

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

AUSTIN JONES

No. 17 CR 417

Judge John Z. Lee

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant AUSTIN JONES, and his attorney, TERRENCE LEFEVOUR, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

**Charge in This Case**

2. The information in this case charges defendant with receipt of child pornography, in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

3. Defendant has read the charge against him contained in the information, and that charge has been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crime with which he has been charged.

**Charge to Which Defendant Is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the information, which charges defendant with receipt of child pornography, in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

## Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in the information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

On or about May 4, 2017, at Bloomingdale, in the Northern District of Illinois, Eastern Division, and elsewhere, Austin JONES knowingly received child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), which image had been shipped and transmitted in and affecting interstate and foreign commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

Specifically, on or about May 4, 2017, defendant knowingly used, persuaded, induced, and enticed Victim A, who was fourteen years old at the time, to engage in sexually explicit conduct that involved the lascivious exhibition of Victim A's anus, for the purposes of having Victim A record videos of the sexually explicit conduct. Using the private messaging feature of Facebook to converse with Victim A, JONES directed Victim A to make videos of herself dancing in a sexual manner and performing sexual acts, and told her what to do and say in the videos. Throughout the conversation, JONES repeatedly encouraged Victim A to continue dancing when she wanted to stop, and provided directions regarding how she should dance, what she should wear, how she should adjust the camera in the videos, and that she should talk about her age "the whole time." Victim A expressed that she was tired and might

“pass out” and did not want to continue, and JONES instructed her to keep dancing, keep sending him videos, and to “talk about your age the whole time” and to “say these lines: I’m only (age), yeah only (age) years old, this ass is only (age) years old.”

At defendant’s direction, Victim A sent to defendant, using the Facebook messaging service, approximately 15 videos of her dancing. Of the approximately 15 videos, approximately 10 videos depict the lascivious exhibition of Victim A’s anus. JONES acknowledges he knew that Victim A would transmit videos to him using the internet. Defendant accessed Facebook using the internet on his desktop computer or cellular phone. Defendant engaged in this conduct after being informed by Victim A that Victim A was 14 years of age at the time. Defendant acknowledges that Victim A was in fact 14 years of age at the time.

7. Defendant, for purposes of computing his sentence under Guideline § 1B1.2, stipulates to having committed the following additional offenses:

Stipulated Offense One

On or about August 14, 2016, at Bloomingdale, in the Northern District of Illinois, Eastern Division, and elsewhere, JONES knowingly used, persuaded, induced, and enticed a minor, namely, Victim B, to engage in sexually explicit conduct, namely, lascivious exhibit of Victim B’s anus and genitalia, for the purpose of producing a visual depiction of such conduct, such visual depiction was produced and transmitted using materials that had been mailed, shipped, and transported in and affecting interstate commerce and which visual depiction was transported and

transmitted using a means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, in August 2016, defendant knowingly used, persuaded, induced, and enticed Victim B, who was fourteen years old at the time, to engage in sexually explicit conduct that involved the lascivious exhibition of Victim B's genitals and anus, for the purposes of having Victim B take videos of the sexually explicit conduct. Using the private messaging feature on Facebook, JONES directed Victim B to take videos of herself dancing in a sexual manner and performing sexual acts and told her what to do and say in the videos, telling her to "keep proving that your [sic] my biggest fan." Throughout the conversation, JONES continually told Victim B to wear different outfits or to take her underwear off, and to "spread your cheeks" so that "it shows the edges of your butthole." JONES provided direction regarding how she should dance, what she should wear, how she should adjust the camera in the videos, and that she should talk about her age and say, "I'm only 14" while dancing in the videos. At defendant's direction, using the Facebook messaging service, Victim B sent to JONES approximately 25 videos depicting Victim B dancing. Of the approximately 25 videos, approximately 8 videos depict Victim B pulling her underwear down and using her hands to spread her buttocks and expose her anus and genitals. Defendant accessed Facebook using the internet on either a desktop computer or cellular phone.

Defendant believed that Victim B was 14 years old and acknowledges that Victim B was actually 14 years old at the time the video was sent to him.

Stipulated Offense Two

On or about December 19, 2016, at Bloomingdale, in the Northern District of Illinois, Eastern Division, and elsewhere, JONES knowingly used, persuaded, induced, and enticed a minor, namely, Victim C, to engage in sexually explicit conduct, namely, lascivious exhibit of Victim C's anus, for the purpose of producing a visual depiction of such conduct, such visual depiction was produced and transmitted using materials that had been mailed, shipped, and transported in and affecting interstate commerce and which visual depiction was transported and transmitted using a means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 2251(a).

