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6 7	Attorneys for Plaintiff United States of America		
8 9 10		TATES DISTRICT COURT RICT OF CALIFORNIA	
<ol> <li>11</li> <li>12</li> <li>13</li> <li>14</li> <li>15</li> </ol>	UNITED STATES OF AMERICA, Plaintiff, v. FRANCISCO JAVIER HIDALGO-FLORES, Defendant.	CASE NO. 1:16-cr-00093 LJO PLEA AGREEMENT DATE: TBD TIME: TBD COURT: Hon. LAWRENCE J. O'NEILL	
16 17 18	I. <u>INTRODUCTION</u> A. <u>Scope of Agreement.</u>		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	The indictment in this case charges the defendant with violation(s) of 18 U.S.C. § 371 – Conspiracy to Transfer, Possess, and Sell False Identification Documents ("Count One"), 18 § 1028(a)(2) & (f) – Transfer or Attempted Transfer of False Identification Documents ("Count Four" and "Count Six"), and 18 U.S.C. § 1546(a) – Fraud and Misuse of Visas and Related Documents ("Count Eleven" and "Count Thirteen"). This document contains the complete plea agreement between the United States Attorney's Office for the Eastern District of California (the "government") and the		
25 26 27 28	defendant regarding this case. This plea agreement the Eastern District of California and cannot bind administrative, or regulatory authorities.	ent is limited to the United States Attorney's Office for I any other federal, state, or local prosecuting,	

#### B. <u>Court Not a Party.</u>

The Court is not a party to this plea agreement. Sentencing is a matter solely within the discretion of the Court, and the Court may take into consideration any and all facts and circumstances concerning the criminal activities of defendant, including activities which may not have been charged in the indictment. The Court is under no obligation to accept any recommendations made by the government, and the Court may in its discretion impose any sentence it deems appropriate up to and including the statutory maximum stated in this plea agreement.

8 If the Court should impose any sentence up to the maximum established by the statute, the 9 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all 10 of the obligations under this plea agreement. The defendant understands that neither the prosecutor, 11 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will 12 receive..

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## II. DEFENDANT'S OBLIGATIONS

#### A. Guilty Plea.

The defendant will plead guilty to Count One, which charges him with Conspiracy to Transfer, Possess, and Sell False Identification Documents, in violation of Title 18, United States Code, Section 371. The defendant agrees that he is in fact guilty of this charge and that the facts set forth in the Factual Basis for Plea attached hereto as Exhibit A are accurate.

The defendant agrees that this plea agreement will be filed with the Court and become a part of
the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
plea(s) should the Court not follow the government's sentencing recommendations.

The defendant agrees that the statements made by him in signing this Agreement, including the factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a guilty plea pursuant to this Agreement. The defendant waives any rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410, to the extent that these rules are inconsistent with this paragraph or with this Agreement generally.

## B. <u>Fine.</u>

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The parties agree that no fine is appropriate in this case.

#### C. Special Assessment.

The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering a check or money order payable to the United States District Court to the United States Probation Office immediately before the sentencing hearing. The defendant understands that this plea agreement is voidable at the option of the government if he fails to pay the assessment prior to that hearing. If the defendant is unable to pay the special assessment at the time of sentencing, he agrees to earn the money to pay the assessment, if necessary by participating in the Inmate Financial Responsibility Program.

D.

