State has evidence of my guilt and wish to have the conviction entered without admitting guilt.
 15. I know if I claim to be innocent, the court will not accept my guilty plea. I am pleading to the crime(s): _____.
 16. I have taken no drink or drug nor anything else which would in any way impair my judgment at this time, and I feel that I am now fully alert and that in executing this petition I am doing so knowingly and voluntarily and offer my plea of my own free will and accord with a full understanding of all the matters set forth in the complaint/information/indictment and in this petition.
 17. The factual basis of my guilty plea is: _____.
 18. I now pray the Court to enter my plea of _____ in reliance upon my representations and the fact that there is a factual basis for my plea and the State possesses evidence which may lead a jury to find that I am guilty if I stand trial. I believe it to be in my best interest that I now so declare and plead.
 19. I have been advised by my attorney that a criminal conviction may result in deportation, exclusion from admission to the United States or denial of naturalization if I am not a U.S. citizen.
 20. I understand that if I am not a citizen of the United States and am pleading guilty to a crime which is considered as aggravated felony under 8 USC 1101 this conviction will result in removal proceedings against me unless the United States Attorney General or his designee choose not to pursue removal. I also understand that this conviction will result in a change in my immigration status.
 21. In addition to the sentence imposed, I understand that there may be other significant consequences if I enter a "Guilty" or "No Contest" plea, including but not limited to, a prohibition from leaving the state without first requesting transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.
 22. I understand that if I enter a plea of "Guilty" or "No Contest" to an offense involving domestic violence, as defined in ORS 135.230, and am convicted of the offense, federal

1 law may prohibit me from possessing, receiving, shipping, or transporting any firearm
2 or firearm ammunition and that the conviction may negatively affect my ability to serve
3 in the Armed Forces of the United States as defined in ORS 348.282 or to be employed
4 in law enforcement.

5 23. I agree that if I withdraw or if a court later reverses, vacates, or sets aside my plea of
6 "Guilty" or "No Contest" in this case, the court will reinstate any charge(s) that were
7 dismissed in return for my plea and the district attorney no longer will be bound by any
8 promises made to me in exchange for my plea. If the court reinstates the charge(s), I
9 waive the statute of limitations and any statutory or constitutional speedy trial or
10 double jeopardy rights applicable to the dismissed charges.

11 **24. I hereby acknowledge that my attorney or the Court has furnished me
12 with a Notice and Advice of Right to Appeal pursuant to ORS 137.020 (5).**

13 Signed by me in open Court on:

14 Date: _____

15 DEFENDANT

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17 **CERTIFICATE OF COUNSEL**

18 The undersigned, as attorney for the Defendant above named hereby certifies as follows:

- 19 1. That I have read and fully explained to the Defendant the allegations contained in the
20 complaint/information/indictment in this case.
- 21 2. That I have explained to defendant the maximum and minimum penalties that could be
22 imposed for each charge and for all charges together.
- 23 3. That to the best of my knowledge and belief the statements, representations and
24 declarations made by the Defendant in the foregoing petition are in all respects accurate
25 and true.
- 26 4. That the plea of guilty or no contest as offered by the Defendant in the foregoing
27 petition and stipulation to a factual basis for this plea as related to me by the Defendant
28 is consistent with my advice to the Defendant.
5. That in my opinion the Defendant's plea is voluntarily and understandingly made, and I
recommend to the Court that the plea be accepted by the Court, and entered on behalf
of the Defendant as requested.

1 6. I have explained to Defendant any limitation on the right to appeal the judgment of
conviction and sentence, a notice of the same is filed herein.

2 7. I am aware that, if Defendant is eligible to be represented by court-appointed counsel
3 on appeal, I am responsible for determining whether Defendant wishes to appeal and, if
4 Defendant wishes to appeal, I am responsible for transmitting the information
5 necessary to initiate an appeal to the Office of Public Defense Services.

6 Signed by me in open Court in the presence of the Defendant above named and after full discussion
7 of the contents of this certificate with the Defendant on

8
9
10 Date: _____

11 ATTORNEY FOR DEFENDANT

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13 **NOTICE OF AND RIGHT TO APPEAL**

14 Following your conviction of an offense, you have 30 days from the date of judgment to appeal the
15 decision of the court.

16 If you pled guilty or no contest, you may appeal only whether your sentence or term of probation
17 exceeds the maximum allowed by law or is unconstitutionally cruel and unusual. You must
demonstrate to the appellate court that your appeal is supported by a colorable claim of error.

18 If you entered a conditional plea of guilty or no contest, you must reserve in the judgment the right
19 to appeal the court's ruling on a pretrial motion. You may appeal only the ruling reserved in the
20 judgment and whether your sentence or term of probation exceeds the maximum allowed by law or
is unconstitutionally cruel and unusual. You must demonstrate to the appellate court that your
appeal is supported by a colorable claim of error.

21 If you were sentenced for a probation violation or following a re-sentencing hearing, you must
22 demonstrate to the appellate court that your appeal is supported by a colorable claim of error.

23 If an attorney represented you in your case, you must notify your attorney of your desire to file an
24 appeal so that he or she can transmit the information necessary to perfect your appeal.

25 If you are unable to afford an attorney to represent you on appeal, you may qualify to have one
26 appointed to represent you by the court. You may contact the Office of Public Defense Services
(formerly the State Public Defender's Office) by mail at 1175 Court Street NE, Salem, Oregon 97301
or by phone at (503) 378-3349.

27 To perfect your appeal, you or your attorney must do the following: (1) prepare a written and
28 signed notice of appeal, (2) file the
Original, signed notice of appeal and proof of service on the parties with the State Court
Administrator, Appellate Court Records Section, 1163 State Street, Salem, Oregon 97301-2563, and

1 (3) serve copies of the notice of appeal with all parties including the district attorney and the trial
2 court administrator.

3 During your appeal, you may ask the trial court to release you from custody or stay your financial
4 obligations. This is discretionary with the trial court and may be with any conditions that the trial
5 court decides to impose.

6 There is no filing fee for criminal cases, but there may be a filing fee for appeals of other types of
7 cases. You may contact the Court of Appeals for information regarding those fees at (503) 986-
8 5555.

9 *** * * ORDER * * ***

10 This Court Finds:

- 11 1. Good cause appearing therefore from the foregoing petition of the Defendant above
12 named, and the certificate of Defendant's counsel and from all proceedings
13 heretofore had in this case;
14 2. Defendants plea of guilty is voluntarily, intelligently, and knowingly made;
15 3. Defendant's waiver of counsel, if proceeding without an attorney, is voluntarily,
16 intelligently, and knowingly made.

17 IT IS HEREBY ORDERED AND ADJUDGED by the Court that the petition be granted and
18 that the Defendant's plea(s) of:

19 GUILTY be accepted and entered as prayed in the above petition and as
20 recommended by the certificate of counsel;

21 NO CONTEST be accepted and entered as prayed in the aforesaid petition and as
22 recommended by the certificate of counsel.

23 Entered in open Court on:

24 Date/Circuit Court Judge Signature: _____
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