

1 ANDRÉ BIROTTE JR.
 United States Attorney
 2 ROBERT E. DUGDALE
 Assistant United States Attorney
 3 Chief, Criminal Division
 JUDITH A. HEINZ (Cal. Bar No. 176264)
 4 DEIDRE Z. ELIOT (Cal. Bar No. 145007)
 Assistant United States Attorneys
 5 National Security Section
 1300 United States Courthouse
 6 312 North Spring Street
 Los Angeles, California 90012
 7 Telephone: (213) 894-7280/(714) 338-3599
 Facsimile: (213) 894-6436
 8 E-mail: judith.heinz@usdoj.gov
 deirdre.eliot@usdoj.gov

9 Attorneys for Plaintiff
 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 v.
 17 SINH VINH NGO NGUYEN, aka
 "Hasan Abu Omar Ghannoum,"
 18 Defendant.

No. CR 13-0736-JFW

PLEA AGREEMENT FOR DEFENDANT SINH
 VINH NGO NGUYEN

20 1. This constitutes the plea agreement between SINH VINH NGO
 21 NGUYEN, aka "Hasan Abu Omar Ghannoum," ("defendant") and the United
 22 States Attorney's Office for the Central District of California ("the
 23 USAO") in the above-captioned case. This agreement is limited to the
 24 USAO and cannot bind any other federal, state, local, or foreign
 25 prosecuting, enforcement, administrative, or regulatory authorities.

26 DEFENDANT'S OBLIGATIONS

27 2. Defendant agrees to:
 28

1 a. At the earliest opportunity requested by the USAO and
2 provided by the Court, appear and plead guilty to Count Two of the
3 indictment in United States v. Sinh Vinh Ngo Nguyen, aka "Hasan Abu
4 Omar Ghannoum," CR No. 13-0736-JFW, which charges defendant with
5 attempting to provide material support to a designated foreign
6 terrorist organization, in violation of 18 U.S.C. § 2339B.

7 b. Not contest facts agreed to in this agreement.

8 c. Abide by all agreements regarding sentencing contained
9 in this agreement.

10 d. Appear for all court appearances, surrender as ordered
11 for service of sentence, obey all conditions of any bond, and obey
12 any other ongoing court order in this matter.

13 e. Not commit any crime; however, offenses that would be
14 excluded for sentencing purposes under United States Sentencing
15 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
16 within the scope of this agreement.

17 f. Be truthful at all times with Pretrial Services, the
18 United States Probation Office, and the Court.

19 g. Pay the applicable special assessment at or before the
20 time of sentencing unless defendant lacks the ability to pay and
21 prior to sentencing submits a completed financial statement on a form
22 to be provided by the USAO.

23 **THE USAO'S OBLIGATIONS**

24 3. The USAO agrees to:

25 a. Not contest facts agreed to in this agreement.

26 b. Abide by all agreements regarding sentencing contained
27 in this agreement.

28

1 c. At the time of sentencing, move to dismiss the
2 remaining count of the indictment as against defendant. Defendant
3 agrees, however, that at the time of sentencing the Court may
4 consider any dismissed charges in determining the applicable
5 Sentencing Guidelines range, the propriety and extent of any
6 departure from that range, and the sentence to be imposed.

7 d. At the time of sentencing, provided that defendant
8 demonstrates an acceptance of responsibility for the offense up to
9 and including the time of sentencing, recommend a two-level reduction
10 in the applicable Sentencing Guidelines offense level, pursuant to
11 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
12 additional one-level reduction if available under that section.