Between October 2016 and April 2017, defendant knowingly used, persuaded, induced, and enticed Victim C, who was fourteen years old at the time the conduct began, and fifteen years old when it concluded, to engage in sexually explicit conduct that involved the lascivious exhibition of Victim C's breasts, buttocks, and anus, for the purposes of having Victim C take videos of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim C to take videos of herself that involved sexually explicit conduct and send them to defendant.

In December 2016, JONES and Victim C communicated via Facebook. During that chat, which JONES described as a “modeling” opportunity for Victim C, JONES instructed Victim C to make videos of herself dancing in a sexual manner and told her what to wear and what to say in the videos. He instructed her “...here’s your line: - hey Austin, I’m only 14 – Say that 4 times during the video got it?!” After Victim C sent him a video of herself dancing, via Apple’s iMessage service, JONES, using Facebook’s messaging service, instructed her to remove her underwear and send him additional videos of herself. He further instructed her to say “hey Austin I’m only 14,” “this ass is only 14,” and “watch my 14 year old butt bounce Austin!” Victim C then sent him a video via Apple’s iMessage service. JONES responded, via Facebook, “You have such a cute butthole.” Defendant accessed Apple’s iMessage service using the internet on either a desktop computer or cellular phone. Defendant acknowledges that Victim C was 14 years old at the time the video was sent to him.

Additionally, in April 2017, while communicating over Facebook, JONES asked Victim C if she had time for a “list of videos” and sent Victim C a request for “1 ass bouncing. 1 boobs bouncing. 1 braces licking. Wear a thong, no shirt at all so I can see your nipples, high socks, and shoes.” JONES told Victim C that she was “so lucky” that he kept giving her “chances” to send him videos. During the chat, Victim C told JONES that she “had to fight the urge to cut last night because I promised you I wouldn’t do it anymore.” JONES understood Victim C to be referring to harming herself by cutting her own skin, which JONES and Victim C had previously discussed

in their chats. JONES responded with, “Good girl [.] Do you remember when you layed your phone flat on the ground? And squatted over it so I could see your butthole?” Victim C responded that she did, and JONES replied “I need one of that too. With smiling at the camera[.]”

At defendant’s direction, Victim C took approximately nine videos that depicted the lascivious exhibition of Victim C’s anus and sent them to the defendant using Apple’s iMessage service; and sent approximately seven videos that involved the lascivious exhibition of Victim C’s breasts and buttocks to defendant using Apple’s iMessage service. Defendant accessed Apple’s iMessage service using the internet on either a desktop computer or cellular phone. Defendant acknowledges that Victim C was 14 or 15 years old at the time the videos were sent to him.

8. Defendant also acknowledges that for the purpose of computing his sentence under the Sentencing Guidelines, the following conduct, to which he stipulates, constitutes relevant conduct under Guideline § 1B1.3:

Relevant Conduct Involving Victim D

In April 2017, defendant knowingly used, persuaded, induced, and enticed Victim D to engage in sexually explicit conduct that involved the lascivious exhibition of Victim D’s breast, for the purposes of having Victim D take videos of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim D to take videos of herself that involved sexually explicit conduct and send them to defendant. JONES told Victim D that he had a “modeling opportunity”

and instructed Victim D on how to position her camera, what clothing to wear, and how to dance. When Victim D said that she “might have to finish this tomorrow because I have school in the morning,” JONES responded that they would do “5 more videos.” When Victim D said “tomorrow, right??” JONES responded “No, right now. Then we do the rest tomorrow.” JONES then asked Victim D if she had any “special skills” like “bouncing your boobs? Flashing? Anything to surprise me.”

At defendant’s direction, Victim D responded by taking approximately one video that involved the lascivious exhibition of Victim D’s breast and sent it to defendant using Facebook’s private messaging service. Defendant accessed Facebook using the internet on either a desktop computer or cellular phone. Defendant acknowledges that he thought Victim D was 15 years old at the time the video was sent to him, and that Victim D was in fact 15 at the time the video was sent.

#### Relevant Conduct Involving Victim E

In March 2017, defendant conducted a chat with Victim E using Facebook’s private messaging feature. During that chat, Victim E told JONES that she was fifteen years old. JONES asked Victim E to send him videos of herself showing her “ass” being “bouncy,” and Victim E, using Facebook’s private messaging feature, sent JONES a video of herself shaking while the camera was focused on her buttocks. JONES then asked Victim E, “Will you bounce for me right now??” Victim E told JONES that she was tired. JONES responded that it was “Too bad you can’t make videos right now . . . Cause then we can’t find out if you can make me hard or not!”



Victim E responded to JONES asking if he would like any other pictures or videos of other parts of her body, and he responded “You can sent [sic] me other things you want to show me . . . But I prefer videos that are made on the spot obviously.” Victim E responded that she would do so, but asked “so do you not want these other pictures I have?” JONES responded, “Yea, send what you got. Photos and videos.”