#### Violation of Plea Agreement by Defendant/Withdrawal of Plea(s).

11 If the defendant violates this plea agreement in any way, withdraws his plea, or tries to withdraw 12 his plea, this plea agreement is voidable at the option of the government. If the government elects not to void the agreement based on the defendant's violation, the government will no longer be bound by its 13 14 representations to the defendant concerning the limits on criminal prosecution and sentencing as set 15 forth herein. A defendant violates the plea agreement by committing any crime or providing or 16 procuring any statement or testimony which is knowingly false, misleading, or materially incomplete in 17 any litigation or sentencing process in this case, or engages in any post-plea conduct constituting obstruction of justice. Varying from stipulated Guidelines application or agreements regarding 18 19 arguments as to Title 18, United States Code, section 3553, as set forth in this agreement, personally or through counsel, also constitutes a violation of the plea agreement. The government also shall have the 20 21 right (1) to prosecute the defendant on any of the counts to which he pleaded guilty; (2) to reinstate any 22 counts that may be dismissed pursuant to this plea agreement; and (3) to file any new charges that would 23 otherwise be barred by this plea agreement. The defendant shall thereafter be subject to prosecution for any federal criminal violation of which the government has knowledge. The decision to pursue any or 24 25 all of these options is solely in the discretion of the United States Attorney's Office.

By signing this plea agreement, the defendant agrees to waive any objections, motions, and defenses that the defendant might have to the government's decision. Any prosecutions that are not time-barred by the applicable statute of limitations as of the date of this plea agreement may be

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commenced in accordance with this paragraph, notwithstanding the expiration of the statute of
limitations between the signing of this plea agreement and the commencement of any such prosecutions.
The defendant agrees not to raise any objections based on the passage of time with respect to such
counts including, but not limited to, any statutes of limitation or any objections based on the Speedy
Trial Act or the Speedy Trial Clause of the Sixth Amendment to any counts that were not time-barred as
of the date of this plea agreement. The determination of whether the defendant has violated the plea
agreement will be under a probable cause standard.

8 In addition, (1) all statements made by the defendant to the government or other designated law 9 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal, 10 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or 11 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no 12 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by 13 14 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed. 15 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

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## E. <u>Forfeiture.</u>

The defendant agrees to forfeit to the United States voluntarily and immediately all of his right
title and interest to any and all assets subject to forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(C),
982(a)(2)(B) & (a)(6), 1028(b)(5) and 28 U.S.C. § 2461. Those assets include, but are not limited to, the
following:

1. Items seized pursuant to search warrant 1:16-sw-152-SAB from 921 N. Peach,
 Apt. 115, Fresno, CA, including: Galaxy cellular telephone, Apple iPhone, and miscellaneous
 documents.

24 2. Items seized pursuant to search warrant 1:16-sw-152-SAB from Silver Nissan
25 Altima, including: LG cellular telephone and miscellaneous documents.

The defendant agrees that the listed asset(s) are property which constitute or are derived from proceeds traceable to a violation of 18 U.S.C. § 371.

The defendant agrees to fully assist the government in the forfeiture of the listed assets and to

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take whatever steps are necessary to pass clear title to the United States. The defendant shall not sell,
 transfer, convey, or otherwise dispose of any of his asset(s), including but not limited to, the above-listed
 asset(s).

The defendant agrees not to file a claim to any of the listed property in any civil proceeding,
administrative or judicial, which may be initiated. The defendant agrees to waive his right to notice of
any forfeiture proceeding involving this property, and agrees to not file a claim or assist others in filing a
claim in that forfeiture proceeding.

8 The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of
9 assets. The defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses
10 to the forfeiture of these assets in any proceeding. The defendant agrees to waive any jeopardy defense,
11 and agrees to waive any claim or defense under the Eighth Amendment to the United States
12 Constitution, including any claim of excessive fine, to the forfeiture of the assets by the United States,
13 the State of California or its subdivisions.

The defendant waives oral pronouncement of forfeiture at the time of sentencing, and any defenses or defects that may pertain to the forfeiture.

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## Asset Disclosure.

