IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

 Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

 Count \_\_ of the indictment charges the defendant with Wanton Endangerment Involving the Use of Fire. You may return one of two verdicts on this Count of the indictment:

(1) guilty of Wanton Endangerment Involving the Use of Fire; or

(2) not guilty.

 Wanton Endangerment Involving the Use of Fire occurs when a person who, during the manufacture of production of an illegal controlled substance, uses fire, the use of which creates substantial risk of death or serious bodily injury to another due to the use of fire.

 The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt and the defendant is not required to prove [himself] [herself] innocent. [He] [She] is presumed by the law to be innocent of this charge and this presumption remains with [him] [her] throughout the entire trial.

 Before the defendant can be convicted of Wanton Endangerment Involving the Use of Fire, the State must overcome the presumption the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

2. in [insert county] County, West Virginia,

3. on or about the \_\_ day of [insert month], [insert year],

4. during the manufacture or production of an illegal controlled substance,

5. used fire,

6. the use of which created substantial risk of death or serious bodily injury to another

7. due to the use of fire.

 If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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 JUDGE