Victim E responded by sending approximately eight videos and of herself to JONES, including depictions of her breasts and buttocks. JONES received these images via Facebook Messenger, which he accessed over the Internet using either a cellular telephone or a desktop computer. Defendant acknowledges that he believed Victim E was 15 years old at the time, and that Victim E was in fact 15 years old at the time JONES received the images.

#### Relevant Conduct Involving Victim F

In April 2017, defendant knowingly used, persuaded, induced, and enticed Victim F to engage in sexually explicit conduct that involved the lascivious exhibition of Victim F’s breasts, for the purposes of having Victim F take videos of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim F to take videos of herself that involved sexually explicit conduct and send them to defendant. JONES asked Victim F if she wanted a modeling opportunity so she could “get a lot of [Instagram] followers? Like do you want your photos to get a lot of likes and be a model?” JONES instructed Victim F on what to wear for the “audition,” to make her outfit “sexier,” and to dance while bouncing her

breasts and to send him videos of her dancing. JONES further instructed her to say “Hey Austin, it’s [Victim F’s name] – I’m so lucky you’re letting me do this because I’m 15 – watch my 15 year old boobs bounce!” After Victim F sent JONES a video depicting Victim F bouncing and saying the lines JONES instructed her to say, JONES further instructed her to “pull the top down more to show the tops of your nipples while you bounce” and to state “I’m only 15 – my boobs are huge even though I’m only 15.” When Victim F said that her bra covered her breasts, JONES instructed her to remove her bra or to “pull her boobs up above the bra . . . get creative.”

At defendant’s direction, Victim F took approximately one video that involved the lascivious exhibition of Victim F’s breast, and sent it to defendant using Facebook’s private messaging service. Defendant accessed Facebook using the internet on either a desktop computer or cellular phone. Defendant acknowledges that Victim F was 15 years old at the time the video was sent to him.

#### Other Relevant Conduct

On approximately 30 other occasions, JONES used Facebook’s messaging feature to attempt to persuade minor girls to send him videos and photographs depicting the girls’ breasts, genitalia, or anal areas, knowing that the girls were under the age of 18.

#### **Maximum Statutory Penalties**

9. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 20 years' imprisonment, and a statutory mandatory minimum sentence of 5 years. This offense also carries a maximum fine of \$250,000. Defendant further understands that the judge also must impose a term of supervised release of at least five years, and up to any number of years, including life.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

c. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

d. Defendant further understands that, pursuant to Title 18, United States Code, Section 3014, defendant will be assessed an additional \$5,000 if the Court determines that he is a non-indigent person.

### **Sentencing Guidelines Calculations**

10. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote

respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

11. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2018 Guidelines Manual.

b. **Offense Level Calculations.**

**Count of Conviction**

i. Pursuant to Guideline § 2G2.2(a)(2), the base offense level for the offense of conviction in the information is 22.

ii. Pursuant to Guideline § 2G2.2(b)(5), the defendant receives a 5-level increase because he engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

iii. Pursuant to Guideline § 2G2.2(b)(6), the defendant receives a 2-level increase because the offense involved the use of a computer or an interactive computer service for the possession, transmission, receipt, or distribution of the material, or for accessing with intent to view the material.

iv. Pursuant to Guideline § 2G2.2(b)(7)(D), the defendant receives a 5-level increase because the offense involved more than 600 images.

v. Therefore, pursuant to Guideline § 2G2.2(a and b), the offense level for the offense of conviction is 34.

vi. Pursuant to Guideline § 2G2.2(c)(1), the offense involved causing a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct. Accordingly, Guideline § 2G2.1 applies, if the resulting offense level is greater than that determined above.

vii. Pursuant to Guideline § 2G2.1(a), the base offense level for the offense of conviction in the information is 32.

viii. Pursuant to Guideline § 2G2.1(b)(1)(B), because the offense involved a minor who had attained the age of twelve years but not attained the age of sixteen years, the offense level is increased by two levels.

ix. Pursuant to Guideline § 2G2.1(b)(6)(B), because the offense involved the use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct for the purpose of producing sexually explicit material, the offense level is increased by two levels.

x. Accordingly, the total offense level for the offense of conviction is 36.

### **Stipulated Offense One**

xi. Pursuant to Guideline § 2G2.1(a), the base offense level for this offense is 32.

xii. Pursuant to Guideline § 2G2.1(b)(1)(B), because the offense involved a minor who had attained the age of twelve years but not attained the age of sixteen years, the offense level is increased by two levels.

xiii. Pursuant to Guideline § 2G2.1(b)(6)(B), because the offense involved the use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct for the purpose of producing sexually explicit material, the offense level is increased by two levels.

xiv. Accordingly, the total offense level for Stipulated Offense One is 36.

