

U.S. (Coast Guard) (Navy) (Marine Corps)
_____ Judicial Circuit
General/Special Court-Martial

UNITED STATES v. (Name of Accused) (Rate,) Rank U.S. (Coast Guard)(Navy)(Marine Corps)	Memorandum of Plea Agreement
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I, (Rate,) (Rank) (Name of Accused), USCG/USN/USMC, the accused in the court-martial now pending, in exchange for good consideration and after thorough consultation with my defense counsel, do fully understand and agree to the following terms:

1. I agree to enter pleas as indicated below. I assert that I am, in fact, guilty of the offense(s) to which I am pleading guilty. I am entering into this agreement freely and voluntarily. No one has threatened or coerced me into entering this agreement.
2. This memorandum sets out the entire agreement between the convening authority and me. There are no other written, oral, or implied agreements.
3. I am satisfied with (all of) my defense counsel, (name), individual military defense counsel (name), and civilian defense counsel (name) in all respects and consider (him)(her)(them) qualified to represent me at this court-martial.
4. I understand that I may withdraw from this plea agreement for any reason prior to acceptance of this plea agreement by the military judge. I understand that I may also request to withdraw from this plea agreement after its acceptance, but before the sentence is announced if good cause is shown.
5. I understand that per R.C.M. 705(e)(4)(B), the convening authority may withdraw from this plea agreement:
 - a. at any time before my substantial performance of the promises contained in this agreement;
 - b. upon my failure to fulfill any material promise or condition in the agreement;
 - c. when inquiry by the military judge discloses a disagreement as to a material term in the agreement; or
 - d. if findings are set aside because a plea of guilty is held improvident on appellate review.

6. Future Misconduct

- a. I understand that should I commit any misconduct (i.e., any act or omission in violation of the UCMJ which constitutes a material breach of this agreement) after the signing of this plea agreement but before the date of trial, such misconduct may be the basis for the convening authority to unilaterally withdraw from the plea agreement, rendering the entire agreement null and void.
- b. I further understand that if I commit misconduct after the date of trial, but before the date of the entry of judgment, the convening authority may, after first complying with notice and hearing requirements consistent with Article 72, UCMJ, and R.C.M. 1108, vacate the portion of the sentence that was suspended as a result of the Military Judge's or the Trial Counsel's recommendation. Should the Convening Authority vacate the suspension of any portion of my sentence based on misconduct occurring after the date of trial but before entry of judgment, I understand any suspended portion of my sentence may be imposed upon me
- c. I also understand that should I commit any misconduct after the date of the entry of judgment, or violate any of the conditions of suspension stated in this agreement during the period in which any part of my sentence is suspended, the Convening Authority may, after complying with the procedures set forth in R.C.M. 1108, vacate any periods of suspension recommended by the Military Judge or the Trial Counsel and approved by the Convening Authority. I understand that previously suspended portion of my sentence could be imposed upon me.

7. I understand that if either side withdraws from this agreement, then my offer to plead guilty and enter into this agreement cannot be used against me in any way to prove whether I am guilty or not of the charge(s) alleged against me at this court-martial or in determining an appropriate sentence. The offer to plead guilty includes any oral or written statement or proffer made as part of plea discussions with the convening authority or any counsel for the government.

8. Agreements by the accused. In exchange for the convening authority's agreement, I agree to do the following:

- a. Plea as follows:

<u>Charge/specification and elements</u>	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
<u>[drafting in the form of an admission – see format as in Appendix 1]</u>		
Charge ____ (UCMJ Art ____):	GUILTY/NOT GUILTY	
Specification ____:	GUILTY/NOT GUILTY	
(1) That (I did/was) _____;		

<u>Charge/specification and elements</u> [drafting in the form of an admission – see format as in Appendix 1]	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
(2) That (I did/was) _____; (3) That (I did/was) _____; and (4) That (I did/was) _____.		
Specification ____: (1) That (I did/was) _____; (2) That (I did/was) _____; (3) That (I did/was) _____; and (4) That (I did/was) _____.	GUILTY, except for the words “ _____ ” Of the excepted words, NOT GUILTY; Of the specification as excepted, GUILTY.	
Specification ____: (1) That (I did/was) _____; (2) That (I did/was) _____; (3) That (I did/was) _____; and (4) That (I did/was) _____.	GUILTY, except for the figures “ _____,” and substituting the figures, “ _____.” Of the excepted figures, NOT GUILTY; Of the specification as excepted and substituted, GUILTY.	
Charge I (UCMJ Article XX) Specification ____: (of LIO) (1) That (I did/was) _____; (2) That (I did/was) _____; (3) That (I did/was) _____; and (4) That (I did/was) _____.	NOT GUILTY, but GUILTY of the Lesser Included Offense of Article ____.	

b. [List other applicable specially negotiated provisions here as applicable.]

(*See Appendix 1 for commonly used specially negotiated provisions for the accused)

9. Agreements by the Convening Authority. In exchange for my agreements, the convening authority agrees to do the following:

- a. **(See Appendix 2 for options concerning Agreements by the Convening Authority)**

10. Sentencing Limitations:

(*See Appendix 3 for options concerning Sentencing Limitations)

The parties agree that the members may only sentence as follows:

- a. Punitive discharge: (See Appendix 3 for sample language)
- b. Confinement: (See Appendix 3 for sample language)
- c. Forfeiture: (See Appendix 3 for sample language)
- d. Fine: (See Appendix 3 for sample language)
- e. Reduction: (See Appendix 3 for sample language)
- f. Other lawful punishments: (See Appendix 3 for sample language)

[OR]

The parties agree that the Military Judge may only sentence as follows:

- a. Punitive discharge: (See Appendix 3 for sample language)
- b. Confinement: Shall be adjudged as set forth in Table A
- c. Forfeiture: (See Appendix 3 for sample language)
- d. Fine: Shall be adjudged as set forth in Table A
- e. Reduction: (See Appendix 3 for sample language)
- f. Other lawful punishments: (See Appendix 3 for sample language)

TABLE A

	Confinement				Fines	
	Minimum	Maximum	To be served consecutively with...	To be served concurrently with...	Minimum	Maximum
Charge						
Specification						
Specification						
Charge						
Specification						
Specification						
Total that may be adjudged (<i>accounting for consecutive or concurrent sentence</i>)						

11. Notification provisions. I have been advised of the following potential consequences of my plea(s) of guilty and resultant convictions:

(*See Appendix 4 for commonly used notification provisions)

SIGNATURE PAGE

By my signature below, I acknowledge that I have read this agreement completely, discussed it with my counsel, understand it in all respects, and am prepared to abide by its terms.

