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 Attempted or Fraudulent Use of a Credit Card.

Attempted or Fraudulent Use of Credit Cards occurs when a person knowingly obtains or attempts to obtain credit, or purchases or attempts to purchase any goods, property or service, by the use of the following: a false, fictitious, or counterfeit credit card, telephone number, credit number, or other credit device; a credit card, telephone number, credit number, or other credit device of another beyond or without the authority of the person to whom such card, number or device was issued; a credit card, telephone number, credit number, or other credit device in any case where such card, number or device has been revoked and notice of such revocation has been given to the person to whom issued.

“Counterfeit credit card” means:

1. Any credit card or a representation, depiction, facsimile, aspect or component thereof that is counterfeit, fictitious, altered, forged, lost, stolen, incomplete, or part of a scheme to defraud; or

2. Any invoice, voucher, sales draft or other reflection or manifestation of such a card.

{Insert if applicable]: “Notice” means either information given in person or information given in writing to the person to whom the number, card or device was issued. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at [his] [her] last known address, is prima facie evidence that such notice was duly received. A cardholder’s knowledge of the revocation of [his] [her] credit card may be reasonably inferred by evidence that notice of such revocation was mailed to him or her, at least four days prior to [his] [her] use or attempted use of the credit card, by first class mail at [his] [her] last known address. }

To find the defendant guilty of Attempted or Fraudulent Use, Forgery, or Traffic of Credit Cards, the State must overcome the defendant’s presumption of innocence and prove beyond a reasonable doubt that:

1. the defendant,

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

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

4. knowingly

5. {[obtained credit] [attempted to obtain credit]} {[purchased] [attempted to purchase] goods, property or service},

6. by the use of [a false, fictitious or counterfeit credit card, telephone number, credit number or other credit device] [a credit card, telephone number, credit number or other credit device of another without the authority of the person to whom such card, number or device was issued] [a credit card, telephone number, credit number or other credit device which had been revoked and notice of such revocation had been given to the person to whom issued].

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 in Count \_\_ of the indictment. 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