### **Stipulated Offense Two**

xv. Pursuant to Guideline § 2G2.1(a), the base offense level for this offense is 32.

xvi. Pursuant to Guideline § 2G2.1(b)(1)(B), because the offense involved a minor who had attained the age of twelve years but not attained the age of sixteen years, the offense level is increased by two levels.

xvii. Pursuant to Guideline § 2G2.1(b)(6)(B), because the offense involved the use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct for the purpose of producing sexually explicit material, the offense level is increased by two levels.

xviii. Pursuant to Guideline § 3A1.1(b)(1), because the defendant knew that the offense involved a vulnerable victim, the offense level is increased by two levels.

xix. Accordingly, the total offense level for Stipulated Offense Two is 38.

### **Grouping**

xx. Pursuant to Guideline § 3D1.2(d), none of the offenses group.

xxi. There are three total groups and the highest offense level is 38. According to § 3D1.4(a), that group receives one unit. The remaining two groups are between one and four levels less serious, and pursuant to § 3D1.4(a), those groups each receive an additional unit.

xxii. Therefore, there are 3 total units. Pursuant to Guideline § 3D1.4, three levels are added to the group with the highest offense level because there are three units. This results in a combined offense level of 41.

### **Acceptance of Responsibility**

xxiii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

xxiv. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.



**d. Anticipated Advisory Sentencing Guidelines Range.**

Therefore, based on the facts now known to the government, the anticipated offense level is 38, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 235 to 293 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Pursuant to Guideline § 5G1.1(c)(1), because the statutory maximum sentence is 240 months, the advisory sentencing guidelines range is 235 to 240 months' imprisonment. Defendant also acknowledges that he is subject to a statutory minimum sentence of 5 years' imprisonment.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

12. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

#### **Agreements Relating to Sentencing**

13. Each party is free to recommend whatever sentence it deems appropriate.

14. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

15. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 2259, the Court must order restitution in the full amount of the losses of any victim of defendant's offense, as the terms "victim" and "loss" are defined in that section. The amount of restitution shall be determined by the Court at sentencing.

16. Defendant also acknowledges that in addition to restitution due pursuant to Title 18, United States Code, Section 2259, he is liable for restitution pursuant to Title 18, United States Code, Section 3663A. Defendant also agrees to pay additional restitution, arising from the stipulated offenses and relevant conduct set forth above, in an amount to be determined by the Court at sentencing, pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3664.

17. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

18. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court. If the Court finds that the defendant is a non-indigent person, defendant further agrees to pay the \$5,000 special assessment, assessed pursuant to Title 18, United States Code, Section 3014, after he has satisfied all outstanding court-ordered fines, orders of restitution, and any other obligation related to victim-compensation ordered by the court and arising from the convictions.

19. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code,

Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Agreement**

20. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 17 CR 417.

21. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

#### **Waiver of Rights**

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charge prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than

sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charge against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a

reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

c. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title

18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution, in exchange for the concessions made by the United States in this Agreement. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

23. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

**Presentence Investigation Report/Post-Sentence Supervision**

24. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charge against him,

and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

25. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

26. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to



disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

27. Defendant understands that pursuant to Title 18, United States Code, Sections 3583(d) and 4042(c), the Court must order as an explicit condition of supervised release that defendant register as a sex offender in compliance with the requirements of the Sex Offender Registration and Notification Act. Defendant also understands that he will be subject to federal and state sex offender registration requirements independent of supervised release, that those requirements may apply throughout his life, and that he may be subject to state and federal prosecution for failing to comply with applicable sex offender registration laws. Defendant understands that no one, including his attorney or the Court, can predict to a certainty the effect of his conviction on his duties to comply with current or future sex offender registration laws. Defendant nevertheless affirms that he wants to plead guilty regardless of any sex offender registration consequences that his guilty plea may entail.

28. Defendant agrees to participate in psychological counseling and sex offender treatment as directed by the Probation Office as a condition of any sentence of probation or supervised release imposed.

#### **Other Terms**

29. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including

providing financial statements and supporting records as requested by the United States Attorney's Office.

30. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

### **Conclusion**

31. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

32. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of

limitations between the signing of this Agreement and the commencement of such prosecutions.

33. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

34. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

35. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: \_\_\_\_\_

\_\_\_\_\_  
JOHN R. LAUSCH, JR.  
United States Attorney

\_\_\_\_\_  
AUSTIN JONES  
Defendant

\_\_\_\_\_  
KATHERINE WELSH  
Assistant U.S. Attorney

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TERRENCE LEFEVOUR  
Attorney for Defendant