IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff,	
v.	No. 22-04051-01-CR-C-RK
TOD RAY KEILHOLZ, Defendant.	

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

1. **The Parties.** The parties to this agreement are the United States Attorney's Office for the Western District of Missouri (otherwise referred to as "the Government" or "the United States"), represented by Teresa A. Moore, the United States Attorney, and Michael S. Oliver, Assistant United States Attorney, and the defendant, Tod Ray Keilholz ("the defendant"), represented by Troy Stabenow.

The defendant understands and agrees that this plea agreement is only between him and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

2. **Defendant's Guilty Plea**. The defendant agrees to and hereby does plead guilty to Count 5 of the Indictment, charging him with a violation of 18 U.S.C. § 1344(1), that is, bank fraud, Count 20, that is, aggravated identity theft, and Count 49, that is, engaging in monetary transactions in property derived from specified unlawful activity. The defendant also agrees to

forfeit to the United States the property described in this plea agreement and in the Forfeiture Allegation of the Indictment. By entering into this plea agreement, the defendant admits that he knowingly committed these offenses, and is, in fact, guilty of these offenses.

3. **Factual Basis for Guilty Plea.** The parties agree that the facts constituting the offenses to which the defendant is pleading guilty are as follows:

Scheme or Artifice to Defraud

Between January 1, 2018, and January 7, 2021, Tod Ray Keilholz, the defendant, engaged in a scheme and artifice to defraud, Hawthorn Bank, Central Bank, and U.S. Bank, all FDIC insured institutions, to fraudulently obtain loans, loan extensions, loan renewals, and loan forbearance on conventional loans by providing materially false information to Hawthorn Bank and to obtain PPP loans by providing materially false eligibility information to US Bank and Central Bank.

The defendant was the sole owner of TRK Construction, LLC, (TRK Construction), TRK Valpo, LLC, (TRK Valpo), TL Builders, LLC, (TL Builders), and Project Design, LLC, (Project Design). The defendant did not cause these entities to file quarterly wage reports with the States of Missouri and Indiana or Federal quarterly employment tax returns between March 31, 2019, and June 30, 2020, because these entities were not in operation.

For years the defendant maintained a banking relationship with Hawthorn Bank. Between August 31, 2017, and September 21, 2018, the defendant obtained three business loans in the aggregate amount of $3,526,771. One of these loans financed the purchase of 1425 Glendale Blvd., Valparaiso, Indiana. As the defendant's businesses failed, these loans fell into default and sub-contractors sued the defendant for unpaid invoices during 2019 and 2020. In February 2020, Hawthorn Bank initiated foreclosure proceedings against the defendant. The defendant successfully delayed the foreclosure proceedings and paid off these loans and other past due debts with Paycheck Protection Program (PPP) loan proceeds fraudulently obtained from U.S. Bank and guaranteed by the Small Business Administration (SBA).

On March 27, 2020, The CARES Act established several new temporary programs and provided for the expansion of others to address the COVID-19 pandemic. Among these programs, the PPP authorized $349,000,000,000 in forgivable loans to small businesses to retain workers and maintain payroll, make mortgage interest payments, lease payments, and utility payments. The defendant applied for multiple PPP loans at U.S. Bank and Central Bank.

On April 16, 2020, the defendant applied to U.S. Bank for a PPP loan to TRK Construction. In his application the defendant identified himself as the sole owner, falsely stated the business had 14 employees and an average monthly payroll of $1,434,424, and falsely certified that the purpose of the loan was to fund payroll, lease and mortgage interest, utilities, and salary/commission. In supporting documentation, the defendant falsely claimed that TRK Construction had $18,875,308.00 in gross receipts or sales for 2019. On May 8, 2020, the defendant signed the SBA Application and Note for a $1,706,260.00 PPP loan for TRK Construction. On May 11, 2020, the PPP loan proceeds were deposited into TRK Construction's US Bank account ending in 7961.