17 The defendant agrees to make a full and complete disclosure of his assets and financial 18 condition, and will complete the United States Attorney's Office's "Authorization to Release 19 Information" and "Financial Affidavit" within five (5) weeks from the entry of the defendant's change 20 of plea, including supporting documentation. The defendant also agrees to have the Court enter an order 21 to that effect. The defendant understands that if he fails to complete truthfully and provide the described 22 documentation to the United States Attorney's office within the allotted time, he will be considered in 23 violation of the agreement, and the government shall be entitled to the remedies set forth in section II.E above, above. 24

## III. <u>THE GOVERNMENT'S OBLIGATIONS</u>

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# A. <u>Dismissals/Other Charges.</u>

The government agrees to move, at the time of sentencing, to dismiss without prejudice the remaining counts in the pending indictment. The government also agrees not to reinstate any dismissed

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count except if this agreement is voided as set forth herein, or as provided in paragraphs II.D (Violation
 of Plea Agreement by Defendant/Withdrawal of Plea(s)), VI.B (Estimated Guideline Calculation), and
 VII.B (Waiver of Appeal and Collateral Attack) herein.

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# Recommendations.

1. Incarceration Range.

6 The government will recommend that the defendant be sentenced to the low end of the
7 applicable guideline range as determined by the Court.

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- 2. Acceptance of Responsibility.

9 The government will recommend a two-level reduction (if the offense level is less than
10 16) or a three-level reduction (if the offense level reaches 16) in the computation of his offense level if
11 the defendant clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. §
12 3E1.1. This includes the defendant meeting with and assisting the probation officer in the preparation of
13 the pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging
14 in conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the
15 preparation of the pre-sentence report or during the sentencing proceeding.

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## Use of Information for Sentencing.

The government is free to provide full and accurate information to the Court and Probation, including answering any inquiries made by the Court and/or Probation and rebutting any inaccurate statements or arguments by the defendant, his attorney, Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement bars the government from defending on appeal or collateral review any sentence that the Court may impose.

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## IV. <u>ELEMENTS OF THE OFFENSE</u>

At a trial, the government would have to prove beyond a reasonable doubt the following
elements of the offense to which the defendant is pleading guilty, Count One, which charges him with
Conspiracy to Transfer, Possess, and Sell False Identification Documents, in violation of Title 18,
United States Code, Section 371:

First, beginning in or about June 2015 and ending on or about June 17, 2016, there was an agreement between two or more persons to commit at least one crime as charged in the indictment;

PLEA AGREEMENT

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Second, the defendant became a member of the conspiracy knowing of at least one of its
 objects and intending to help accomplish it; and

Third, one of the members of the conspiracy performed at least one overt act in or after
June 2015 for the purpose of carrying out the conspiracy.

The defendant fully understands the nature and elements of the crimes charged in the indictment
to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with
his attorney.

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#### V. <u>MAXIMUM SENTENCE</u>

#### A. <u>Maximum Penalty.</u>

The maximum sentence that the Court can impose is five years of incarceration, a fine of \$250,000, a three-year period of supervised release and a special assessment of \$100.

12 13 В.

## Violations of Supervised Release.

The defendant understands that if he violates a condition of supervised release at any time during
the term of supervised release, the Court may revoke the term of supervised release and require the
defendant to serve up to two additional years imprisonment.

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#### VI. <u>SENTENCING DETERMINATION</u>

## A. <u>Statutory Authority.</u>

18 The defendant understands that the Court must consult the Federal Sentencing Guidelines and 19 must take them into account when determining a final sentence. The defendant understands that the Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the 2021 Sentencing Guidelines and must take them into account when determining a final sentence. The defendant further understands that the Court will consider whether there is a basis for departure from the 22 23 guideline sentencing range (either above or below the guideline sentencing range) because there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into 24 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further 25 26 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a). 27

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#### Estimated Guideline Calculation. **B**.