13 e. Except for criminal tax violations (including
14 conspiracy to commit such violations chargeable under 18 U.S.C.
15 § 371), not further criminally prosecute defendant for violations of
16 federal law arising out of defendant's conduct described in the
17 agreed-to factual basis set forth in paragraph 8 below. Defendant
18 understands that the USAO is free to criminally prosecute defendant
19 for any other unlawful past conduct or any unlawful conduct that
20 occurs after the date of this agreement. Defendant agrees that at
21 the time of sentencing the Court may consider the uncharged conduct
22 in determining the applicable Sentencing Guidelines range, the
23 propriety and extent of any departure from that range, and the
24 sentence to be imposed after consideration of the Sentencing
25 Guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

26 **NATURE OF THE OFFENSE**

27 4. Defendant understands that for defendant to be guilty of
28 the crime charged in Count Two, that is, attempting to provide

1 material support to a designated foreign terrorist organization, in
2 violation of Title 18, United States Code, Section 2339B, the
3 following must be true:

4 First, defendant intended to provide material support or
5 resources to a designated foreign terrorist organization;

6 Second, defendant did something that was a substantial step
7 toward committing the crime of providing material support or
8 resources to a designated foreign terrorist organization; and

9 Third, defendant knew that the organization was a designated
10 foreign terrorist organization, or that the organization had engaged
11 or engages in terrorist activity, or that the organization had
12 engaged or engages in terrorism.

13 Defendant understands that mere preparation is not a substantial
14 step toward committing the crime. To constitute a substantial step,
15 a defendant's act or actions must demonstrate that the crime will
16 take place unless interrupted by independent circumstances.

17 Defendant understands that the term "material support or
18 resources" means any property, tangible or intangible, or services,
19 including personnel. Defendant also understands that the meaning of
20 the term "personnel" includes an individual (who may be or include
21 himself) to work under the designated foreign terrorist
22 organization's direction or control.

23 **PENALTIES**

24 5. Defendant understands that the statutory maximum sentence
25 that the Court can impose for a violation of Title 18, United States
26 Code, Section 2339B is: 15 years imprisonment; a lifetime period of
27 supervised release; a fine of \$250,000 or twice the gross gain or
28

1 gross loss resulting from the offense, whichever is greatest; and a
2 mandatory special assessment of \$100.

3 6. Defendant understands that supervised release is a period
4 of time following imprisonment during which defendant will be subject
5 to various restrictions and requirements. Defendant understands that
6 if defendant violates one or more of the conditions of any supervised
7 release imposed, defendant may be returned to prison for all or part
8 of the term of supervised release authorized by statute for the
9 offense that resulted in the term of supervised release.

10 7. Defendant understands that, by pleading guilty, defendant
11 may be giving up valuable government benefits and valuable civic
12 rights, such as the right to vote, the right to possess a firearm,
13 the right to hold office, and the right to serve on a jury.
14 Defendant understands that once the court accepts defendant's guilty
15 plea, it will be a federal felony for defendant to possess a firearm
16 or ammunition. Defendant understands that the conviction in this
17 case may also subject defendant to various other collateral
18 consequences, including but not limited to revocation of probation,
19 parole, or supervised release in another case and suspension or
20 revocation of a professional license. Defendant understands that
21 unanticipated collateral consequences will not serve as grounds to
22 withdraw defendant's guilty plea.

23 **FACTUAL BASIS**

24 8. Defendant admits that defendant is, in fact, guilty of the
25 offense to which defendant is agreeing to plead guilty. Defendant
26 and the USAO agree to the statement of facts provided below and agree
27 that this statement of facts is sufficient to support a plea of
28 guilty to the charge described in this agreement and to establish the

1 Sentencing Guidelines factors set forth in paragraph 10 below but is
2 not meant to be a complete recitation of all facts relevant to the
3 underlying criminal conduct or all facts known to either party that
4 relate to that conduct.

5 Al-Qai'da was designated by the Secretary of State as a foreign
6 terrorist organization on or about October 8, 1999, and has been so
7 designated continuously ever since.

8 During December 2012, through April 2013, defendant traveled to
9 Syria. While in Syria, defendant communicated via Facebook, stating
10 that he was fighting with opposition forces against the Assad forces,
11 and that he had his first confirmed kill. When defendant returned to
12 the United States at the end of April, defendant told individuals
13 that he had offered to train some of the al-Qai'da fighters in Syria
14 but his offer had been declined.

