

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

GRANT WOJAHN

No. 16 CR 50005

Judge Philip G. Reinhard

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant GRANT WOJAHN, and his attorney, GREGORY N. DUTCH, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The indictment in this case charges defendant with production of child pornography, in violation of Title 18, United States Code, Section 2251(a) (Count 1), transporting child pornography, in violation of Title 18, United States Code, Section 2252A(a)(1) (Count 2), and possession of child pornography, in violation of Title 18, United States Code, Section 2252A(a)(5)(B) (Counts 3-4).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes 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 following count of the indictment: Count One, which charges defendant with production of child pornography, in violation of Title 18, United States Code, Section 2251(a). In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

### **Factual Basis**

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

On or about March 20, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim B, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and

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

Specifically, defendant created a Facebook account and posed as a female teenager using the Facebook profile name Heather Robertson and a Facebook profile photo of a young teenage girl. On March 20, 2015, using the private messaging feature on Facebook, defendant reached out to Victim B and told her that she was “really sexy.” During their continued chat, Victim B told defendant that she was 14 and that she was bisexual. Defendant, using the Heather Robertson profile, told Victim B that “she” was also bisexual. After some friendly messaging on Facebook, defendant began pressuring Victim B to take nude photographs of herself and send them to defendant. Initially, defendant asked for a “bra n undies” photo and Victim B sent to defendant a photograph of herself wearing just a bra and underwear. In response, defendant sent to Victim B a partially nude photograph of the teenage girl that defendant was posing as. Defendant then began pressuring Victim B to send a “naked one.” Specifically, defendant told Victim B to “spread ur legs open.” Defendant did this knowing that Victim B would transmit the image to the defendant using the private messaging service on Facebook. Victim B then sent to defendant, using the Facebook messaging service, an image that involved the lascivious exhibition of Victim B’s genitals that was entitled 11079258\_1445825725709274\_306448386\_n.jpg. Defendant and Victim B remained in contact on Facebook for several weeks. During that time, defendant continued to pressure Victim B to send more nude photographs by threatening to share the

photographs that Victim B had already provided to defendant with others, including her friends on Facebook. Victim B complied and sent more nude photographs of herself to defendant until she eventually stopped communicating with defendant.

Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim B was actually 13 years of age at the time, not 14 as she informed defendant.

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

a. In early 2015, sometime prior to March 25, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim A, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, in early 2015, sometime prior to March 25, 2015, defendant knowingly used, persuaded, induced, and enticed Victim A to engage in sexually explicit conduct that involved the lascivious exhibition of Victim A's genitals, for the purposes of

having Victim A take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim A to take photographs of herself that involved sexually explicit conduct and send them to defendant. At defendant's direction, Victim A took photographs that involved the lascivious exhibition of Victim A's genitals, including one that was entitled 11074784\_1635679739987357\_1810834577\_n.jpg, and sent it to defendant using the Facebook private messaging service. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant believed that Victim A was 11 years old and acknowledges that Victim A was actually 10 years old at the time the photograph was sent to him.

b. On or about April 5, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim C, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, on or about April 5, 2015, defendant knowingly used, persuaded, induced, and enticed Victim C to engage in sexually explicit conduct that involved the lascivious exhibition of Victim C's genitals, for the purposes of having Victim C take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim C to take photographs of herself that involved sexually explicit conduct and send them to defendant via the Facebook private messaging service. At defendant's direction, Victim C sent to defendant images that involved the lascivious exhibition of Victim C's genitals, including one that was entitled 11120958\_629091380523629\_1594581097\_n.jpg. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim C was 11 years old at the time the photograph was sent to him.

c. On or about March 21, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim D, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, on or about March 21, 2015, defendant knowingly used, persuaded, induced, and enticed Victim D to engage in sexually explicit conduct that involved the lascivious exhibition of Victim D's genitals, for the purposes of having Victim D take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim D to take photographs of herself that involved sexually explicit conduct and send them to defendant via the Facebook private messaging service. At defendant's direction, Victim D sent to defendant an image that involved the lascivious exhibition of Victim D's genitals, entitled 11040334\_413336772178662\_2025135979\_n.jpg. During Facebook chats, Victim D told defendant that she was 13 years old. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim D was actually 12 years old at the time he received the image.

d. On or about February 20, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim E, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a

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

On or about February 20, 2015, defendant knowingly used, persuaded, induced, and enticed Victim E to engage in sexually explicit conduct that involved the lascivious exhibition of Victim E's genitals, for the purposes of having Victim E take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim E to take photographs of herself that involved sexually explicit conduct and send them to defendant via the Facebook private messaging service. At defendant's direction, Victim E sent to defendant via Facebook messaging an image that involved the lascivious exhibition of Victim E's genitals, entitled 10994676\_1622144114674253\_84417516\_n.jpg. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim E was 11 years old at the time the photograph was sent to him.

e. On or about February 20, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim F, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a