On May 28, 2020, the defendant applied to US Bank for a $7,818,705 PPP loan to TRK Valpo based upon a claimed average monthly payroll of $3,127,482. In IRS Schedule C Forms submitted with the application, the defendant falsely claimed that TRK VALPO had $39,469,429.00 in gross receipts or sales for 2019. the defendant submitted materially different and false IRS Forms 941, IRS Schedule C's, and MDES and IDWD quarterly payroll wage reports in his application. On May 28, 2020, in supporting documentation, the defendant falsely claimed TRK Valpo employed 12 persons during the first quarter of 2019. On June 11, 2020, in revised documentation, the defendant falsely claimed TRK Valpo employed 170 persons during the first quarter of 2019. On June 18, 2020, US Bank denied this application because it was unable to verify the required payroll information for TRK Valpo.

The day before the defendant's TRK Valpo PPP loan was denied by U.S. Bank, the defendant applied to Central Bank for a PPP loan to TRK Valpo. In his SBA Borrower Application Form, the defendant identified himself as the sole owner, falsely stated the business had 170 employees and an average monthly payroll of $1,280,806, and falsely certified the purpose of the loan was to fund payroll, lease and mortgage interest, and utilities. In supporting documentation, the defendant falsely claimed that TRK Valpo had $34,200,282.00 in gross receipts or sales for 2019. In supporting documentation, the defendant included MDES and IDWD wage reports for all of 2019 which falsely claimed that TRK Valpo paid aggregate wages of $15,286,667.00 to approximately 189 purported employees. The social security numbers the defendant associated to 160 of those purported employees did not match the names of the actual persons assigned to those social security accounts. On June 23, 2020, the defendant signed a Promissory Note for a $3,202,000.00 PPP loan for TRK Valpo and the loan proceeds were deposited into TRK Valpo's Central Bank account ending in 5804.

On June 22, 2020, the defendant applied to US Bank for a PPP loan to TL Builders. In his application the defendant identified himself as the sole owner, falsely stated the business had 180 employees and an average monthly payroll of $1,447,526, and falsely certified the purpose of the loan was to fund payroll, lease and mortgage interest, and utilities. In supporting documentation, the defendant submitted false

IRS Forms 940 and 941 that did not identify employees by name or social security number. On June 30, 2020, the defendant signed the SBA Application and Note for a $3,618,815.00 PPP loan for TL Builders. On July 2, 2020, the PPP loan proceeds were deposited in TL Builders' US Bank account ending in 2279. In connection with this loan, the defendant submitted a Schedule C for TL Builders that falsely reported gross receipts or sales for 2019 in the amount of $27,082,030.00.

On June 1, 2020, the defendant applied to US Bank for a PPP loan to Project Design. In his application, the defendant identified himself as sole owner, falsely stated the business had 18 employees and an average monthly payroll of $1,561,543, and certified the purpose of the loan was to fund payroll, lease and mortgage interest, and utilities. In supporting documentation the defendant falsely claimed that Project Design had $34,654,789.00 in gross receipts or sales for 2019. The defendant provided US Bank with a MDES Quarterly Contribution and Wage Report for the first quarter of 2020 that falsely purported that Project Design paid 215 employees aggregate wages of $4,785,169.00. The social security numbers the defendant associated to 196 of those purported employees did not match the names of the actual persons assigned to those social security accounts. On July 20, 2020, the defendant signed the SBA Application and Note for a $3,903,857.00 PPP loan for Project Design and the PPP loan proceeds were deposited into Project Design's US Bank account ending in 2290.

With respect to each of these five PPP loan applications, the defendant: failed to identify his common ownership of the four businesses; falsely stated the business was in operation on February 15, 2020, falsely stated that the business was eligible for a PPP loan; falsely stated that PPP loan proceeds would be used for the purposes specified in the loan application; and falsely stated that the information in the PPP loan application and supporting documentation was true and accurate in all material respects.

These fraudulent loan applications resulted in the defendant receiving $12,430,932.00 in PPP loan proceeds.

Count 5

The defendant executed the above-described scheme or artifice to defraud on or about June 25, 2020, when he provided US Bank with IRS Forms 941 for all quarters of 2019 as an attachment to prove the eligibility of TL Builders for a PPP loan from US Bank, when TL Builders did not file these reports with the Internal Revenue Service and paid no wages to any employee. As a result of this materially false submission the defendant received PPP loan proceeds in the amount of $3,618,815.00. The defendant used $3,302,830.61 of these funds to repay defaulted business loans from Hawthorn Bank.