Accused: _____ Date: _____
(Accused)
(Rate)(Rank), (USN)(USCG)(USMC)

Defense Counsel: _____ Date: _____
(Defense Counsel)
(Rank)(Rate)
(JAGC, USN) (USCG)(USMC)

The foregoing plea agreement is approved, including the sentence limitation portion of this plea agreement.

Convening Authority: _____ Date: _____
(or designee, see (Name of Convening Authority)
R.C.M. 705(e)(3)) Rank, (USN)(USCG)(USMC)

Appendix 1: Specially Negotiated Provisions for the Accused

[Sample Draft Specifications and Pleas]

<u>Charge/specification and elements</u>	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
Charge 1: (UCMJ Art 120):	GUILTY	
<p>Specification 1: (sexual assault without consent)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I committed a sexual act upon [victim name], by causing penetration however slight of [victim's] vulva by my penis; and</p> <p>(2) That [victim] did not consent to the sexual act.</p>	NOT GUILTY	Mandatory DD, 30 years confinement, Total Forfeitures
<p>Specification 2: (abusive sexual contact)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I committed sexual contact upon [victim] by touching directly the breast of [victim];</p> <p>(2) That I did so with the intent to abuse, humiliate, or degrade [victim] [or to arouse or gratify (myself) (victim)]</p>	<p>GUILTY, except for the word “directly” and substituting the words “through the clothing”</p> <p>Of the excepted word, NOT GUILTY;</p> <p>Of the specification as excepted and substituted, GUILTY.</p>	Dishonorable discharge, 7 years confinement, Total Forfeitures
<p>Specification 3: (LIO – Art 128)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I did bodily harm to [victim];</p> <p>(2) That I did so by pushing my hand against her collarbone; and</p> <p>(3) That I did the bodily harm with unlawful force or violence.</p>	NOT GUILTY, but GUILTY of the Lesser Included Offense of Article 128 (Assault Consummated by a Battery)	Bad Conduct Discharge, 6 months confinement, Total Forfeitures

Charge II: (UCMJ Art 92)	GUILTY	
<p>Specification: (Violation of lawful order – Sexual harassment)</p> <p>(1) That I believe and admit there was in existence a certain lawful general order in the following terms: paragraph 7, SECNAVINST 5300.26D, dated 3 January 2006;</p> <p>(2) That I believe and admit I had a duty to obey such order; and</p> <p>(3) That on or about 1 January 2019 at or near San Diego, CA, on divers occasions, I violated this lawful general order by making unwelcomed sexual advances toward [victim].</p>	<p>GUILTY, except for the words “on divers occasions.”</p> <p>Of the excepted words, NOT GUILTY;</p> <p>Of the specification as excepted, GUILTY.</p>	Dishonorable Discharge, 2 years confinement, Total Forfeitures
Charge III: (UCMJ Art 112a)	GUILTY	
<p>Specification 1: (distribution of controlled substance)</p> <p>(1) That on divers occasions between on or about 1 January 2019 and 1 February 2019 at or near San Diego, California, I distributed some amount of lysergic acid diethylamide (LSD);</p> <p>(2) That I actually knew I distributed the substance;</p> <p>(3) That I actually knew that the substance I distributed was LSD; and</p> <p>(4) That my distribution of the substance was wrongful.</p>	<p>GUILTY, except for the words “1 January 2019” and substituting the words “30 March 2019.”</p> <p>Of the excepted words, NOT GUILTY;</p> <p>Of the specification as excepted and substituted GUILTY.</p>	Dishonorable Discharge, 15 years confinement, Total Forfeitures
<p>Specification 2: (wrongful use of controlled substance)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I used cocaine, a Schedule I controlled substance;</p>	NOT GUILTY	Dishonorable Discharge, 5 years confinement, Total Forfeitures

<p>(2) That I actually knew I used the substance;</p> <p>(3) That I knew the substance I used was of a contraband nature; and</p> <p>(4) That my use of the substance was wrongful.</p>		
Charge IV: (UCMJ Art 134)	NOT GUILTY	
<p>Specification: (Possession of Child Pornography)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I knowingly and wrongfully possessed child pornography, to wit: images of minors, or what appears to be minors, engaging in sexually explicit conduct; and</p> <p>(2) That, under the circumstances, my conduct was to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.</p>	NOT GUILTY	Dishonorable Discharge, 10 years confinement, Total Forfeitures
Additional Charge (UCMJ Art 121)	GUILTY	
<p>Specification: (larceny)</p> <p>(1) That on or about 1 January 2019 at or near San Diego, CA, I wrongfully took certain property, that is, an iPad;</p> <p>(2) That the property belonged to [victim];</p> <p>(3) That the property was of a value under \$500; and</p> <p>(4) That my taking of this property was with the intent to permanently deprive [victim] of the use and benefit of the property.</p>	GUILTY	Bad Conduct Discharge, 6 months confinement, Total Forfeitures

[* Make sure each subparagraph is labeled with lower case letters for easier reference *]

Findings and Sentencing Forum Election Agreements

I agree to elect trial and sentencing by military judge alone, and I waive my right to a trial by members, including enlisted members.

OR

I agree to elect trial and sentencing by members [with representation of at least 1/3 enlisted personnel].

[*NOTE – if the accused pleads guilty, the military judge accepts the pleas and the members would be assembled for sentencing.]

OR

I agree to elect trial by members [with representation of at least 1/3 enlisted personnel] and sentencing by military judge alone.

OR

Upon the acceptance of my guilty pleas by the Military Judge as set forth below, I agree to elect sentencing by members [with representation of at least 1/3 enlisted personnel].

Agree to elect sentencing under post-1 January 2019 rules

The convening authority in my case has referred specifications alleging offenses committed both before 1 January 2019, and on or after 1 January 2019. I understand that the sentencing rules in effect prior to 1 January 2019 are applicable to my case unless I elect otherwise under R.C.M. 902A(b)(2). I agree to elect to be sentenced under the sentencing rules in effect on 1 January 2019, which will apply to all offenses, regardless of the date the alleged offense was committed. I understand that once this agreement is accepted by the military judge, my election is irrevocable unless the military judge allows me to withdraw my election for good cause shown.

Agree not to object to special court-martial consisting of military judge alone under Article 16(c)(2)(A)

I agree not to object under R.C.M. 201(f)(2)(E) to trial by special court-martial consisting of military judge alone under Article 16(c)(2)(A) (on grounds that Charge_____, Specification_____ has a maximum authorized confinement greater than two years) (on grounds that Charge_____, Specification_____ alleges an offense for which sex offender

notification is required under regulations issued by the Secretary of Defense) (for any reason set out in R.C.M. 201(f)(2)(E)).