Stipulations Affecting Guideline Calculation: The government and the defendant agree that there is no material dispute as to the following sentencing guidelines variables and therefore stipulate to 3 the following: 4 Base Offense Level: 11 (USSG § 2L2.1) 1. 5 Specific Offense Characteristics: +6 (USSG § 2L2.1(b)(2)(B), where the 2. 6 conspiracy involved more than 25 and less than 99 fraudulent documents) 7 Adjusted Offense Level: 17 3. 8 Acceptance of Responsibility: See paragraph III.B.2 above 4. 9 Criminal History: The parties estimate, but do not stipulate, that the defendant's 5. criminal history category will be I. 10 Sentencing Range: 15 - 21 months (The defendant understands that if the 11 6. criminal history category differs from the parties' estimate, his Guidelines sentencing range may differ from that set forth here.) 12 The parties agree that they will not seek or argue in support of any other specific offense 13 characteristics, Chapter Three adjustments (other than the decrease for "Acceptance of Responsibility"), 14 or cross-references. Both parties agree not to move for, or argue in support of, any departure from the 15 Sentencing Guidelines, or any deviance or variance from the Sentencing Guidelines under United States 16 v. Booker, 543 U.S. 220, 125 S.Ct. 738 (2005). 17 The defendant also agrees that the application of the United States Sentencing Guidelines 18 to his case results in a reasonable sentence and that the defendant will not request that the Court apply 19 the sentencing factors under 18 U.S.C. § 3553 to arrive at a different sentence than that called for under 20the Sentencing Guidelines' advisory guideline range as determined by the Court. The defendant 21 acknowledges that if the defendant requests or suggests in any manner a different sentence than what is 22 called for under the advisory guideline range as determined by the Court, that will be considered a 23 violation of the plea agreement. The government's remedies and remaining obligations in this agreement 24 shall be as outlined in paragraph II.E, above. 25 VII. WAIVERS 26 A. Waiver of Constitutional Rights. 27 The defendant understands that by pleading guilty he is waiving the following constitutional 28 8

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rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoen witnesses to
testify on his behalf; (e) to confront and cross-examine witnesses against him; and (f) not to be
compelled to incriminate himself.

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В.

# Waiver of Appeal and Collateral Attack.

The defendant understands that the law gives the defendant a right to appeal his guilty plea,
conviction, and sentence. The defendant agrees as part of his plea(s), however, to give up the right to
appeal the guilty plea, conviction, and the sentence imposed in this case as long as the sentence does not
exceed the statutory maximum for the offense to which he is pleading guilty.

Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if
one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the
statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
understands that these circumstances occur infrequently and that in almost all cases this Agreement
constitutes a complete waiver of all appellate rights.

In addition, regardless of the sentence the defendant receives, the defendant also gives up any
right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

Notwithstanding the government's agreements in paragraph III.A above, if the defendant ever
attempts to vacate his plea(s), dismiss the underlying charges, or modify or set aside his sentence on any
of the counts to which he is pleading guilty, the government shall have the rights set forth in Section
II.D herein.

# C. <u>Waiver of Attorneys' Fees and Costs.</u>

The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the
investigation and prosecution of all charges in the above-captioned matter and of any related allegations
(including without limitation any charges to be dismissed pursuant to this plea agreement and any
charges previously dismissed).

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#### PLEA AGREEMENT

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## D. Impact of Plea on Defendant's Immigration Status.

2 Defendant recognizes that pleading guilty may have consequences with respect to his immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes 3 are removable offenses, including offense(s) to which the defendant is pleading guilty. The defendant 4 and his counsel have discussed the fact that the charge to which the defendant is pleading guilty is an 5 aggravated felony, or a crime that is likely to be determined to be an aggravated felony under 8 USC § 6 7 1101(a)(43), and that while there may be arguments that defendant can raise in immigration proceedings to avoid or delay removal, it is virtually certain that defendant will be removed. Removal and other 8 immigration consequences are the subject of a separate proceeding, however, and defendant understands 9 that no one, including his attorney or the district court, can predict to a certainty the effect of his 10 conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty 11 regardless of any immigration consequences that his plea may entail, even if the consequence is his 12 automatic removal from the United States ... 13

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## VIII. ENTIRE PLEA AGREEMENT

Other than this plea agreement, no agreement, understanding, promise, or condition between the government and the defendant exists, nor will such agreement, understanding, promise. or condition exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and counsel for the United States.