Count 20

On or about June 17, 2020, the defendant used M.S.P.'s name and social security number on unsigned and unsubmitted quarterly wage reports purportedly made to the State of Indiana in connection with the materially false TRK Valpo PPP loan application to Central Bank. Based on the material misrepresentations in the application, including the false representation that M.S.P. earned $80,000 from TRK Valpo in 2019, Central Bank funded this PPP loan on June 23, 2020, in the amount of $3,202,000.

M.S.P. never worked for TRK Valpo. During a period of approximately six-weeks in 2012 or 2013, M.S.P. worked for TRK Construction but was laid off due to lack of work. M.S.P. had no further contact with any business the defendant owned and did not authorize the defendant to use his name and social security number.

Count 49

On November 2, 2020, the defendant engaged in monetary transactions in criminally derived property of a value greater than $10,000, that is, the transfer of funds and monetary instruments, that is a $73,543.00 cash withdrawal from TRK Construction's US Bank account ending in 7961, funded entirely with proceeds from the fraudulently obtained U.S. Bank PPP loan to Project Design. With this cash, the defendant purchased a $73,543 cashier's check payable to Jim Butler Chevrolet. The cashier's check did not identify the remitter of the funds.

On November 4, 2020, that cashier's check was used by the defendant to purchase a 2021 Chevrolet Tahoe that was titled in the name of A.O.B., then a U.S. Bank employee who assisted the defendant with the PPP loan applications of TRK Valpo, TL Builders, and Project Design.

Forfeiture Allegation

The defendant agrees to forfeit to the United States the following property constituting, involved in, and derived from any proceeds the defendant obtained directly and indirectly as a result of the scheme or artifice to defraud Hawthorn Bank, U.S. Bank, and Central Bank as executed in Count 5:

1. The real property known and numbered as 405 Pheasant Run, Jefferson City, Missouri, with all its appurtenances, improvements, and attachments thereon, as more fully described in the Indictment.

2. The real property known and numbered as 6506 Parkview Avenue, Jefferson City, Missouri, with all its appurtenances, improvements, and attachments thereon, as more fully described in the Indictment.

3. The real property known and numbered as 1425 Glendale Boulevard, Valparaiso, Indiana, with all its appurtenances, improvements, and attachments thereon, as more fully described in the Indictment.

4. The real property known and numbered as 3539 Monroe Street, La Porte, Indiana, Parcel number: 461105301007000058, with all its appurtenances, improvements, and attachments thereon, as more fully described in the Indictment.

5. A 2020 Chevrolet Silverado 3500HD, VIN 1GC4YVEY6LF284743, titled to Project Design.

6. A 2021 Chevrolet Silverado 3500, VIN 1GC4YUEY9MF114677 titled to TL Builders.

7. A 2021 Chevrolet Silverado 1500, VIN 1GCRYAEF4MZ115821 titled to TL Builders.

8. A 2019 BMW X5 xDrive 40i, VIN 5UXCR6C53KLK87363 titled to TRK Construction.

9. A 2020 John Deere Z950R ZTrak, PIN 1TC950RCKLT080362 purchased by the defendant.

10. A 2020 John Deere Select Series X390 Tractor 48 Accel Deep (48A) Mower Deck, PIN 1MOX390ATLM091818, purchased by the defendant.

11. A Kubota Compact Track Loader SVL75-2HFWC, serial number 36862, equipped with a Land Pride AP-PFL5560, serial number 1058098K, and a Kubota Ap-HD74LLC purchased by TRK Construction.

12. A Gents 43mm IWC SCHAFFHAUSEN Perpetual Chronograph wristwatch. (INTL Watch Co.) The 51 Jewels movement with 68 hours power reserve. Serial #6108223. Model #C.89630.