Witness Considerations

[Witness Considerations]

[Stipulation of expected testimony]

I agree not to request in presentencing, at government expense, the presence of any witness. In return, the government agrees to enter into mutually agreed upon stipulation of expected testimony for the following witness(es): _____. This provision has not interfered with my selection of presentencing witnesses or in presenting a complete case in extenuation and mitigation. I agree to provide these stipulations to the trial counsel at least five (5) business days before trial. (The government and I also agree not to object to the Court receiving telephonic testimony in lieu of live testimony offered during presentencing. This provision does not preclude objections to the content of the testimony offered.)

[Call certain witnesses only]

I intend to request in presentencing, at government expense, the presence of _____ as (a) witness(es). Provided that the convening authority agrees to produce (this) (these) witness(es), I will not request any other witnesses at government expense. This provision has not interfered with my selection of witnesses or in presenting a (defense/case in extenuation and mitigation). If I have further material to present, I intend to use alternative means to present this material. (The government and I also agree to not object to the Court receiving telephonic testimony in lieu of live testimony offered during presentencing. This provision does not preclude objections to the content of the testimony offered.)

[Call no witness or call only local witnesses]

I agree not to request in presentencing, at government expense, the presence of any witness located (out of the area) (more than 50 miles from the court-martial location). This provision does not interfere with my ability to present an effective case in extenuation and mitigation. If I have further material to present, I intend to use alternative means to present this material. The government specifically agrees not to object to the admission into evidence of written statements in extenuation and mitigation from witnesses located (out of the area) (more than 50 miles from the court-martial location). (The government and I also agree to not object to the Court receiving telephonic testimony in lieu of live testimony offered during presentencing. This provision does not preclude objections to the content of the testimony offered.)

Agreement not to object to evidence offered

[Certain evidence presented in sentencing]

The government and I agree not to object to (relevant service record documents, relevant medical or autopsy reports, relevant command investigation materials, relevant Naval Criminal Investigative Service evidentiary material, relevant statements offered by the defense in extenuation and mitigation, or relevant statements offered by the government in aggravation to include written, audio, or videotaped statements or telephonic testimony of any crime victim or relevant witness being offered by either party during presentencing or relevant unsworn testimony by a crime victim who exercises the right to be reasonably heard and is called by the court-martial in accordance with R.C.M. 1001A on the basis of (foundation, hearsay, lack of confrontation, or authenticity). (Each party will provide the other party final witness and exhibit lists covered by this paragraph at least _____ calendar days prior to the scheduled presentencing proceeding.) This provision does not interfere with my ability to present an effective and complete case in extenuation and mitigation.

Trial date

I agree, and am fully prepared, to go to trial and offer to go to trial no later than (date). I understand that this agreement will not be deemed to have been breached if the government is unprepared or the judiciary cannot schedule the trial by that date.

Waive administrative discharge board

Enlisted ADSEP Waiver

I agree to waive any administrative discharge board (based on any act or omission reflected on the charge sheet in this court-martial) (based on any act or omission to which I have plead guilty) (of which I have been notified in the NAVPERS 191/31 (USMC Form) (USCG Form). I agree to provide my waiver to the government prior to the announcement of the sentence in this case. I understand that any administrative discharge will be characterized in accordance with service regulations and may be under other-than-honorable conditions. I fully understand the nature and purpose of an Administrative Discharge Board and the rights that I would have at such a Board. (IF ACCUSED IS NEAR OR PAST HIS/HER EAOS, ADD THE FOLLOWING: Additionally, I understand that (I am beyond my EAOS) (my EAOS may expire prior to my release from confinement). I agree that the government can administratively separate me, pursuant to relevant Service Regulations, even though my enlistment contract has/will expired/expire.

Officer's BOI Waiver

Should I be ordered to show cause for retention in the (U.S. Navy) (U.S. Marine Corps) (U.S. Coast Guard), I agree to waive any show-cause board of inquiry that is (based on any act or omission reflected in the charge(s) and specifications(s) on the charge sheet in this court-martial) (based on any act or omission to which I have plead guilty). I understand that any administrative discharge will be characterized in accordance with service regulations, and may be under other than honorable conditions. I fully understand the nature and purpose of a board of inquiry, and the rights that I would have at such a board.

Retirement Grade Determination Board Waiver

Should it be determined that retirement in a lesser grade be appropriate (based on any act or omission reflected in the charge(s) and specifications(s) on the charge sheet in this court-martial) (based on any act or omission to which I have plead guilty), I agree to waive my right to an administrative hearing for a retirement grade determination. I understand I may be retired at a lesser grade. I fully understand the nature and purpose of a board for a retirement grade determination, and the rights that I would have at such a board. [OFFICER ONLY] I further understand that in accordance with SECNAVINST 1920.6 (series), the final determination of retirement grade rest exclusively with the Secretary of the Navy who is not a party to this agreement.

Fleet Reserve

I understand that nothing in this agreement ensures or promises that I will transfer to the (Fleet Reserve)(Fleet Marine Corps Reserve) or that I will receive retainer or retired pay under any statutory authority. I further understand that the decision to allow a Sailor to transfer to the (Fleet Reserve)(Fleet Marine Corps Reserve) is the sole prerogative of the Secretary of the Navy, who is not a party to this agreement.

Motion considerations

[Specific motions]

I agree to waive the following motion(s):

A motion to _____, under R.C.M. _____.

A motion to _____, under R.C.M. _____.

This provision in no way limits my right to raise any other motion. I have not been deprived of the right to counsel, the right to due process, the right to challenge the jurisdiction of the court-martial, the right to a speedy trial, the right to complete presentencing proceedings, or the complete and effective exercise of post-trial and appellate rights.

[General waiver]

I specifically agree to waive all motions except those that are non-waivable pursuant to R.C.M. 705(c)(1)(B) or otherwise.

Article 32 waiver as part of agreement/GCM only

I agree to waive my right to an Article 32, UCMJ, preliminary hearing. I fully understand the nature and purpose of an Article 32 preliminary hearing and the rights that I would have at such a hearing. I understand that upon acceptance of this agreement, the charge(s)

and specification(s) may be referred to trial by general court-martial without an Article 32 preliminary hearing.

Stipulations

[Stipulation agreed to when Plea Agreement signed]

The government and I agree to enter into the Stipulation of Fact contained in Annex I to this Agreement for use during the (providence inquiry) (on the merits) (and) (during the presentencing proceeding). I have reviewed the stipulation completely, I agree the facts therein are true and admissible, and I have no objections.