15 Subsequently, between August 3, 2013, and October 11, 2013, in
16 the Central District of California, defendant met several times with
17 "Amir," an individual defendant believed to be an al-Qai'da
18 recruiter. Within the first minutes of his first meeting with Amir,
19 defendant, unprompted, questioned Amir directly to assure himself
20 that Amir was, in fact, a fellow jihadist. Defendant then told Amir
21 that defendant wanted to return to jihad, stating that this was what
22 he was born to do. Defendant described to Amir how he had traveled
23 to Syria, where he fought alongside Jabhat al-Nusrah fighters whom he
24 greatly admired. Defendant also told Amir that he had trained
25 fighters in Syria, and that he had devised a battle plan for his
26 group of fighters.

27 Defendant and Amir discussed that defendant, if he wanted, could
28 travel to an al-Qai'da training camp in Pakistan and train al-Qai'da

1 fighters. Defendant and Amir also discussed that defendant could
2 travel to the al-Qai'da training camp on a U.S. passport in a name
3 other than defendant's true name to prevent the U.S. government from
4 tracking defendant's travel to the al-Qai'da training camp in
5 Pakistan. To obtain the U.S. passport in a name other than his true
6 name, defendant gave to Amir passport photos of himself, and a U.S.
7 passport application on which defendant had written false
8 information, including a false name, false date of birth, and false
9 place of birth. Defendant agreed to travel to Pakistan and train,
10 for 5-6 weeks, thirty al-Qai'da fighters for a guerilla warfare
11 ambush attack on Coalition forces, to be executed in December 2013.

12 Intending to train the al-Qai'da fighters for the ambush, on
13 October 1, 2013, defendant purchased an airline ticket to travel from
14 Mexico to Peshawar, Pakistan. With the same intent, on October 11,
15 2013, defendant went to the Greyhound bus terminal in Santa Ana,
16 California, and purchased a bus ticket to travel that day from Santa
17 Ana to Mexico. When defendant attempted to board the bus to Mexico,
18 he was arrested by law enforcement officers. At the time of his
19 arrest, defendant possessed the U.S. passport in the false name and
20 an external computer hard drive containing over 180 training videos
21 on shooting firearms. At all relevant times, defendant acted
22 knowingly and intentionally; defendant knew that al-Qai'da was a
23 designated foreign terrorist organization and had engaged in, and was
24 engaging in, terrorist activity and terrorism, and defendant knew
25 that in traveling to Pakistan and training the al-Qai'da fighters, he
26 would be acting under the direction and control of al-Qai'da.

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28 //

1 SENTENCING FACTORS

2 9. Defendant understands that in determining defendant's
3 sentence the Court is required to calculate the applicable Sentencing
4 Guidelines range and to consider that range, possible departures
5 under the Sentencing Guidelines, and the other sentencing factors set
6 forth in 18 U.S.C. § 3553(a). Defendant understands that the
7 Sentencing Guidelines are advisory only, that defendant cannot have
8 any expectation of receiving a sentence within the calculated
9 Sentencing Guidelines range, and that after considering the
10 Sentencing Guidelines and the other § 3553(a) factors, the Court will
11 be free to exercise its discretion to impose any sentence it finds
12 appropriate up to the maximum set by statute for the crime of
13 conviction.

14 10. Defendant and the USAO agree to the following applicable
15 Sentencing Guidelines factors:

16 Base Offense Level: 26 U.S.S.G. § 2M5.3

17 Defendant and the USAO reserve the right to argue that
18 additional specific offense characteristics, adjustments, and
19 departures under the Sentencing Guidelines are appropriate.
20 Defendant understands that defendant's offense level could be
21 increased by the application of U.S.S.G. § 3A1.4.

22 11. Defendant understands that there is no agreement as to
23 defendant's criminal history or criminal history category. Defendant
24 understands that defendant's criminal history level could be
25 increased by the application of U.S.S.G. § 3A1.4.

26 12. Defendant and the USAO reserve the right to argue for a
27 sentence outside the sentencing range established by the Sentencing
28

1 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
2 (a)(2), (a)(3), (a)(6), and (a)(7).

3 **WAIVER OF CONSTITUTIONAL RIGHTS**

4 13. Defendant understands that by pleading guilty, defendant
5 gives up the following rights:

6 a. The right to persist in a plea of not guilty.

7 b. The right to a speedy and public trial by jury.