13. A Gents stainless steel 43mm Rolex Sea-Dweller self-winding automatic diver's watch. The black color dial bears the inscription “ROLEX OYSTER PERPETUAL DATE DEEPSEA” in block lettering. The 31 Jewels movement #3235. The serial #A881C984. Orig. design #116660.

14. A Gents stainless steel 44mm Rolex Sea-Dweller self-winding automatic diver's watch. The navy blue dial bears the inscription “ROLEX DEEPSEA OYSTER PERPETUAL DATE” in block lettering. The 31 Jewels movement #OT457441. Orig. design #116660.

15. Gents yellow and white two tone Citizen Eco-Drive Radio controlled world time self-winding automatic watch with Sapphire Crystal. The serial #H820-S087228. Model #Antimag.4800. The watch is engraved: "Forever Grateful 9-16-14."

16. A money judgment representing the proceeds obtained by the defendant traceable to his scheme and artifice to defraud in the amount of $12,430,932.00.

4. **Use of Factual Admissions and Relevant Conduct.** The defendant acknowledges, understands and agrees that the admissions contained in paragraph 3 and other portions of this plea agreement will be used for the purpose of determining his guilt and advisory sentencing range under the United States Sentencing Guidelines ("U.S.S.G."), including the calculation of the defendant's offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that the conduct charged in any dismissed counts of the indictment, as well as all other uncharged, related criminal activity, may be considered as "relevant conduct" pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charges to which he is pleading guilty.

5. **Statutory Penalties.** The defendant understands that, upon his plea of guilty to Count 5 of the Indictment, charging him with bank fraud, the maximum penalty the Court may impose is not more than thirty (30) years' imprisonment, a $1,000,000 fine, not more than five (5) years' supervised release, an order of restitution and a $100 mandatory special assessment, which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class B felony.

The defendant understands that, upon his plea of guilty to Count 20 of the Indictment, charging him with aggravated identity theft, the penalty the Court must impose is two (2) years' imprisonment consecutive to sentences imposed on Count 5 and Count 49, not more than a

$250,000 fine, not more than one (1) year supervised release, and a $100 mandatory special assessment, which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class E felony.

The defendant understands that, upon his plea of guilty to Count 49 of the Indictment, charging him with engaging in monetary transactions in property derived from specified unlawful activity, the maximum penalty the Court may impose is not more than ten (10) years' imprisonment, a $500,000 fine, not more than three (3) years' supervised release, and a $100 mandatory special assessment, which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class C felony.

6. **Sentencing Procedures.** The defendant acknowledges, understands and agrees to the following:

a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant's applicable Guidelines range, unless the sentence imposed is "unreasonable";

b. the Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;

c. as to Count 5, in addition to a sentence of imprisonment, the Court may impose a term of supervised release of not more than five (5) years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one (1) year is imposed;

d. as to Count 5, if the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to three (3) years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed five (5) years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. as to Count 20, in addition to a sentence of imprisonment, the Court must impose a term of supervised release of not more than one (1) year;

f. as to Count 20, if the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to one (1) year without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed one (1) year, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

g. as to Count 49, in addition to a sentence of imprisonment, the Court may impose a term of supervised release of not more than three (3) years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one (1) year is imposed;

h. as to Count 49 if the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to two (2) years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed three (3) years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

i. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

j. any sentence of imprisonment imposed by the Court will not allow for parole;

k. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office; and

l. the defendant may not withdraw his guilty plea solely because of the nature or length of the sentence imposed by the Court.

m. The defendant agrees that the United States may institute civil, judicial or administrative forfeiture proceedings against all forfeitable assets in which the defendant has an interest, and that he will not contest any such forfeiture proceedings;

n. The defendant agrees to forfeit all interest he owns or over which he exercises control, directly or indirectly, in any asset that is subject to forfeiture to the United States either directly or as a substitute for property that was subject to forfeiture but is no longer available for the reasons set forth in 21 U.S.C. § 853(p) (which is applicable to this action pursuant to 18 U.S.C. § 982(b)(1) and 28 U.S.C.