[Stipulation to be agreed upon after Plea Agreement is signed]

The government and I agree to enter into a stipulation of fact for use during the (providence inquiry) (on the merits) (and) (during the pre-sentencing proceeding), which describes the facts and circumstances surrounding the offenses to which I am pleading guilty to include (the aggravating circumstances) (extenuation and mitigation). If I have any objections to the admissibility of any matters contained in the stipulation of fact, I will notify trial counsel prior to signing it. I understand that the failure of the parties to reach a mutually agreed upon stipulation of fact may result in either side withdrawing from this Agreement.

[Confessional stipulation]

I agree to enter into a confessional stipulation of fact in writing as to (all)(some) elements of (list applicable charge(s) and specification(s)) to which I have entered pleas of not guilty. I understand that a confessional stipulation is tantamount to a guilty plea when it establishes directly, or by reasonable inference, every element of a charged offense and when I and my counsel do not present any evidence to contest any potential remaining issue(s) on the merits of my case. I also understand that this confessional stipulation will relieve the government and the trial counsel of the burden of proving my guilt beyond a reasonable doubt as to (this) (these) charge(s) and specification(s) and that I may be found guilty of (this) (these) offense(s) based solely upon this stipulation and be subjected to the punishment(s) authorized for it (them).

Conditional plea(s)

The government and I agree subject to the approval of the military judge, to enter a conditional plea of guilty in writing as to (list applicable charges and specifications), preserving the right to review or appeal of any adverse determination on my motion (specify nature of the motion). I understand that if I prevail on further review or appeal, I will be allowed to withdraw my conditional plea(s) of guilty in accordance with R.C.M. 910(a)(2).

Sex offender treatment program

If pursuant to the adjudication of a sentence, I meet eligibility criteria established by Navy Personnel Command (PERS-00D1), HQMC (PSL), or other applicable authority and the confinement facility, the convening authority will recommend in writing to the applicable authority that contact be established with PERS-00D1, the brig I am confined in, and the Naval

Consolidated Brig Miramar, San Diego, California, within 10 days to recommend that I be placed in the Naval Consolidated Brig Miramar, San Diego, California, which is a military facility with a non-violent sex offender treatment program to serve the period of confinement. I understand that my placement in a military facility with a non-violent sex offender treatment program can be recommended by the convening authority, but that my placement in such a facility cannot be guaranteed. I further agree to voluntarily participate in any sex offender treatment program offered to me to include truthful admissions of my misconduct required for rehabilitation.

Testify and/or Cooperate in another case

(If I am provided a grant of testimonial/transactional immunity,) I agree to (testify truthfully if called as a witness in any proceeding regarding Name of 3rd Party Accused, and against any other individual who may be subsequently charged or investigated for offenses arising out of (the incidents that are the subject of the charges or investigation) if ordered to do so by the cognizant convening authority or other person authorized to give me an order to so testify.) (I further agree to cooperate with the investigation into Name of 3rd Party Accused and against any other individual who may be subsequently charged or investigated for offenses arising out of (the incidents that are the subject of the charges or investigation)). I further agree to fully and truthfully cooperate in any proceeding, to include in-person interviews with appropriate law enforcement authorities and the trial and defense counsel involved in these cases, as well as any other reasonable request made of me. I understand that failure to cooperate on my part constitutes a material breach of this pretrial agreement. The government agrees to make all reasonable efforts to coordinate in advance, fund, and obtain the physical presence of at least one of my military counsel at all proceedings where I am required to testify under oath. If reasonable efforts fail or scheduling conflicts prevent my military counsel from physically attending one of these events, the government retains the right to go forward on the date of the scheduled event. I understand I will be allowed to contact one of my military counsel in that event should the need arise during one of these events.

Substantial assistance case:

The government and I agree that after I provide substantial assistance in the investigation or prosecution of _____, in accordance with R.C.M. 705(d)(5)(B), the trial counsel will make a recommendation that (my sentence be reduced below the mandatory minimum) (the maximum confinement be reduced by ____). The trial counsel's recommendation is attached to this plea agreement as Enclosure ____.

Polygraph

I agree to submit to any interview and polygraph examination requested by the government at any time pre or post-trial for a period of five (5) years from the signing of this plea agreement by the convening authority. If an interview or polygraph examination under this provision is conducted pretrial, I understand that any statements elicited are inadmissible at any trial pursuant to M.R.E. 410. If an interview or polygraph examination under this provision is

conducted post-trial, the government agrees to grant me testimonial immunity prior to asking any questions.

(1) I agree that during the polygraph test I will truthfully answer questions about (insert areas to be discussed).

(2) I agree to complete and waive my rights on the polygraph rights waiver form pursuant to DoD Directive 5210.48, DoD Regulation 5210.48-R, or any other required DoD issuances.

(3) I understand and agree that I may request the presence of my counsel only during the initial rights advisement prior to the polygraph test, but during the polygraph examination, neither my counsel nor any persons other than the polygrapher and me will be permitted to be in the room.

(4) I agree to cooperate with investigators to resolve any inconclusive or “no opinion” findings. If the polygraph examination results in a (deceptive) (inconclusive, “no opinion,” or deceptive) finding to any question, such a finding may be the basis for the convening authority to seek to withdraw from this plea agreement.

Agree to join charges post-arraignment

I agree not to object to the referral of the additional charge(s) preferred on DD Month YYYY to the same court-martial as the original charges preferred on DD Month YYYY. I understand that after arraignment upon the original charges, no additional charges may be referred to the same court-martial without my consent and I hereby waive such an objection.

Forfeiture of property

[Forfeiture personal property – 18 U.S.C. § 2253; *United States v. Henthorn*, 58 M.J. 556 (N-M Ct. Crim. App. 2003) (for use in cases where computers and drives contained the child pornography or other forfeitures)]

I agree to forfeit to the United States immediately and voluntarily the following assets: _____, which are in the possession of the Naval Criminal Investigative Service. I agree to forfeit all interests in the properties as described above and to take whatever steps are necessary to pass clear title to the United States. These steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any documents necessary to pass title to the United States before sentencing. I understand and agree that this provision is not “punishment” as described in R.C.M. 1003, nor does it require me to waive a fundamental right at trial or a fundamental post-trial right. I further hereby waive any claim that I may have that the forfeiture of the aforementioned assets constitutes an excessive fine.