8 c. The right to be represented by counsel - and if
9 necessary have the Court appoint counsel - at trial. Defendant
10 understands, however, that, defendant retains the right to be
11 represented by counsel - and if necessary have the Court appoint
12 counsel - at every other stage of the proceeding.

13 d. The right to be presumed innocent and to have the
14 burden of proof placed on the government to prove defendant guilty
15 beyond a reasonable doubt.

16 e. The right to confront and cross-examine witnesses
17 against defendant.

18 f. The right to testify and to present evidence in
19 opposition to the charges, including the right to compel the
20 attendance of witnesses to testify.

21 g. The right not to be compelled to testify, and, if
22 defendant chose not to testify or present evidence, to have that
23 choice not be used against defendant.

24 h. Any and all rights to pursue any affirmative defenses,
25 Fourth Amendment or Fifth Amendment claims, and other pretrial
26 motions that have been filed or could be filed.

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1 **WAIVER OF RETURN OF DIGITAL DATA**

2 14. Understanding that the government has in its possession
3 digital devices and/or digital media seized from defendant, defendant
4 waives any right to the return of digital data contained on those
5 digital devices and/or digital media and agrees that if any of these
6 digital devices and/or digital media are returned to defendant, the
7 government may delete all digital data from those digital devices
8 and/or digital media before they are returned to defendant.

9 **WAIVER OF APPEAL OF CONVICTION**

10 15. Defendant understands that, with the exception of an appeal
11 based on a claim that defendant's guilty plea was involuntary, by
12 pleading guilty defendant is waiving and giving up any right to
13 appeal defendant's conviction on the offense to which defendant is
14 pleading guilty.

15 **WAIVER OF APPEAL AND COLLATERAL ATTACK**

16 16. Defendant gives up the right to appeal all of the
17 following: (a) the procedures and calculations used to determine and
18 impose any portion of the sentence; (b) the term of imprisonment
19 imposed by the Court, provided it is within the statutory maximum;
20 (c) the fine imposed by the Court, provided it is within the
21 statutory maximum; (d) the term of probation or supervised release
22 imposed by the Court, provided it is within the statutory maximum;
23 and (e) any of the following conditions of probation or supervised
24 release imposed by the Court: the conditions set forth in General
25 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing
26 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the
27 alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

28

1 17. Defendant also gives up any right to bring a post-
2 conviction collateral attack on the conviction or sentence, except a
3 post-conviction collateral attack based on a claim of ineffective
4 assistance of counsel, a claim of newly discovered evidence, or an
5 explicitly retroactive change in the applicable Sentencing
6 Guidelines, sentencing statutes, or statutes of conviction.

7 18. This agreement does not affect in any way the right of the
8 USAO to appeal the sentence imposed by the Court.

9 **RESULT OF WITHDRAWAL OF GUILTY PLEA**

10 19. Defendant agrees that if, after entering a guilty plea
11 pursuant to this agreement, defendant seeks to withdraw and succeeds
12 in withdrawing defendant's guilty plea on any basis other than a
13 claim and finding that entry into this plea agreement was
14 involuntary, then (a) the USAO will be relieved of all of its
15 obligations under this agreement; and (b) should the USAO choose to
16 pursue any charge that was either dismissed or not filed as a result
17 of this agreement, then (i) any applicable statute of limitations
18 will be tolled between the date of defendant's signing of this
19 agreement and the filing commencing any such action; and (ii)
20 defendant waives and gives up all defenses based on the statute of
21 limitations, any claim of pre-indictment delay, or any speedy trial
22 claim with respect to any such action, except to the extent that such
23 defenses existed as of the date of defendant's signing this
24 agreement.

25 **RESULT OF VACATUR, REVERSAL OR SET-ASIDE**

26 20. Defendant agrees that if the count of conviction is
27 vacated, reversed, or set aside, both the USAO and defendant will be
28 released from all their obligations under this agreement.

1 **EFFECTIVE DATE OF AGREEMENT**

2 21. This agreement is effective upon signature and execution of
3 all required certifications by defendant, defendant's counsel, and an
4 Assistant United States Attorney.

