

**CONSPIRACY - VICARIOUS LIABILITY**  
**(N.J.S.A. 2C:2-6b(4))**

Count \_\_\_\_ of the indictment charges the defendant with the crime of \_\_\_\_\_. The State does not allege that the defendant committed the crime of \_\_\_\_\_ personally, but rather that (he/she) is legally accountable for that crime even though it was committed by another. More specifically, the State alleges that the crime of \_\_\_\_\_ was committed by \_\_\_\_\_, and that the defendant is legally accountable for the crime of \_\_\_\_\_ committed by \_\_\_\_\_ because the defendant and \_\_\_\_\_ allegedly conspired together to commit that crime. It is therefore necessary that I instruct you as to both the crime of \_\_\_\_\_ and the law of conspiracy.

**(HERE REFER TO THE MODEL CHARGE FOR THE PARTICULAR CRIME)**

If you are satisfied beyond a reasonable doubt that the State has proven all of these essential elements and that \_\_\_\_\_ committed the crime of \_\_\_\_\_, then you must go on to determine the guilt or innocence of the defendant for that same crime. However, if you are not satisfied beyond a reasonable doubt that \_\_\_\_\_ committed the crime of \_\_\_\_\_, then your inquiry ends here and you must return a verdict of Not Guilty as to the defendant. Therefore, the following instructions on conspiracy are only for your use if you find beyond a reasonable doubt that \_\_\_\_\_ committed the crime of \_\_\_\_\_.

Our law provides that a person is guilty of an offense if it is committed by (his/her) own conduct or by the conduct of another person for which (he/she) is legally accountable, or both.<sup>1</sup> A person is legally accountable for the conduct of another person when (he/she) is engaged in a conspiracy with such other person<sup>2</sup> and the conduct is within the scope of the conspiracy.<sup>3</sup> Thus, you must decide whether the defendant engaged in a conspiracy with \_\_\_\_\_ to commit the crime of \_\_\_\_\_.

A person is guilty of conspiracy with another person (or persons)<sup>4</sup> if with the purpose of

<sup>1</sup> N.J.S.A. 2C:2-6a.

<sup>2</sup> N.J.S.A. 2C:2-6b (4).

<sup>3</sup> In an appropriate case it may be necessary to charge that a defendant is not legally accountable for conduct of other persons after the defendant has explicitly abandoned the conspiracy. See N.J.S.A. 2C:5-2f (3).

<sup>4</sup> In an appropriate case it may be necessary to charge as to the scope of a conspiracy involving additional persons. See N.J.S.A. 2C:5-2b.

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**Page 2 of 2**

promoting or facilitating the commission of a crime (he/she):

- (1) Agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or
- (2) Agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

Thus, for the purposes of this case, to find that the defendant engaged in a conspiracy with \_\_\_\_\_ you must be satisfied beyond a reasonable doubt of the following elements:

- 1) That defendant agreed with \_\_\_\_\_ (select appropriate language); and
- 2) That when the defendant so agreed with \_\_\_\_\_ the defendant's purpose, i.e., (his/her) conscious object, was to promote or to make it easier for \_\_\_\_\_ to commit the crime of \_\_\_\_\_.

In this case, after consideration of all of the evidence, if you find beyond a reasonable doubt that \_\_\_\_\_ committed the crime of \_\_\_\_\_ and also that the defendant conspired with \_\_\_\_\_ to commit that crime, then you must find the defendant guilty of the crime of \_\_\_\_\_. On the other hand, if you have a reasonable doubt that \_\_\_\_\_ committed the crime of \_\_\_\_\_, that the defendant conspired with \_\_\_\_\_ to commit that crime, or both, then you must find the defendant not guilty.