[Assignment of any profits or proceeds from publicity – high visibility case or significant media attention expected]

I agree to assign to the United States any profits or proceeds which I may be entitled to receive in connection with any publication or dissemination of information relating to my person, my work with the Navy, my criminal activities, the facts and circumstances leading to my arrest and

conviction, or acquired from Navy files, and agree that any such profits and/or proceeds constitutes the proceeds of my (criminal activities) for purposes of [insert offense(s) pleading guilty to]. This assignment shall include all profits and proceeds for my benefit, regardless of whether such profits and proceeds are payable to myself or to others, directly or indirectly, for my benefit or for the benefit of my associates or a current or future member of my family. I shall not circumvent this assignment by assigning the rights to my story to an associate or to a current or future member of my family, or to another person or entity who would provide some financial benefit to me, to my associates, or to a current or future member of my family. Moreover, I shall not circumvent this assignment by communicating with an associate or a family member for the purpose of assisting or facilitating their profiting from a public dissemination, whether or not such an associate or other family member is personally or directly involved in such dissemination.

Restitution: select from one of the following 2 paragraphs

[Has means to make restitution prior to date of trial]

I agree to make restitution by [cashier's check/money order] in the amount of \$ _____, made payable to the economic victim of my misconduct, (Name(s) of Victim(s)). I expressly represent that I will have the economic means to make restitution prior to the date of trial. The [cashier's check/money order] will be delivered to the trial counsel at least _____ calendar days prior to the date of trial. I fully understand that failure on my part to meet this obligation may serve as the basis for the convening authority to seek to withdraw from this plea agreement, making the agreement ineffective.

[OR]

[Make restitution in installments]

I agree to make restitution in the amount of \$ _____, to the economic victim of my misconduct, (Name(s) of Victim(s)), by DD Month YYYY. I expressly represent that I will have the economic means to make full restitution by DD Month YYYY. I will provide the trial counsel or staff judge advocate with a [cashier's check/money order] made payable to (Name(s) of Victim(s)), no later than the second working day following the 1st and 15th of each month, in the amount of \$ _____. These partial payments will begin on DD Month YYYY and will be completed by DD Month YYYY. I fully understand that failure on my part to meet this obligation may serve as the basis for the convening authority to seek to withdraw from this plea agreement, making the agreement ineffective, or may serve as the basis for the convening authority to vacate any or all previously suspended portions of my sentence, causing me to have to serve that previously suspended sentence.

Deployed or OCONUS case

As inducement to the convening authority for acceptance of this agreement, I agree to request deferment of my confinement from the date of trial to the date that I arrive at a military detention facility in the United States. I understand that the time in transit from the (Deployment - MARCENT AOR) to the United States will not be credited towards any confinement I am adjudged at court-martial.

Appendix 2: Specially Negotiated Provisions for Convening Authority

Withdrawal of language and/or charges and specifications to which Accused pleaded not guilty

The convening authority agrees to withdraw the language and/or charge(s) and specifications(s) to which I have pled not guilty in return for my pleas of guilty and following the Military Judge's acceptance of my pleas as set forth below. The convening authority agrees that, after the announcement of the sentence by the Military Judge, the withdrawn language, charge(s), and/or specification(s) will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

Government proceeding to trial on not guilty pleas

I understand and agree that the convening authority, through the assigned trial counsel, may proceed to trial on the (language and/or charge(s) and specification(s)) to which I have entered pleas of not guilty.

Refer case as noncapital

As an inducement for acceptance of this plea agreement, the convening authority will authorize trial counsel (pre/post arraignment) to strike through the language "To be tried as a capital case" from the special instructions in the referral block of the charge sheet, and substitute the language "Pursuant to a pretrial agreement, capital punishment is not authorized." If the convening authority withdraws from this agreement as provided for in Paragraph XX above, I understand the convening authority (or trial counsel by direction of the convening authority) may strike through the language "Pursuant to a pretrial agreement, capital punishment is not authorized" and reinsert the "To be tried as a capital case" language in the referral block of the charge sheet.

No-Cap Special Court-Martial instead of General Court-Martial

I fully understand that in return for my pleas of guilty, the only consideration that I will receive under this agreement is the referral of the charge(s) and specification(s) preferred against me on _____ to a special court-martial in lieu of the referral of the charge(s) and specification(s) preferred against me on _____ to a general court-martial. I also understand that in the event that I fail to plead guilty as indicated below or if I fail to comply with any of the material terms of this agreement, or if the agreement becomes null and void for any reason, then the convening authority is (free to convene an Article 32, Preliminary Hearing) (free to refer the charge(s) and specification(s) preferred against me on (date of preferral of original charges) for trial by a general court-martial) and that the time from the date on which I sign this agreement to the date on which I am arraigned on the charge(s) and specification(s) that were preferred against me on (date of preferral of new charges in this agreement) will be

excluded from the computation of time under R.C.M. 707 with respect to the charge(s) and specification(s) preferred against me on (date of preferral of new charges in this agreement).

Forum Provision: Special Court-Martial consisting of military judge alone

In return for my pleas of guilty, the convening authority will refer the charges and specifications in my case to a special court-martial consisting of military judge alone under Article 16(c)(2)(A) instead of a (general)(special) court-martial. If I fail to comply with the terms of this agreement, or if this agreement becomes null and void for any reason, the convening authority is free (to convene an Article 32, UCMJ, preliminary hearing concerning these charges and ultimately, refer all charges and specifications for trial before a general court-martial) (or) (to refer all charges and specifications for trial before a special court-martial).

Accept military judge's recommendation for suspension

In return for my pleas of guilty, the convening authority agrees to suspend under R.C.M. 1109(f) any portion of my sentence that the military judge recommends suspending in the Statement of Trial Results.

<u>Appendix 3: Sentencing Limitations for Members and Military Judge</u>

[*Note 1:* This example contemplates a case where all offenses are committed on or after Jan 1, 2019. In cases with convictions of pre-Jan 1, 2019 offenses, the convening authority may have additional authority to suspend punishments. In those cases, counsel should review the old Model PTA and consider whether any suspension-authority paragraphs may be applicable.]

[*Note 2:* The fact that a plea agreement exists in a case does not require the trial counsel to make a recommendation for reduction of sentence. See R.C.M. 1109(e)(2): “The recommendation of trial counsel is the decision of trial counsel alone. No person may direct trial counsel to make or not make such a recommendation.”]

[*Note 3:* The Plea Agreement should not require the military judge to make a recommendation for suspension, but the convening authority can agree to accept any recommendation of suspension made by the military judge. See R.C.M. 1109(f).]

Military Judge Alone – Segmented Sentencing

1. Punitive Discharge:

No limitations are placed on the Military Judge. The full range of options is available from no punitive discharge to the most severe punitive discharge permitted in this case: (bad conduct discharge) (dishonorable discharge) (dismissal).

OR

The minimum discharge to be adjudged for all offenses is a (bad-conduct discharge).

AND/OR

The maximum discharge to be adjudged for all offenses is a (dishonorable discharge) (dismissal).

OR

No punitive discharge may be adjudged.

OR

The mandatory adjudged dishonorable discharge will be commuted to a bad-conduct discharge.

OR

The mandatory adjudged (dishonorable discharge/dismissal) will be disapproved in accordance with the recommendation of the trial counsel in recognition for the accused’s substantial assistance in the investigation and prosecution of _____.

OR

The mandatory adjudged (dishonorable discharge/dismissal) will be suspended until the completion of the court-martial of United States v. _____, provided that the accused testifies truthfully at the court-martial and in accordance with my M.R.E. 410 proffer. The trial counsel agrees that the accused's truthful testimony in accordance with the M.R.E. 410 proffer is recognized as substantial assistance in the prosecution of another individual. [consider use in conjunction with testimonial immunity paragraph above]

[*Note: See R.C.M. 705(d)(5): A sentence limitation may not provide for a sentence less than the applicable mandatory minimum sentence for an offense referred to in Article 56(b)(2), except if the accused pleads guilty to the offense, the agreement may have the effect of reducing the mandatory minimum dishonorable discharge to a bad-conduct discharge.]

OR

A (bad conduct discharge) (dishonorable discharge) (dismissal) will be adjudged.

2. Confinement [Use Table A Above]

3. Forfeiture:

a. Adjudged Forfeiture:

The minimum forfeitures to be adjudged for all offenses is a forfeiture of _____ pay (and allowances) for _____ month(s).

AND/OR

The maximum forfeitures to be adjudged for all offenses is a forfeiture of _____ pay (and allowances) for _____ month(s).

OR

No forfeitures will be adjudged.

OR

Any adjudged forfeiture (in excess of \$_____ per month for _____ months) will be suspended for a period of _____ months after the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action.

OR

Forfeitures in the amount of _____ per month for _____ month(s) will be adjudged.

[Defer and Waiver Automatic Forfeitures:]

b. Automatic Forfeiture [if applicable]:

Automatic forfeiture of any pay and allowances I am due during my enlistment (in the amount of \$____ per month) will be deferred and waived provided that I establish and maintain a dependent's allotment in the total amount of the deferred and waived forfeiture amount during the entire period of deferment. I understand that my enlistment is projected to end on _____ and that if I am in confinement after that date, I will not receive any pay and allowances pursuant to Paragraph 010402, Volume 7A, DoD 7000.14-R, Financial Management Regulations (series). This agreement constitutes my request for, and the convening authority's approval of, deferment and waiver of automatic forfeitures (in the amount of \$____ per month) pursuant to Article 58b(a)(1), UCMJ. I understand that the period of waiver may not exceed six (6) months from the date of the Entry of Judgment. The convening authority agrees that the period of waiver will run for ____ months from the date of the Entry of Judgment.

The period of deferment will run from the date automatic forfeiture would otherwise become effective under Article 58b(a)(1), UCMJ, until the date the Entry of Judgment on the sentence. The deferred and waived forfeiture shall be paid to _____, who is my dependent. I must provide proof of this allotment to the convening authority before the Entry of Judgment to defer any adjudged forfeitures under this agreement. I agree to notify the convening authority in writing if the (Department of Defense) (U.S. Coast Guard) fails to defer or waive the forfeitures.

[Coast Guard Cases] Automatic forfeiture of any pay and allowances I am due during my enlistment (in the amount of \$____ per month) will be deferred and waived provided that I establish and maintain either a bank account to which [name of person(s) to receive pay] has access and can make withdrawals and into which the total amount of the deferred and waived forfeiture amount is deposited or a dependent's allotment in the total amount of the deferred and waived forfeiture amount during the entire period of deferment.

4. Fine [Use Table A Above]

5. Reduction:

a. Adjudged Reduction:

At a minimum, the accused must be reduced in grade to _____.

AND/OR

The maximum reduction in grade that may be imposed is reduction to _____.

OR

No reduction in grade may be adjudged.

OR

Any adjudged reduction (below grade____) will be suspended for a period of ____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action. This agreement constitutes my request for, and the convening

authority's approval of, deferment of that adjudged reduction which is to be suspended pursuant to the terms of this agreement and would otherwise become effective under Article 57(a)(1), UCMJ. The period of deferment will run from the date the adjudged reduction would otherwise become effective until the date of the Entry of Judgment.

OR

Reduction to the grade of ____ will be adjudged.

b. Automatic Reduction [if applicable]:

THE CURRENT LAW DOES NOT ALLOW FOR A PLEA AGREEMENT PROTECT AN ACCUSED FROM AUTOMATIC REDUCTION IN RANK TO E-1, THEREFORE THIS SECTION CANNOT BE USED. HOWEVER, THERE IS A PROPOSED EXECUTIVE ORDER PENDING SIGNATURE THAT WILL ADDRESS THIS ISSUE. IF/WHEN THAT EXECUTIVE ORDER IS SIGNED, CODE 20 WILL PROVIDE FURTHER GUIDANCE.

The automatic reduction (below the grade of E-____) will be remitted.

OR

The automatic reduction in pay grade (below pay-grade ____) will be suspended for _____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the part of the automatic reduction that was suspended will be remitted without further action.

6. Other lawful punishments

No (other lawful punishments) (restriction) (hard labor without confinement) (reprimand) will be adjudged.

OR

The maximum (restriction) (hard labor without confinement) to be adjudged is (restriction for _____ months/days) (hard labor without confinement for _____ months/days).

AND/OR

The minimum (restriction) (hard labor without confinement) to be adjudged is (restriction for _____ months/days) (hard labor without confinement for _____ months/days).

OR

Any adjudged [restriction, hard labor without confinement, etc.] will be suspended for _____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action.

OR

A punitive letter of reprimand will be adjudged.

OR

Restriction for a period of _____ days to the limits of _____ will be adjudged.

OR

Hard Labor without confinement for a period of _____ days will be adjudged.

Members Sentencing – Unitary Sentencing

1. Punitive Discharge:

No limitations are placed on the Members. The full range of options is available from no punitive discharge to the most severe punitive discharge permitted in this case: (bad conduct discharge) (dishonorable discharge) (dismissal).

OR

The minimum discharge to be adjudged for all offenses is a (bad-conduct discharge).

AND/OR

The maximum discharge to be adjudged for all offenses is a (dishonorable discharge) (dismissal).