APPROVALS AND SIGNATURES

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# A. <u>Defense Counsel.</u>

IX.

I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

24 Dated: 9 - 14 - 16

FFREY T. HAMMERSCHMIDT Attorney for Defendant

PLEA AGREEMENT

	B. Defendant:
1	I have read this plea agreement and carefully reviewed every part of it with my attorney. I
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3	understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully
4	understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my
5	case. No other promises or inducements have been made to me, other than those contained in this plea
6	agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.
7	Finally, I am satisfied with the representation of my attorney in this case.
8	Dated:
9	FRANCISCO JAVIER HIDALGO-FLORES Defendant
10	C. <u>Court Certified Interpreter/Translator:</u>
11	I declare that I am a court certified Spanish-English interpreter/translator. On
12	83116, I read the entire contents of the foregoing plea agreement to FRANCISCO JAVIER
13	HIDALGO-FLORES, translating the document from English to Spanish.
14	- daulis
15	Dated: 8136116 Interpreter/Translator Robert ODNZA lez
16	Robert VONZAIEZ
17	D. <u>Attorney for United States:</u>
18	I accept and agree to this plea agreement on behalf of the government.
19	Dated: PHILLIP A. TALBERT
20	Acting United States Attorney
21	V& DK
22	CHŘISTOPHER D. BAKER Assistant United States Attorney
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1	EXHIBIT "A"		
2	Factual Basis for Plea(s)		
3	Beginning not later than in or about June 2015, and continuing to on or about June 17, 2016, in the State and Eastern District of California, defendant FRANCISCO JAVIER HIDALGO-FLORES (aka Luis), and co-defendants FIDEL VASQUEZ-VELASQUEZ (aka Antonio), ANGELICA MORENO-VELASQUEZ, MARIA VICTORIA PEREZ-VASQUEZ, LIZET AMAIRANI RAMIREZ-ZAZUETA,		
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5	and VERONICA ROSALES-CAPITAINE, did knowingly combine, conspire, and agree with each other, and with others known and unknown, to transfer or attempt to transfer false identification		
6	documents which appeared to be issued by and under the authority of the United States, and utter, possess, obtain, accept and receive alien registration receipt cards (LPR cards), knowing that such		
7	documents were forged, counterfeited, altered, and falsely made, and otherwise procured by fraud and unlawfully obtained.		
8	Defendant HIDALGO-FLORES and co-defendants manufactured, distributed, delivered, and		
9 10	State and Eastern District of California. Customers placed orders for fraudulent documents with the		
10	defendant and co-defendants, who would accept photographs and biographical information from the customers to be used in the fraudulent documents. The defendant and co-defendants delivered the completed false identification documents to the customers and completed the sales. The defendant and		
12	co-defendants charged between approximately \$80.00 and \$150.00 for a set of documents including a forged social security card (SSN card) and an LPR card.		
13	For the purpose of carrying out the conspiracy and to effectuate the objects thereof, the following overt acts, among others, were committed by the defendant and co-defendants within the State and		
14	Eastern District of California:		
15	On or about January 28, 2016, defendant HIDALGO-FLORES transferred and sold to a customer one (1) fraudulent LPR card and two (2) fraudulent SSN cards for the sum of \$120.00.		
16 17	On or about February 24, 2016, defendant HIDALGO-FLORES and co-defendant RAMIREZ-ZAZUETA transferred and sold to a customer two (2) fraudulent LPR cards and two (2) fraudulent SSN cards for the sum of \$240.00.		
18	On or about June 15, 2016, defendant HIDALGO-FLORES and co-defendant ROSALES-		
19	CAPITAINE met to discuss recruitment of new customers to purchase fraudulent identification documents.		
20	During the course of the conspiracy, defendant HIDALGO-FLORES conspired to transfer and		
21	sell at least 25 sets and less than 99 sets of false identification documents, including fraudulent alien registration cards and social security cards.		
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	PLEA AGREEMENT A-1		