§ 2461(c), including but not limited to, the following specific property: all property identified in the forfeiture allegation section of the factual basis to this plea agreement. With respect to any asset which the defendant has agreed to forfeit, the defendant waives any constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment under the Eighth Amendment to the United States Constitution;

o. The defendant agrees to fully and truthfully disclose the existence, nature and location of all assets forfeitable to the United States, either directly or as a substitute asset, in which he, his co-defendants and his co-conspirators have or had any direct or indirect financial interest, or exercise or exercised control, directly or indirectly, during the period from January 1, 2018, to the present. The defendant also agrees to fully and completely assist the United States in the recovery and forfeiture of all such forfeitable assets;

p. The defendant agrees to take all necessary steps to comply with the forfeiture matters set forth herein before his sentencing;

q. The defendant states that he is the sole and rightful owner of all property identified in the forfeiture allegation section of the factual basis to this plea agreement, and that, to the best of his knowledge, no one else has any ownership or other interest in the property. In the event any federal, state or local law enforcement agency having custody of the property decides not to pursue forfeiture of the property due to its minimal value, the defendant hereby abandons any interest he has in such property, and consents to the destruction or any other disposition of the property by the federal, state or local agency without further notice or obligation whatsoever owing to the defendant;

r. Within ten (10) days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit: (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that the United States will use the financial information when making its recommendation to the Court regarding the defendant's acceptance of responsibility; and

s. At the request of the USAO, the defendant agrees to undergo any polygraph examination the United States might choose to administer concerning the identification and recovery of forfeitable assets and restitution.

7. **Government's Agreements.** Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to bank fraud, false statements to a financial institution, false statements to the Small Business Administration, aggravated identity theft, and engaging in monetary transactions in property derived from specified unlawful activity for which it has venue and which arose out of the defendant's conduct described in the factual basis of the plea agreement. Additionally, the United States Attorney for the Western District of Missouri agrees to dismiss Counts 1-4, 6-19, and 21-48, and 50-52 at sentencing. At sentencing, the United States Attorney for the Western District of Missouri will recommend to the Court a total sentence of imprisonment of no more than 120-months, that is, 96-months on Counts 5 and 49 to run concurrently, and 24-months on Count 20 to run consecutively to the sentences imposed on Counts 5 and 49. At sentencing, the defendant will recommend to the Court a total sentence of imprisonment of no less than 60-months.

The defendant understands that this plea agreement does not foreclose any prosecution for an act of murder or attempted murder, an act or attempted act of physical or sexual violence against the person of another, or a conspiracy to commit any such acts of violence or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives his right to challenge the initiation of the dismissed or additional charges against him if he breaches this agreement. The defendant

expressly waives his right to assert a statute of limitations defense if the dismissed or additional charges are initiated against him following a breach of this agreement. The defendant further understands and agrees that, if the Government elects to file additional charges against him following his breach of this plea agreement, he will not be allowed to withdraw his guilty plea.

8. **Preparation of Presentence Report.** The defendant understands that the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character and conduct of the defendant, including the entirety of his criminal activities. The defendant understands these disclosures are not limited to the counts to which he has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

9. **Withdrawal of Plea.** Either party reserves the right to withdraw from this plea agreement for any or no reason at any time prior to the entry of the defendant's plea of guilty and its formal acceptance by the Court. In the event of such withdrawal, the parties will be restored to their pre-plea agreement positions to the fullest extent possible. However, after the plea has been formally accepted by the Court, the defendant may withdraw his pleas of guilty only if the Court rejects the plea agreement, or if the defendant can show a fair and just reason for requesting the withdrawal. The defendant understands that, if the Court accepts his plea of guilty and this plea agreement but subsequently imposes a sentence that is outside the defendant's applicable

Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, he will not be permitted to withdraw his plea of guilty.