OR

No punitive discharge may be adjudged.

OR

The mandatory adjudged dishonorable discharge will be commuted to a bad-conduct discharge.

OR

The mandatory adjudged (dishonorable discharge/dismissal) will be disapproved in accordance with the recommendation of the trial counsel in recognition for the accused's substantial assistance in the investigation and prosecution of _____.

OR

The mandatory adjudged (dishonorable discharge/dismissal) will be suspended until the completion of the court-martial of United States v. _____, provided that the accused testifies truthfully at the court-martial and in accordance with my M.R.E. 410 proffer. The trial counsel agrees that the accused's truthful testimony in accordance with the M.R.E. 410 proffer is recognized as substantial

assistance in the prosecution of another individual. [consider use in conjunction with testimonial immunity paragraph above]

[*Note: See R.C.M. 705(d)(5): A sentence limitation may not provide for a sentence less than the applicable mandatory minimum sentence for an offense referred to in Article 56(b)(2), except if the accused pleads guilty to the offense, the agreement may have the effect of reducing the mandatory minimum dishonorable discharge to a bad-conduct discharge.]

OR

A (bad conduct discharge) (dishonorable discharge) (dismissal) will be adjudged.

2. Confinement:

The minimum confinement to be adjudged for all offenses is a confinement for _____ (days) (months) (years).

AND/OR

The maximum confinement to be adjudged for all offenses is a confinement for _____ (days) (months) (years).

OR

Any adjudged confinement (in excess of ____ months/days) will be suspended for a period of ____ months after the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action. This agreement includes the accused's request for, and the convening authority's approval of, deferment of all confinement suspended pursuant to the terms of this agreement. The period of deferment will run from the date the sentence is adjudged until the date the Entry of Judgment.

OR

No confinement will be adjudged.

OR

Confinement for a period of ____ (days)(weeks)(months)(years) will be adjudged.

3. Forfeiture

a. Adjudged Forfeiture:

The minimum forfeitures to be adjudged for all offenses is a forfeiture of _____ pay (and allowances) for _____ month(s).

AND/OR

The maximum forfeitures to be adjudged for all offenses is a forfeiture of _____ pay (and allowances) for _____ month(s).

OR

No forfeitures will be adjudged.

OR

Any adjudged forfeiture (in excess of \$_____ per month for _____ months) will be suspended for a period of _____ months after the date of Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action.

[Defer and Waiver Automatic Forfeitures:]

b. Automatic Forfeiture [if applicable]:

Automatic forfeiture of any pay and allowances I am due during my enlistment (in the amount of \$_____ per month) will be deferred and waived provided that I establish and maintain a dependent's allotment in the total amount of the deferred and waived forfeiture amount during the entire period of deferment. I understand that my enlistment is projected to end on _____ and that if I am in confinement after that date, I will not receive any pay and allowances pursuant to Paragraph 010402, Volume 7A, DoD 7000.14-R, Financial Management Regulations (series). This agreement constitutes my request for, and the convening authority's approval of, deferment and waiver of automatic forfeitures (in the amount of \$_____ per month) pursuant to Article 58b(a)(1), UCMJ. I understand that the period of waiver may not exceed six (6) months from the date of the Entry of Judgment. The convening authority agrees that the period of waiver will run for _____ months from the date of the Entry of Judgment.

The period of deferment will run from the date automatic forfeiture would otherwise become effective under Article 58b(a)(1), UCMJ, until the date of the Entry of Judgment. The deferred and waived forfeiture shall be paid to _____, who is my dependent. I must provide proof of this allotment to the convening authority before the Entry of Judgment to defer any adjudged forfeitures under this agreement. I agree to notify the convening authority in writing if the (Department of Defense) (Coast Guard) fails to defer or waive the forfeitures.

[Coast Guard Cases] Automatic forfeiture of any pay and allowances I am due during my enlistment (in the amount of \$_____ per month) will be deferred and waived provided that I establish and maintain either a bank account to which [name of person(s) to receive pay] has access and can make withdrawals and into which the total amount of the deferred and waived forfeiture amount is deposited or a dependent's allotment in the total amount of the deferred and waived forfeiture amount during the entire period of deferment.

4. Fine:

The minimum fine to be adjudged for all offenses is a fine of _____.

AND/OR

The maximum fine to be adjudged for all offenses is a fine of _____.

OR

No fines will be adjudged.

OR

Any adjudged fine (in excess of \$_____) will be suspended for a period of _____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action.

OR

A fine in the amount of \$_____ will be adjudged.

5. Reduction:

a. Adjudged Reduction:

At a minimum, the accused must be reduced in grade to _____.

AND/OR

The maximum reduction in grade that may be imposed is reduction to _____.

OR

No reduction in grade will be adjudged.

OR

Any adjudged reduction (below pay grade____) will be suspended for a period of _____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action. This agreement constitutes my request for, and the convening authority's approval of, deferment of that adjudged reduction which is to be suspended pursuant to the terms of this agreement and would otherwise become effective under Article 57(a)(1), UCMJ. The period of deferment will run from the date the adjudged reduction would otherwise become effective until the date of the Entry of Judgment.

b. Automatic Reduction [if applicable]:

THE CURRENT LAW DOES NOT ALLOW FOR A PLEA AGREEMENT PROTECT AN ACCUSED FROM AUTOMATIC REDUCTION IN RANK TO E-1, THEREFORE THIS SECTION CANNOT BE USED. HOWEVER, THERE IS A PROPOSED EXECUTIVE ORDER PENDING SIGNATURE THAT WILL ADDRESS THIS ISSUE. IF/WHEN THAT EXECUTIVE ORDER IS SIGNED, CODE 20 WILL PROVIDE FURTHER GUIDANCE.

The automatic reduction (below the grade of E-____) will be remitted.

OR

The automatic reduction in pay grade (below pay-grade _____) will be suspended for _____ months from the date of the Entry of Judgment, at which time, unless sooner vacated, the part of the automatic reduction that was suspended will be remitted without further action.

6. Other lawful punishments:

No (other lawful punishments) (restriction) (hard labor without confinement) will be adjudged.

OR

The maximum (restriction) (hard labor without confinement) to be adjudged is (restriction for _____ months/days) (hard labor without confinement for _____ months/days).

AND/OR

The minimum (restriction) (hard labor without confinement) to be adjudged is (restriction for _____ months/days) (hard labor without confinement for _____ months/days).

OR

Any adjudged [restriction, hard labor without confinement, etc.] will be suspended for _____ months from the date of the entry of judgment, at which time, unless sooner vacated, the suspended portion will be remitted without further action.

