STATE OF NORTH CAROLINA

File No.

_____ County _____ Seat Of Court

In The General Court Of Justice
☐ District ☐ Superior Court Division

STATE VERSUS

Name Of Defendant		
Race	Sex	Date Of Birth
Drivers License No.		State

MOTION/AGREEMENT AND ORDER TO DEFER PROSECUTION (STRUCTURED SENTENCING)

(For Deferrals Entered On Or After Dec. 1, 2011)

G.S. 15A-1341(a1)

Attorney For State	☐ Def. Found Not Indigent ☐ Def. Waived Attorney	Attorney For Defendant	☐ Appointed ☐ Retained	Ct Rptr Initials

The defendant, attorney for the defendant, and undersigned Prosecutor, request the Court to approve this Agreement to defer prosecution and place the defendant on probation on the following offense(s):

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.

CONDITIONS OF AGREEMENT TO DEFER PROSECUTION

☐ 1. With approval of the Court and consent of the defendant, prosecution will be deferred by the prosecutor for the purpose of allowing the defendant to demonstrate good conduct, and subject to the conditions set out below, the defendant is placed on:
(check one) ☐ unsupervised probation. ☐ supervised probation for _____ months *(max. of 2 years, G.S. 15A-1342(a))*, as provided for a
(check one) ☐ community punishment. ☐ intermediate punishment (**NOTE:** *AOC-CR-603A, B, C, D, E, or F, Page Two, is required; select the form appropriate to the date of offense for which prosecution is deferred.*).

☐ 2. The Court finds that it is NOT appropriate to delegate to the Division of Community Supervision and Reentry the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

☐ 3. The Court finds that a ☐ longer ☐ shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

☐ 4. The defendant shall comply with the regular conditions of probation applicable to unsupervised or supervised probation, as imposed above, and which are set forth on the following form, incorporated herein by reference:
(**NOTE:** *Select judgment form appropriate to the type and date of offense for which prosecution is deferred.*)

Offense:	*Before 12/1/09*	*12/1/09-11/30/11*	*12/1/11-11/30/16*	*12/1/16-11/30/23*	*12/1/23-11/30/25*	*On/After 12/1/25*
Felony:	☐ AOC-CR-603A	☐ AOC-CR-603B	☐ AOC-CR-603C	☐ AOC-CR-603D	☐ AOC-CR-603E	☐ AOC-CR-603F
Misd.:	☐ AOC-CR-604A	☐ AOC-CR-604B	☐ AOC-CR-604C	☐ AOC-CR-604D	☐ AOC-CR-604E	☐ AOC-CR-604F

☐ 5. The defendant shall comply with the following special conditions of probation that are set forth on the form cited in No. 4, above, and incorporated herein by reference: _____
and/or other Special Conditions:

☐ 6. The defendant shall complete _____ hours of community service during the first _____ days of the deferral period, as directed by the judicial service coordinator. The fee prescribed by G.S. 143B-1483 is
☐ *(for offenses committed on or after December 1, 2009)* not due because it is assessed in a case adjudicated during the same term of court.
☐ to be paid ☐ pursuant to the schedule set out below. ☐ within _____ days of this Order and before beginning service.

☐ 7. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" below, plus the probation supervision fee if placed on supervised probation above, pursuant to a schedule ☐ determined by the probation officer. ☐ set out by the Court as follows:

Costs	Fine	Restitution*	Attorney's Fees	Community Service Fee	EHA Fee	Miscellaneous	Total Amount Due
$	$	$	$	$	$	$	$

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

☐ 8. The Court finds just cause to waive costs, as ordered on the attached ☐ AOC-CR-618. ☐ Other: _____.

☐ 9. The admission of responsibility given by me and any stipulation of facts shall be used against me and admitted into evidence without objection in the State's prosecution against me for this offense should prosecution become necessary as a result of these terms and conditions of deferred prosecution.

☐ 10. Regular reports will be made on my progress to the prosecutor's office.

☐ 11. The prosecutor will
☐ a. take a voluntary dismissal with leave upon the Court's approval of this Agreement, and a voluntary dismissal upon the defendant's compliance with this Agreement.
☐ b. take a voluntary dismissal upon the defendant's compliance with this Agreement.

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Material opposite unmarked squares is to be disregarded as surplusage.
(Over)

DEFENDANT'S OATH/AGREEMENT/MOTION

The defendant after being duly sworn, states under oath:

1. I have not been previously convicted of any felony or of any misdemeanor involving moral turpitude.
2. I have not been previously placed on probation.
3. I hereby waive all of my rights to a speedy trial under the constitution and laws of the State of North Carolina and the United States of America with regard to the above listed charge(s).
4. I have reviewed a copy of this Motion/Agreement And Order To Defer Prosecution and all of the conditions of my probation and I agree to them, and request the Court to approve the agreement.
5. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Date
Date	Signature	Signature Of Defendant (under oath)

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court
☐ District Court Judge ☐ Superior Court Judge

ATTORNEYS' CERTIFICATION/AGREEMENT/MOTION

The undersigned attorneys certify to the Court that each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard and the undersigned request the Court to approve the agreement.

Date	Signature Of Lawyer For Defendant	Signature Of Prosecutor

FINDINGS

Based upon the foregoing and a review of the record, the Court finds:

1. Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the Court, for the purpose of allowing the defendant to demonstrate good conduct.
2. Each known victim of the crime has been notified of the motion to defer prosecution and place the defendant on probation and has been given an opportunity to be heard.
3. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
4. The defendant has not previously been placed on probation and so states under oath.
5. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

ORDER

THE COURT HAVING CONSIDERED the Motion and Agreement to Defer Prosecution, related documents and statements of counsel, finds that the prosecutor and defendant have entered into a written agreement to defer prosecution in this case for a period not to exceed two years, and said Motion and Agreement is in compliance with the conditions set forth in G.S. 15A-1341 and specified in the motion.

IT IS ORDERED that the Agreement to Defer Prosecution in this case is approved and all conditions of this Agreement as specified above adopted by the Court and made part of this Order. The defendant is to comply with all the regular conditions of probation and any special conditions as set forth above.

☐ Except as ordered to appear earlier for a hearing on alleged violation(s) or as otherwise ordered by the Court, the defendant shall return to this Court on *(date)* _____ for a hearing to determine fulfillment of the terms and conditions of probation.

NOTE TO COURT: *Entry of this order terminates any bond currently securing the defendant's appearance, G.S. 15A-534(h)(5), and therefore may conflict with the terms of any release order still in effect. Unless the court intends that the defendant immediately post a new bond of the same type and amount to remain out of custody during the period of deferral, modification of the defendant's conditions of release may be appropriate.*

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge

CERTIFICATION

I certify that this Motion/Agreement and Order and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

☐ 1. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
☐ 2. Additional File No.(s) And Offense(s) (AOC-CR-626)
☐ 3. Other: _____

Date	Name (type or print)	Signature Of Clerk	☐ Deputy CSC ☐ Asst. CSC ☐ Clerk Of Superior Court	SEAL

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Name Of Defendant

ADDITIONAL FILE NO.(S) AND OFFENSE(S)

NOTE: *Use this page in conjunction with all NCAOC judgment or probationary forms, to list additional offenses of conviction, deferred prosecution, or conditional discharge addressed in the court's order. There are no A, B, C, D, E, F, or other variations of this form, so this page can be used to continue an offense list from any of the related forms, for any date(s) of offense or conviction.*

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.	*Pun. CL.

***NOTE:** *Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).*

(Over)

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ADDITIONAL FILE NO.(S) AND OFFENSE(S)

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***NOTE:** *Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).*

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