10. **Agreed Guidelines Applications.** With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines sections for the offenses of conviction are:

i. as to Count 5, U.S.S.G. § 2B1.1;
ii. as to Count 20, U.S.S.G. § 2B1.6, which provides for a sentence of 24-months consecutive to sentences imposed on Counts 5 and 49;
iii. as to Count 49, U.S.S.G. § 2S1.1; and,
iv. as to grouping U.S.S.G., §§ 3D1.1 through 3D1.4.

c. The defendant has admitted his guilt and clearly accepted responsibility for his actions, and has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, he is entitled to a 3-level reduction pursuant to § 3E1.1(b) of the Sentencing Guidelines. The Government, at the time of sentencing, will file a written motion with the Court to that effect, unless the defendant: (1) fails to abide by all of the terms and conditions of this plea agreement and his pretrial release; or (2) attempts to withdraw his guilty pleas, violates the law, or otherwise engages in conduct inconsistent with his acceptance of responsibility;

d. There is no agreement between the parties regarding the defendant's criminal history category. The parties agree that the Court will determine his applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

e. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in paragraph 9 of this plea agreement, provide the defendant with a basis to withdraw his plea of guilty;

f. The Court may impose any sentence authorized by law, including any sentence outside the applicable Guidelines range that is not "unreasonable";

g. The defendant consents to judicial fact-finding by a preponderance of the evidence for all issues pertaining to the determination of the defendant's sentence, including the determination of any mandatory minimum sentence (including the facts that support any specific offense characteristic or other enhancement or adjustment) and any legally authorized increase above the normal statutory maximum. The defendant waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the indictment. The defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence, may consider any reliable information, including hearsay; and

h. The defendant understands and agrees that the factual admissions contained in paragraph 3 of this plea agreement, and any admissions that he will make during his plea colloquy, support the imposition of the agreed upon Guidelines calculations contained in this agreement.

11. **Effect of Non-Agreement on Guidelines Applications.** The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in paragraph 10 and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

12. **Change in Guidelines Prior to Sentencing.** The defendant agrees that, if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by the defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

13. **Government's Reservation of Rights.** The defendant understands that the United States expressly reserves the right in this case to:

a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;

b. comment on the evidence supporting the charges in the Indictment;

c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed, and that the United States remains free on appeal or collateral proceedings to defend the legality and propriety of the sentence actually imposed, even if the Court chooses not to follow any recommendation made by the United States; and

d. oppose any post-conviction motions for reduction of sentence, or other relief.

14. **Waiver of Constitutional Rights.** The defendant, by pleading guilty, acknowledges that he has been advised of, understands, and knowingly and voluntarily waives the following rights:

a. the right to plead not guilty and to persist in a plea of not guilty;

b. the right to be presumed innocent until his guilt has been established beyond a reasonable doubt at trial;

c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;

d. the right to confront and cross-examine the witnesses who testify against him;

e. the right to compel or subpoena witnesses to appear on his behalf; and

f. the right to remain silent at trial, in which case his silence may not be used against him.

The defendant understands that, by pleading guilty, he waives or gives up those rights and that there will be no trial. The defendant further understands that, if he pleads guilty, the Court may ask him questions about the offenses to which he pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, his answers may later be used against

him in a prosecution for perjury or making a false statement. The defendant also understands he has pleaded guilty to a felony offense and, as a result, will lose his right to possess a firearm or ammunition and might be deprived of other rights, such as the right to vote or register to vote, hold public office, or serve on a jury.

15. **Waiver of Appellate and Post-Conviction Rights.**

a. The defendant acknowledges, understands and agrees that, by pleading guilty pursuant to this plea agreement, he waives his right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement, except on grounds of: (1) ineffective assistance of counsel; or (2) prosecutorial misconduct; and

b. The defendant expressly waives his right to appeal his sentence, directly or collaterally, on any ground except claims of: (1) ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) an illegal sentence. An "illegal sentence" includes a sentence imposed in excess of the statutory maximum, but does *not* include less serious sentencing errors, such as a misapplication of the Sentencing Guidelines or an abuse of discretion. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government's appeal, cross-appeal his sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

