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 Human Trafficking. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Human Trafficking; or

(2) not guilty.

Human trafficking occurs when a person knowingly and willfully engages in labor trafficking, sex trafficking, debt bondage, or forced labor or services.

“Human trafficking” means the labor trafficking or sex trafficking involving adults or minors where two or more persons are trafficked within any one year period.

“Labor trafficking” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of debt bondage, or forced labor or services; or slavery or practices similar to slavery.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Forced labor or services” means labor or services that are performed or provided by another person and are obtained or maintained through (1) a threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, then that person or another person would suffer serious bodily harm or physical restraint. This does not include work or services provided by a minor to the minor’s parent or legal guardian so long as the legal guardianship or custody of the minor was not obtained for the purpose of compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services; (2) physically restraining or threatening to physically restrain a person; (3) abuse or threatened abuse of the legal process; or (4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

“Forced labor or services” does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

“Sex trafficking of minors” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person under the age of eighteen by any means, whether a United States citizen or foreign national, for the purpose of causing the minor to engage in sexual acts, or in sexual conduct that constitutes a violation of W. Va. Code § 61–8–5(b) (2014).

“Sex trafficking of adults” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, receipt of a person eighteen years of age or older, whether a United States citizen or foreign national for the purposes of engaging in prostitution by means of force, threat, coercion, deception, abuse or threatened abuse of the legal process, or any scheme, plan, pattern, or other action intended to cause a person to believe that, if the person did not engage in a violation of W. Va. Code § 61–8–5(b) (2014), then that person or another person would suffer serious bodily harm or physical restraint.

W. Va. Code § 61–8–5(b) (2014) prohibits a person from engaging in prostitution, lewdness, or assignation, or soliciting, inducing, enticing, or procuring another to commit an act of prostitution, lewdness, or assignation; or residing in, entering, or remaining in any house, place, building, hotel, tourist camp, or other structure, or entering or remaining in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or aiding, abetting, or participating in the doing of any of such prohibited acts.

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 Human Trafficking, the State must overcome the presumption that 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], which is prior to June 15, 2017,

4. knowingly and willfully engaged in [Sex Trafficking of Minors] [Sex Trafficking of Adults] [Debt Bondage] [Forced Labor or Services] [Labor Trafficking].

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 of Human Trafficking 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:\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE