**Lesser Included Offenses**1

I am submitting for your consideration the offense of *(specify the lesser included crime)*, which was not mentioned at the beginning of the trial.

That crime is called a lesser included offense of *(specify the charged crime)*. As a result, our law requires that the jury consider *(specify the charged crime)* and (*specify the lesser included crime*) as follows:2

You can find the defendant not guilty of both charges, or guilty of one of the two charges. Thus, you will consider *(specify*

3

*the charged crime)* and render a verdict of guilty or not guilty. If

4

your verdict is guilty, you will not consider (*specify the lesser*

*included crime*). If your verdict is not guilty, then you will

5

consider (*specify the lesser included crime*).6

1. This charge contemplates a single charged crime and a single lesser included offense; in other circumstances, the court should modify as necessary.
2. CPL 300.50(1).
3. CPL 300.50(4).
4. *People v. Boettcher*, 69 N.Y.2d 174 (1987).
5. *See* CPL 300.50(4).
6. *See* CPL 300.50(4); *People v. Boettcher*, *supra.*