16. **Financial Obligations.** By entering into this plea agreement, the defendant represents that he understands and agrees to the following financial obligations:

a. The Court must order restitution to the victims of Count 5 to which the defendant is pleading guilty. The defendant agrees that the Court may order restitution in connection with the conduct charged in any counts of the indictment which are to be dismissed and all other uncharged, related criminal activity;

b. The United States may use the Federal Debt Collection Procedures Act and any other remedies provided by law to enforce any restitution order that may be entered as part of the sentence in this case and to collect any fine;

c. The defendant will fully and truthfully disclose all assets and property in which he has any interest, or over which the defendant exercises control directly or indirectly, including assets and property held by a spouse, nominee or other third party. The defendant's disclosure obligations are ongoing, and are in

force from the execution of this agreement until the defendant has satisfied the restitution order in full;

d. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit: (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that compliance with these requests will be taken into account when the United States makes a recommendation to the Court regarding the defendant's acceptance of responsibility;

e. At the request of the USAO, the defendant agrees to undergo any polygraph examination the United States might choose to administer concerning the identification and recovery of substitute assets and restitution;

f. The defendant hereby authorizes the USAO to obtain a credit report pertaining to him to assist the USAO in evaluating the defendant's ability to satisfy any financial obligations imposed as part of the sentence;

g. The defendant understands that a Special Assessment will be imposed as part of the sentence in this case. The defendant promises to pay the Special Assessments of $300 by submitting a satisfactory form of payment to the Clerk of the Court prior to appearing for the sentencing proceeding in this case. The defendant agrees to provide the Clerk's receipt as evidence of his fulfillment of this obligation at the time of sentencing;

h. The defendant certifies that he has made no transfer of assets or property for the purpose of: (1) evading financial obligations created by this Agreement; (2) evading obligations that may be imposed by the Court; nor (3) hindering efforts of the USAO to enforce such financial obligations. Moreover, the defendant promises that he will make no such transfers in the future; and

i. In the event the United States learns of any misrepresentation in the financial disclosure statement, or of any asset in which the defendant had an interest at the time of this plea agreement that is not disclosed in the financial disclosure statement, and in the event such misrepresentation or nondisclosure changes the estimated net worth of the defendant by ten thousand dollars ($10,000.00) or more, the United States may at its option: (1) choose to be relieved of its obligations under this plea agreement; or (2) let the plea agreement stand, collect the full forfeiture, restitution, and fines imposed by any criminal or civil judgment, and also collect 100% (one hundred percent) of the value of any previously undisclosed assets. The defendant agrees not to contest any collection of such assets. In the event the United States opts to be relieved of its obligations under this plea agreement, the

defendant's previously entered pleas of guilty shall remain in effect and cannot be withdrawn.

17. **Waiver of FOIA Request.** The defendant waives all of his rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

18. **Waiver of Claim for Attorney's Fees.** The defendant waives all of his claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

19. **Defendant's Breach of Plea Agreement.** If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain bound by the terms of the agreement, and will not be allowed to withdraw his plea of guilty.

The defendant also understands and agrees that, in the event he violates this plea agreement, all statements made by him to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by him before a grand jury or any tribunal, or any leads from such statements or testimony, shall be admissible against him in any and all criminal proceedings. The defendant waives any rights that he might assert under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the

Federal Rules of Evidence, or any other federal rule that pertains to the admissibility of any statements made by him subsequent to this plea agreement.

20. **Defendant's Representations.** The defendant acknowledges that he has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that he is satisfied with the assistance of counsel, and that counsel has fully advised him of his rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, his attorneys or any other party to induce him to enter his plea of guilty.

21. **No Undisclosed Terms.** The United States and the defendant acknowledge and agree that the above stated terms and conditions, together with any written supplemental agreement that might be presented to the Court in camera, constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement or any written supplemental agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

22. **Standard of Interpretation.** The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

Teresa A. Moore
United States Attorney

By

Dated: 3/27/2024

Michael S. Oliver
Assistant United States Attorney
Missouri Bar No. 41832

I have consulted with my attorney and fully understand all of my rights with respect to the offenses charged in the Indictment. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it.

Dated: 3-27-2024

Tod Ray Keilholz
Defendant

I am defendant Keilholz's attorney. I have fully explained to him his rights with respect to the offenses charged in the Indictment. Further, I have reviewed with him the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with him. To my knowledge, defendant Keilholz's decision to enter into this plea agreement is an informed and voluntary one.

Dated: 3-27-2024

Troy Stabenow
Attorney for Defendant