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| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS | <i>For Court Use Only</i> |
| PEOPLE vs _____ Defendant DOB: _____ | |
| DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS (Misdemeanor) | COURT CASE NUMBER |
| | DA CASE NUMBER |

Instructions:

- Fill out this form only if you want to plead guilty or no contest.
- Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- Sign and date the form under "DEFENDANT'S STATEMENT" on page 3.
- Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

INITIALS

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

| COUNT | CHARGES (SECTION & DESCRIPTION) | MAXIMUM PENALTY (FINE & JAIL) |
|-------|------------------------------------|----------------------------------|
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2. I have not been induced to enter the above plea by any promise or representation to any kind, except:
(State any agreement with the prosecutor.)

3. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):

4. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):

5. **Right to an Attorney** (*Leave this box blank if you have an attorney*). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. I **hereby give up my right to be represented by an attorney.**

6. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges and prior convictions (if any) listed in items 1 and 2 (above):

- a. **Right to a jury trial.** I understand that I have the right to a speedy and public jury trial by 12 members of the community and that I would have the right to participate in jury selection. I understand that I would be presumed innocent and I could not be convicted unless, after hearing all the evidence, all 12 jurors agree that I am guilty of the charged offenses beyond a reasonable doubt.

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(Misdemeanor)

| | |
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| Defendant | CASE NUMBER: |
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INITIALS

- b. **Right to confront and cross-examine witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court to testify under oath in my presence and I or my attorney may question them.
- c. **Right to remain silent and not incriminate myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.
- 7. **Rights for Probation Violations** (*Leave this box blank if you are not charged with a probation violation*). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.
- 8. **Consequences of My Plea**
 - a. **No contest plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony.
 - b. **Effect of conviction on other cases.** I understand that a conviction in this case may be used to increase my punishment for future domestic violence convictions and may constitute a violation of any other current grant of parole or probation, which may result in additional punishment.
 - c. **Mandatory minimum conditions of probation.** I understand that if I am granted probation, the terms and conditions will include *at least* all of the following (see Pen. Code, § 1203.097):
 - (1) A minimum of either 36 months (3 years) or 48 months (4 years) of probation;
 - (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
 - (3) Booking within one week of sentencing if I have not already been booked
 - (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fine, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
 - (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
 - (6) Community service;
 - (7) Restitution to the victim (if applicable);
 - (8) An order to not own, possess, purchase, or receive any firearms;
 - (9) An order to relinquish any firearms in my possession or control; and
 - (10) Other
 - d. **Effect of future probation violation.** I understand that if I violate any of the terms or conditions of probation, I may be returned to court and sentenced up to the maximum punishment on each charge as indicated in item 1.
 - e. **Immigration consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may or, with certain offenses, **will** result in my deportation, exclusion from admission and reentry to the United States, and denial of naturalization and amnesty, and that the appropriate consulate may be informed of my conviction.
 - f. **Firearm prohibition.** I understand that a conviction in this case may prohibit me from owning, using, or possessing firearms and ammunition within 10 years under Penal Code sections 29805 and 30305.
 - g. **Child custody consequences.** I understand that a conviction in this case may result in a rebuttable presumption that an award of sole or joint physical or legal custody of a child is detrimental to the best interest of the child under Family Code section 3044.
- OTHER WAIVERS**
- 9. **(Appeal Rights)** I give up my right to appeal the following: (a) denial of my 1538.5 motion, (b) issues related to strikes priors (under PC section 667(b)-(i) and 1170.2); and (c) any sentence stipulated herein.
- 10. **(Harvey Waiver)** The sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed, or stricken charges or allegations or cases when granting probation, ordering restitution, or imposing sentence.
- 11. **(Arbuckle Waiver)** I give up my right to be sentenced by the judge who accepts this plea.
- 12. **Before the Plea**
 - a. **Discussion with my attorney** (*Leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.
 - b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.
- 13. **Waiver of Constitutional Rights.** For each of the charges, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury trial, my right to a court hearing, my right to confront and cross-examine witnesses, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.
- 14. **The Plea** (*check one*). I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

**DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS
(Misdemeanor)**

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INITIALS

15. **Prior Convictions.** I freely and voluntarily admit the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.

16. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.

17. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Defendant's Signature

Date

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Attorney's Signature

Date

PROSECUTOR'S STATEMENT

I am the prosecutor in this case. I have reviewed the information above and consent to the plea(s) being entered on the terms and conditions indicated. I stipulate there is a factual basis for the plea(s).

Prosecutor's Signature

Date

INTERPRETER'S STATEMENT

_____, having been duly sworn or having a written oath on file, certify that I truly interpreted this form to the defendant in the language noted below. The defendant stated that he or she understood the contents on the form and then initialed and signed the form.

Language: Spanish Other (specify)

Interpreter's Signature

Date

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Signature of the Court

Date

**DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS
(Misdemeanor)**

IMMIGRATION CONSEQUENCES

If you are not a U.S. citizen, you should consult your attorney or an immigration attorney about the immigration consequences of your plea, particularly if your offense might qualify as an "aggravated felony," crime of moral turpitude, controlled substance offense, firearm offense, or domestic violence offense (see below). It is your attorney's obligation to provide you with accurate and affirmative advice about the immigration consequences of your plea, and you have the right to additional time to evaluate those immigration consequences. By entering a plea, you are indicating to the court you know of and understand the specific immigration consequences that will result from your conviction.

Immigration consequences are a matter of federal law. Whether an offense qualifies as one of the "aggravated felonies" listed below is determined by federal statutes and case law. (See *Esquivel-Quintana v. Sessions* (2017) _ U.S. _, 137 S.Ct. 1562, 198 L.Ed.2d 22.) **Certain offenses defined as misdemeanors under State law may be considered "aggravated felonies" under federal law.**

Any conviction of a non-citizen for an "aggravated felony" **will** result in removal/deportation, exclusion, and/or denial of naturalization. (See 8 U.S.C. § 1227 (a)(2)(A)(iii).) "Aggravated felonies" (see 8 U.S.C. § 1101(a)(43)) include but are not limited to:

- (1) Murder; rape; or sexual abuse of a minor;
- (2) A crime of violence, as defined in 18 U.S.C. § 16, but not including a purely political offense; *
- (3) Trafficking of a controlled substance, firearms, destructive devices or explosive materials;
- (4) Money laundering if the amount exceeds \$ 10,000;
- (5) An explosive materials offense;
- (6) A firearms offense;
- (7) A theft offense, including receipt of stolen property, or burglary offense; •
- (8) Child pornography;
- (9) Pimping, Pandering, or operating a prostitution business;
- (10) Human trafficking;
- (11) Fraud or deceit in which the loss to the victim or victims exceeds \$ 10,000;
- (12) Failure to appear by a defendant for service of a sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more, or failure to appear to answer or resolve a felony for which a sentence of 2 years' imprisonment or more may be imposed;
- (13) Commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered;"
- (14) Obstruction of Justice, perjury or subornation of perjury, or bribery of a witness; *
- (15) An attempt or conspiracy to commit any of the above offenses.

*If the term of imprisonment is at least one year.

Other crimes (as *defined by federal law*) that may result in removal/deportation, exclusion, and/or denial of naturalization or other severe immigration consequences include, but are not limited to:

- (1) A crime of moral turpitude (see 8 U.S.C. §§ 1182(a)(2)(A)(1), 1227 (a)(2)(A)(i));
- (2) A controlled substance offense (see 8 U.S.C. §§ 1182(a)(2)(A)(i), 1182 (a)(2)(C), 1227(a)(2)(8));
- (3) A firearm or destructive device offense (see 8 U.S.C. § 1227(a)(2)(C));
- (4) A domestic violence, stalking, or child abuse offense (see 8 U.S.C. § 1227(a)(2)(E){1});
- (5) Violation of a protective order (see 8 U.S.C. § 1227(a)(2)(E)(ii));
- (6) A human trafficking offense (see 8 U.S.C. §§ 1182(a)(2)(H), 1227 (a)(2)(F));
- (7) Multiple criminal convictions with an aggregate sentence of 5 years or more (see 8 U.S.C. § 1182(a)(2)(B));
- (8) A prostitution offense (see 8 U.S.C. § 1182(a)(2)(G));
- (9) A "serious criminal offense," which includes any felony, a crime of violence, and reckless driving or DUI with injury (see 8 U.S.C. § 1182(a)(2)(E)).

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