5 **BREACH OF AGREEMENT**

6 22. Defendant agrees that if defendant, at any time after the
7 signature of this agreement and execution of all required
8 certifications by defendant, defendant's counsel, and an Assistant
9 United States Attorney, knowingly violates or fails to perform any of
10 defendant's obligations under this agreement ("a breach"), the USAO
11 may declare this agreement breached. All of defendant's obligations
12 are material, a single breach of this agreement is sufficient for the
13 USAO to declare a breach, and defendant shall not be deemed to have
14 cured a breach without the express agreement of the USAO in writing.
15 If the USAO declares this agreement breached, and the Court finds
16 such a breach to have occurred, then: (a) if defendant has previously
17 entered a guilty plea pursuant to this agreement, defendant will not
18 be able to withdraw the guilty plea, and (b) the USAO will be
19 relieved of all its obligations under this agreement.

20 23. Following the Court's finding of a knowing breach of this
21 agreement by defendant, should the USAO choose to pursue any charge
22 that was either dismissed or not filed as a result of this agreement,
23 then:

24 a. Defendant agrees that any applicable statute of
25 limitations is tolled between the date of defendant's signing of this
26 agreement and the filing commencing any such action.

27 b. Defendant waives and gives up all defenses based on
28 the statute of limitations, any claim of pre-indictment delay, or any

1 speedy trial claim with respect to any such action, except to the
2 extent that such defenses existed as of the date of defendant's
3 signing this agreement.

4 c. Defendant agrees that: (i) any statements made by
5 defendant, under oath, at the guilty plea hearing (if such a hearing
6 occurred prior to the breach); (ii) the agreed to factual basis
7 statement in this agreement; and (iii) any evidence derived from such
8 statements, shall be admissible against defendant in any such action
9 against defendant, and defendant waives and gives up any claim under
10 the United States Constitution, any statute, Rule 410 of the Federal
11 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
12 Procedure, or any other federal rule, that the statements or any
13 evidence derived from the statements should be suppressed or are
14 inadmissible.

15 **COURT AND PROBATION OFFICE NOT PARTIES**

16 24. Defendant understands that the Court and the United States
17 Probation Office are not parties to this agreement and need not
18 accept any of the USAO's sentencing recommendations or the parties'
19 agreements to facts or sentencing factors.

20 25. Defendant understands that both defendant and the USAO are
21 free to: (a) supplement the facts by supplying relevant information
22 to the United States Probation Office and the Court, (b) correct any
23 and all factual misstatements relating to the Court's Sentencing
24 Guidelines calculations and determination of sentence, and (c) argue
25 on appeal and collateral review that the Court's Sentencing
26 Guidelines calculations and the sentence it chooses to impose are not
27 error, although each party agrees to maintain its view that the
28 calculations in paragraph 10 are consistent with the facts of this

1 case. While this paragraph permits both the USAO and defendant to
2 submit full and complete factual information to the United States
3 Probation Office and the Court, even if that factual information may
4 be viewed as inconsistent with the facts agreed to in this agreement,
5 this paragraph does not affect defendant's and the USAO's obligations
6 not to contest the facts agreed to in this agreement.

7 26. Defendant understands that even if the Court ignores any
8 sentencing recommendation, finds facts or reaches conclusions
9 different from those agreed to, and/or imposes any sentence up to the
10 maximum established by statute, defendant cannot, for that reason,
11 withdraw defendant's guilty plea, and defendant will remain bound to
12 fulfill all defendant's obligations under this agreement. Defendant
13 understands that no one -- not the prosecutor, defendant's attorney,
14 or the Court -- can make a binding prediction or promise regarding
15 the sentence defendant will receive, except that it will be within
16 the statutory maximum.

17 **NO ADDITIONAL AGREEMENTS**

18 27. Defendant understands that, except as set forth herein,
19 there are no promises, understandings, or agreements between the USAO
20 and defendant or defendant's attorney, and that no additional
21 promise, understanding, or agreement may be entered into unless in a
22 writing signed by all parties or on the record in court.

