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 Malicious Killing of Animals. Malicious Killing of Animals occurs when a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal that belongs to another person, or when a person maliciously maims, kills, or causes the death of any horse, cow or other animal which belongs to another person and which is valued at less than one hundred dollars.

 To find the defendant guilty of Malicious Killing of an Animal, 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. maliciously

5. [administered poison to, or exposed poison with the intent that it should be taken by, any horse, cow or other animal of another person] [maimed, killed, or caused the death of any horse, cow or other animal of another person], and

6. worth less than one hundred dollars.

 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