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

Specifically, on or about February 20, 2015, defendant knowingly used, persuaded, induced, and enticed Victim F to engage in sexually explicit conduct that involved the lascivious exhibition of Victim F's genitals, for the purposes of having Victim F take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim F to take photographs of herself that involved sexually explicit conduct and send them to defendant via the Facebook private messaging service. At defendant's direction, Victim F sent to defendant via Facebook messaging an image that involved the lascivious exhibition of Victim F's genitals, entitled 10967849\_1642110142683985\_404617698\_n.jpg. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim F was 12 years old at the time the photograph was sent to him.

f. On or about May 21, 2014, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Victim G, to engage in sexually explicit conduct, namely the lascivious display of the minor's genitalia, for the purpose of producing a visual depiction of such conduct, and attempted to do so, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate

commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, on or about May 21, 2014, defendant knowingly used, persuaded, induced, and enticed Victim G to engage in sexually explicit conduct that involved the lascivious exhibition of Victim G's genitals, for the purposes of having Victim G take photographs of the sexually explicit conduct. Using the private messaging feature on Facebook, defendant directed Victim G to take photographs of herself that involved sexually explicit conduct and send them to defendant via the Facebook private messaging service. At defendant's direction, Victim G sent to defendant via Facebook messaging an image that involved the lascivious exhibition of Victim G's genitals. Defendant subsequently saved this image on a thumb drive with the file name 10325610\_741056195946440\_6145533314167746468\_n.jpg. Defendant accessed Facebook using the internet on either a laptop or cellular phone. Defendant acknowledges that Victim G was 12 years old at the time the photograph was 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:

a. On or about March 25, 2015, at Loves Park, in the Northern District of Illinois, Western Division, and elsewhere, defendant knowingly transported and

caused to be transported child pornography, as that term is defined in Title 18, United States Code, Section 2256(8)(A), including a computer file titled, 11074784\_1635679739987357\_1810834577\_n.jpg, using a means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce by any means, including by computer; in violation of Title 18, United States Code, Section 2252A(a)(1).

Specifically, on March 25, 2015, defendant engaged in a chat on Facebook using the Facebook private messaging service with User A. Defendant accessed Facebook using the internet on either a laptop or cellular phone. During the chat, defendant sent to User A a number of images of child pornography depicting Victim A. One of the images that defendant sent to User A was an image entitled 11074784\_1635679739987357\_1810834577\_n.jpg, which depicted Victim A nude and jumping in the air with her legs widely spread. In addition, defendant sent to User A an image entitled 11081563\_1635679783320686\_800719648\_n.jpg. This image depicted Victim A's anus being penetrated with a pencil. At the time that defendant transmitted these images of Victim A he knew that Victim A was under the age of 18. During the chat with User A about Victim A, defendant stated, "she's 11." Also, defendant sent the images of Victim A to User A in exchange for access to pornographic images possessed by User A.

b. On or about September 1, 2015, at Loves Park, in the Northern District of Illinois, Western Division defendant knowingly possessed material, namely, a

silver USB 2 gigabyte storage device, that contained an image of child pornography as defined in Title 18, United States Code, Section 2256(8)(A), involving a minor who had not attained 12 years of age, such image having been mailed, shipped, and transported using any means and facility of interstate or foreign commerce, and such image having been produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

Specifically, defendant possessed numerous images of child pornography on a silver USB 2 gigabyte storage device. Defendant also possessed images of child pornography on an LG cellphone with serial number 5725574, and other devices. In total, defendant possessed at least 43 videos of child pornography and at least 71 images of child pornography. Defendant obtained these images from the internet and some of them were images obtained during his Facebook messaging chats in which he directed the minor victims to send him pornographic images.

### **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 30 years' imprisonment, and a statutory mandatory minimum sentence of 15 years. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation for this offense. 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. In accord with 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.

### **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 2016 Guidelines Manual.

b. **Offense Level Calculations.**

**Offense of Conviction (Count One)**

i. The base offense level for the offense of conviction is 32, pursuant to § 2G2.1(a).

ii. Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by two levels because the offense involved a minor who had attained the age of 12 years, but had not attained the age of 16 years.

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

iv. Therefore, the total offense level for Count One is 36.