23 **PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING**

24 28. The parties agree that this agreement will be considered

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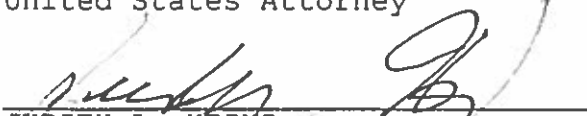
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1 part of the record of defendant's guilty plea hearing as if the
2 entire agreement had been read into the record of the proceeding.

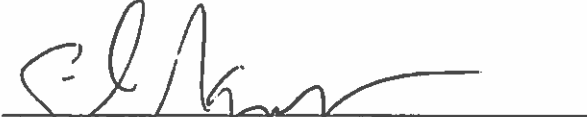
3 AGREED AND ACCEPTED

4 UNITED STATES ATTORNEY'S OFFICE
5 FOR THE CENTRAL DISTRICT OF CALIFORNIA

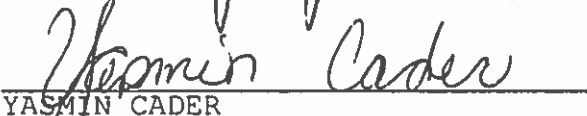
6 ANDRÉ BIROTTE JR.
7 United States Attorney

8 
9 JUDITH A. HEINZ
10 Assistant United States Attorney

12-20-13
Date

11 
12 SINH VINH NGO NGUYEN
13 Defendant

12/20/13
Date

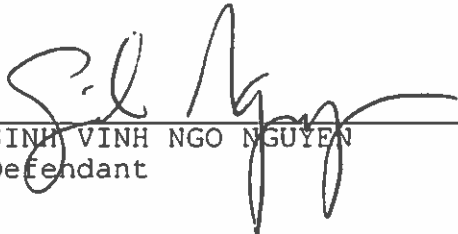
14 
15 YASMIN CADER
16 Attorney for Defendant
17 SINH VINH NGO NGUYEN

12/20/13
Date

18 **CERTIFICATION OF DEFENDANT**

19 I have read this agreement in its entirety. I have had enough
20 time to review and consider this agreement, and I have carefully and
21 thoroughly discussed every part of it with my attorney. I understand
22 the terms of this agreement, and I voluntarily agree to those terms.
23 I have discussed the evidence with my attorney, and my attorney has
24 advised me of my rights, of possible pretrial motions that might be
25 filed, of possible defenses that might be asserted either prior to or
26 at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a),
27 of relevant Sentencing Guidelines provisions, and of the consequences
28 of entering into this agreement. No promises, inducements, or
representations of any kind have been made to me other than those
contained in this agreement. No one has threatened or forced me in

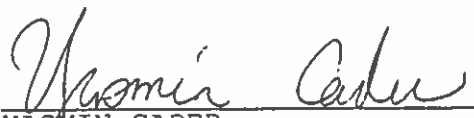
1 any way to enter into this agreement. I am satisfied with the
2 representation of my attorney in this matter, and I am pleading
3 guilty because I am guilty of the charges and wish to take advantage
4 of the promises set forth in this agreement, and not for any other
5 reason.

6
7 
8 SINH VINH NGO NGUYEN
9 Defendant

12/20/13
Date

10 **CERTIFICATION OF DEFENDANT'S ATTORNEY**

11 I am SINH VINH NGO NGUYEN's attorney. I have carefully and
12 thoroughly discussed every part of this agreement with my client.
13 Further, I have fully advised my client of his rights, of possible
14 pretrial motions that might be filed, of possible defenses that might
15 be asserted either prior to or at trial, of the sentencing factors
16 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
17 provisions, and of the consequences of entering into this agreement.
18 To my knowledge: no promises, inducements, or representations of any
19 kind have been made to my client other than those contained in this
20 agreement; no one has threatened or forced my client in any way to
21 enter into this agreement; my client's decision to enter into this
22 agreement is an informed and voluntary one; and the factual basis set
23 forth in this agreement is sufficient to support my client's entry of
24 a guilty plea pursuant to this agreement.

25 
26 YASMIN CADER
27 Attorney for Defendant
28 SINH VINH NGO NGUYEN

12/20/13
Date