OR

A punitive letter of reprimand will be adjudged.

OR

Restriction for a period of _____ days to the limits of _____ will be adjudged.

OR

Hard Labor without confinement for a period of _____ days will be adjudged.

Appendix 4: Notification provisions
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[Rape/sex assault pleas]

My defense counsel has advised me that a guilty plea to the offense of rape, sexual assault, rape of a child, sexual assault of a child, forcible sodomy, or an attempt to commit any of these offenses, requires the sentencing authority to adjudge a dishonorable discharge or dismissal.

[Sex offender registration – Use if Accused is pleading guilty to sex offense/kidnapping. See *United States v. Miller*, 63 M.J. 452 (C.A.A.F. 2006); *United States v. Riley*, 72 M.J. 115 (C.A.A.F. 2013).]

My defense counsel has advised me that, as a result of my pleas, I may be required to register as a sexual offender in any state in which I am domiciled. I have reviewed DoD Instruction 1325.07 (series) with my counsel and understand that I am entering a plea of guilty to an offense requiring sex offender registration processing within the meaning of Appendix 4 to Enclosure 2 of that instruction. Further, my counsel has advised me that, in accordance with 42 U.S.C. § 14071(d), my information in the offender registry may be accessible by the public.

[Possible Sex Offender Registration for LIO cases, e.g., Pled Article 120 charge down to Article 128]

My defense counsel has advised me that as a result of my pleas I may be required to register as a sex offender in the state in which I live at some point in the future even though I am not pleading guilty to a qualifying offense pursuant to DoD Instruction 1325.07 (series). I understand that I am pleading guilty to an offense of unlawfully touching another person in a way that could be viewed as sexual in nature. My defense counsel has advised me that I may be required to register as a sex offender based upon the sexual nature of the facts in this case. I also understand that sex offender laws can change over time and therefore my defense counsel cannot predict whether I would have to register as a sex offender in any given state at any given time in the future. After careful consideration of all of these possible unknown effects of the sex offender laws, I knowingly and voluntarily pled guilty to the offense(s) listed below.

[Lautenberg Amendment – use in the following cases: (1) if the accused pleads guilty to a crime of domestic violence; (2) if the case is referred to a general court-martial and the maximum punishment for any of the offenses in the chart at Appendix 12 is a dishonorable discharge or more than one (1) year; or (3) if there is a conviction for unlawful drug use.]

My defense counsel has advised me that my guilty pleas to the charges and specifications contained in this agreement may preclude me from the ownership, receipt, or transport of any firearm that has been transported in interstate or foreign commerce under 18 U.S.C. § 922(g).

[Repayment for advanced education – use if Accused received advanced financial education assistance and could be discharged prior to fulfilling service obligation.]

My defense counsel has advised me that my guilty pleas to the Charges and Specifications contained in this agreement may result in my discharge from the (Navy) (Marine Corps) (Coast Guard) for misconduct, either by punitive or administrative means. This may require me to repay the government for any and all advanced educational assistance benefits that I have received (in accordance with JAGMAN § 0171 and 10 U.S.C. § 2005). This repayment will occur in the case that my early separation from the (Navy) (Marine Corps) (Coast Guard) precludes me from fulfilling any additional service requirements that were required as consideration for this advanced educational assistance.

[Retirement/VA benefits – use if Accused is close to or retirement eligible.]

My defense counsel has advised me that any punitive discharge that is adjudged and ultimately approved in my case may adversely affect my ability to receive retirement pay and any and all other Veterans' benefits accrued as a result of my military service.

My defense counsel has advised me that any punitive discharge that is adjudged and ultimately approved in my case may adversely affect my ability to receive Veterans' and all other benefits accrued as a result of my military service.

[Hiss Act, 5 U.S.C § 8312 – use if Accused pleading guilty to case involving classified information or giving defense information to unauthorized person, and Accused is close to or retirement eligible.]

My defense counsel has advised me that my plea(s) of guilty may adversely affect my ability to receive retirement pay and any and all other benefits accrued as a result of my military service under the Hiss Act, 5 U.S.C. § 8312.

[Immigration Concerns – use if Accused is not a U.S. citizen or is a naturalized U.S. citizen (not used for people that acquired their U.S. citizenship at birth or from their parents.) Refer to 8 U.S.C. 1439(f), 8 U.S.C. 1440(c), and 8 U.S.C. 1421(c)]

My defense counsel has advised me that my plea(s) of guilty may adversely affect my ability to naturalize or could cause me to be denaturalized and the United States could initiate deportation proceedings against me. I also understand that even if my conviction does not cause me to be deported, my plea(s) of guilty might prevent me from returning to the United States, if I choose to leave the country for any reason. My defense counsel has advised me that the factors considered include: (1) when I was naturalized; (2) under what provision of the Immigration and Nationality Act I was naturalized; (3) what offenses I am pleading guilty; and (4) what kind of discharge I receive.

[No-Pay Status – use if Accused could be placed in a no-pay status following trial]

I understand that I may be placed on appellate leave under the provisions of 10 U.S.C. § 876a, Article 76a of the UCMJ, if the sentence, as approved, includes an unsuspended punitive discharge. I understand that an individual placed into an appellate leave status will normally not receive any pay or allowances. I further understand that receipt of pay and/or allowances while in an appellate leave status will depend on the amount of accrued leave I have accumulated and chose to use, and on the sentence awarded by this court-martial. (Furthermore, I agree that, should a punitive discharge be adjudged, I will submit, within ____ days from the date of the conclusion of my trial, a written request to be placed on appellate leave.)

[Impact of Guilty Plea – use if Accused could face an administrative separation following court-martial]

I have been fully advised by my defense counsel of, and I fully understand and comprehend the meaning and effect of, my guilty pleas and all attendant effects and consequences, including the possibility that I may be processed for administrative discharge from the U.S. (Navy) (Marine Corps) (Coast Guard). I understand that nothing in this agreement ensures or promises that administrative separation processing will be disapproved for the misconduct underlying the charges at this court-martial. I understand that (Commander, Navy Personnel Command) (Deputy Commandant for Manpower and Reserve Affairs)(Commander, Personnel Service Center), or any other appropriate separation authority may initiate administrative separation processing based on the misconduct underlying this court-martial. I understand that such an administrative discharge could result in an Other Than Honorable characterization of service, unless otherwise limited by this agreement, even if part or all of the sentence, including a punitive discharge, is suspended or disapproved for any reason. I understand that if I am separated with a characterization Other Than Honorable that I may be deprived of veterans' benefits based upon my current period of active service, and that I may therefore expect to encounter substantial prejudice in civilian life in many situations.