**Stipulated Offenses**

v.           Victim A: The base offense level for the offense described in Paragraph 7(a) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by four levels because the offense involved a minor who had not attained the age of twelve years. Pursuant to § 2G2.1(b)(3), the offense level is increased by two levels because the offense involved knowing distribution, in that defendant later sent the images of Victim A to another user on Facebook. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim A is 40.

vi.           Victim C: The base offense level for the offense described in Paragraph 7(b) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by four levels because the offense involved a minor who had not attained the age of twelve years. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim C is 38.

vii.           Victim D: The base offense level for the offense described in Paragraph 7(c) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by two levels because the offense involved a minor who had attained

the age of 12 years, but had not attained the age of 16 years. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim D is 36.

viii. Victim E: The base offense level for the offense described in Paragraph 7(d) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by four levels because the offense involved a minor who had not attained the age of twelve years. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim E is 38.

ix. Victim F: The base offense level for the offense described in Paragraph 7(e) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by two levels because the offense involved a minor who had attained the age of 12 years, but had not attained the age of 16 years. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim F is 36.



x.           Victim G: The base offense level for the offense described in Paragraph 7(f) is 32, pursuant to § 2G2.1(a). Pursuant to § 2G2.1(b)(1)(B), the offense level is increased by two levels because the offense involved a minor who had attained the age of 12 years, but had not attained the age of 16 years. Pursuant to § 2G2.1(b)(6)(B)(i), the offense level is increased two levels because the offense involved, for the purpose of producing sexually explicit conduct, use of a computer to persuade, induce, and entice a minor to engage in sexually explicit conduct. Therefore, the total offense level for the offense involving Victim G is 36.

### **Relevant Conduct**

xi. Pursuant to § 3D1.2(d), the conduct involving transportation and possession of child pornography set forth in paragraph 8 is grouped. The base offense level is 22, pursuant to § 2G2.2(a)(2). Pursuant to § 2G2.2(b)(2), a 2-level enhancement applies because the images distributed involved a prepubescent minor. Pursuant to § 2G2.2(b)(3)(B), a 5-level enhancement applies because the images of Victim A were distributed in exchange for a thing of value, namely, other images possessed by another Facebook user. Pursuant to § 2G2.2(b)(4), an additional 4-level enhancement applies, because the image of the pencil penetrating Victim A's anus is material that portrays sadistic conduct. Pursuant to § 2G2.2(6), a 2-level enhancement applies for use of a computer or interactive computer service. Pursuant to § 2G2.2(7)(D), a 5-level enhancement applies because the offense involved over 600 images, comprised of at least 43 videos and 71 images. Therefore, the offense level for the relevant conduct is 40.

### **Grouping**

xii. Pursuant to § 3D1.2(d), the offense of conviction and stipulated offenses are not grouped. Therefore, there are 8 total groups and the highest offense level is 40. The remaining 7 groups are equally serious or from 1 to 4 levels less serious, so one additional unit is counted for each group, pursuant to § 3D1.4(a). Therefore, pursuant to § 3D1.4, there are 8 total units and 5 levels are added to the

offense level because there are more than 5 units. This results in a combined offense level of 45.

### **Acceptance of Responsibility**

xiii. 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.

xiv. 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 42, which, when combined with the anticipated criminal history category of I, and pursuant to § 5G1.1, results in an anticipated advisory sentencing guidelines range of 360 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Defendant also acknowledges that he is subject to a statutory minimum sentence of 15 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, and that Defendant also agrees to pay additional restitution, arising from the stipulated offense 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.

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.

20. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

## **Forfeiture**

21. Defendant understands that by pleading guilty, he will subject to forfeiture to the United States all right, title, and interest that he has in any property any property used or intended to be used, in any manner or part, to commit or facilitate commission of the offense.

22. Defendant agrees to forfeiture of the following specific property to the United States:

- a. Apple iPhone 5 with serial number F19JW078F8H2, including a Verizon Nano SIM card with Integrated Circuit Card Identifier 89148000000515288422;
- b. Hitachi hard drive with serial number 100819PCK304GKG5DL0J;
- c. silver USB 2 gigabyte storage device;
- d. Casio cellphone with serial number CVJZ0832142, including a SanDisk 8 gigabyte micro SD card;
- e. LG cellphone with serial number 507KPXV0110482; and
- f. HP laptop with serial number is 5CG34822WQ.

In doing so, defendant admits that the property described above is property which facilitated the offense as alleged in the indictment. Defendant consents to the immediate entry of a preliminary order of forfeiture as to this specific property, thereby extinguishing any right, title, or interest defendant has in it. If any of the specific

property is not yet in the custody of the United States, defendant agrees to seizure of that property so that it may be disposed of according to law.

23. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

24. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including but not limited to direct appeal or a motion brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel.

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

#### **Nature of Agreement**

25. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 16 CR 50005.

26. 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**

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

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges 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 and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

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, and considering each count separately, 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.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

**b. Waiver of appellate and collateral 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 forfeiture, in exchange for the concessions made by the United States in this Agreement. In addition, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. 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.

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

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

29. 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 charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

30. 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.

31. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release 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 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).

32. 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.

33. 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**

34. 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.

35. 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**

36. 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.

37. 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.

38. 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.

39. 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.

40. 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: \_\_\_\_\_

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JOHN R. LAUSCH, JR.  
United States Attorney

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GRANT WOJAHN  
Defendant

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MARGARET J. SCHNEIDER  
Assistant U.S. Attorney

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GREGORY N. DUTCH  
Attorney for Defendant