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# Section 1: S-8 (REGISTRATION STATEMENT)

As filed with the Securities and Exchange Commission on September 16, 2020

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

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HALL OF FAME RESORT & ENTERTAINMENT COMPANY  
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

84-3235695

(IRS Employer  
Identification No.)

2626 Fulton Drive NW, Canton, Ohio

(Address of Principal Executive Offices)

44718

(Zip Code)

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Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan  
Inducement Restricted Stock Unit Award Agreement - Charnes  
Inducement Restricted Stock Unit Award Agreement - Muhleman  
(Full title of the plan)

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Michael Crawford  
Chief Executive Officer  
2626 Fulton Drive NW  
Canton, OH 44718  
(330) 458-9176

(Name, address, including zip code, and telephone number, including area code, of agent for service)

With copies to:

J. Steven Patterson, Esq.  
Hunton Andrews Kurth LLP  
2200 Pennsylvania Ave NW  
Washington, DC 20037  
(202) 955-1500

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**CALCULATION OF REGISTRATION FEE**

<b>Title of securities to be registered<sup>(1)</sup></b>	<b>Amount to be registered<sup>(1)</sup></b>	<b>Proposed Maximum Offering Price Per Share<sup>(2)</sup></b>	<b>Proposed Maximum Aggregate Offering Price<sup>(2)</sup></b>	<b>Amount Of Registration Fee</b>
Common stock, par value \$0.0001 per share	1,812,727 <sup>(3)</sup>	\$ 3.95	\$ 7,160,271.65	\$ 929.40
Common stock, par value \$0.0001 per share	138,568 <sup>(4)</sup>	\$ 3.95	\$ 547,343.60	\$ 71.05
Common stock, par value \$0.0001 per share	144,613 <sup>(5)</sup>	\$ 3.95	\$ 571,221.35	\$ 74.15
Total:	2,095,908	N/A	\$ 8,278,836.60	\$ 1,075.00

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement also covers such additional securities as may hereinafter be offered or issued to prevent dilution resulting from any share split, share dividends, recapitalization or certain other capital adjustments.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act, based on an average of the high and low prices of the Company’s common stock as reported on the Nasdaq Global Select Market on September 15, 2020.
- (3) This registration statement (this “Registration Statement”) covers the registration of 1,812,727 shares of common stock, par value \$0.0001 per share (the “Common Stock”), of Hall of Fame Resort & Entertainment Company (the “Company”) which may be offered and sold upon the exercise or vesting of stock-based award or the issuance of stock-based awards which may hereinafter be issued under the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (the “Plan”).
- (4) Consists of 138,568 shares of Common Stock issuable upon vesting of restricted stock units granted to Tara Charnes, the General Counsel of the Company, on September 16, 2020.
- (5) Consists of 144,613 shares of Common Stock issuable upon vesting of restricted stock units granted to Erica Muhleman, the Executive Vice President of New Business Development/Marketing & Sales of the Company, on September 16, 2020.

## EXPLANATORY NOTE

Hall of Fame Resort & Entertainment Company (the “Company”) has prepared this registration statement on Form S-8 to register 1,812,727 shares of the Company’s common stock, par value \$0.0001 per share (the “Common Stock”), for issuance under the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan, as amended, formerly known as the GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan (the “Plan”). This Registration Statement additionally registers 138,568 shares of Common Stock issuable upon the vesting of a restricted stock unit award granted to Tara Charnes, General Counsel of the Company, on September 16, 2020, pursuant to the terms of a Restricted Stock Unit Award Agreement by and between the Company and Ms. Charnes, dated as of September 16, 2020 (the “Charnes Award Agreement”) as an inducement material to her entering into employment with the Company, and (iii) 144,613 shares of Common Stock issuable upon the vesting of a restricted stock unit award granted to Erica Muhleman, Executive Vice President of New Business Development/Marketing & Sales of the Company, on September 16, 2020, pursuant to the terms of a Restricted Stock Unit Award Agreement by and between the Company and Ms. Muhleman, dated as of September 16, 2020 (the “Muhleman Award Agreement”) as an inducement material to her entering into employment with the Company.

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**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

**Item 1. Plan Information.\***

The documents containing the information specified in this Part I will be delivered as required by Rule 428(b)(1). Such documents are not required to be filed with the Commission as part of this Registration Statement.

**Item 2. Registrant Information and Employee Plan Annual Information.\***

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\* As permitted by Rule 428 under the Securities Act this registration statement omits the information specified in Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be sent or given to employees as specified by Rule 428(b)(1) of the Securities Act. These documents need not be filed with the Securities and Exchange Commission (the "Commission") either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this registration statement pursuant to Item 3 of Part II of this registration statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

## PART II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

#### Item 3. Incorporation of Documents by Reference.

The following documents filed by the Company with the Commission pursuant to the Securities Act, and the Securities Exchange Act of 1934, as amended (the “Exchange Act”) are incorporated herein by reference and made a part hereof:

(a) GPAQ’s Annual Report on Form 10-K for the year ended December 31, 2019, filed with the Commission on [March 10, 2020](#) (File No. 001-38363);

(b) GPAQ’s and the Company’s Quarterly Reports on Form 10-Q for the quarter ended March 31, 2020, filed with the Commission on [May 11, 2020](#), and Form 10-Q for the quarter ended June 30, 2020, filed with the Commission on [August 10, 2020](#) (File No. 001-38363);

(c) GPAQ’s and the Company’s Current Reports on Form 8-K, filed with the Commission on [January 14, 2020](#), [January 24, 2020](#), [February 24, 2020](#), [February 27, 2020](#), [March 16, 2020](#), [March 26, 2020](#), [March 27, 2020](#), [April 1, 2020](#), [April 30, 2020](#), [May 11, 2020](#), [May 19, 2020](#), [May 28, 2020](#), [June 5, 2020](#), [June 15, 2020](#), [July 2, 2020](#), [July 8, 2020](#), [August 11, 2020](#) (amendment to previous Form 8-K filed on July 8, 2020), and [September 8, 2020](#) (in each case, excluding those portions furnished pursuant to Item 2.02 and Item 7.01, if applicable) (File No. 001-38363); and

(d) the description of our Common Stock contained in our Current Report on Form 8-K (File No. 001-38363), filed with the Commission on [July 8, 2020](#), including any amendments or reports filed for the purpose of updating such description.

All reports and other documents that we file in accordance with Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this registration statement and prior to the filing of a post-effective amendment to this registration statement that indicates that all securities offered by this registration statement have been sold or that deregisters all securities covered hereby then remaining unsold, shall be deemed to be incorporated by reference into this registration statement and to be a part hereof from the date of filing of such documents. If any document that we file changes anything stated in this registration statement or in an earlier document that is incorporated into this registration statement, the later document will modify or supersede what is stated in this registration statement or the earlier document. Unless expressly incorporated by reference into this registration statement, nothing in this Item 3 shall be deemed to incorporate information furnished by us on Form 8-K (pursuant to the requirements of Regulation FD or otherwise) that, pursuant to and in accordance with the rules and regulations of the Commission, is not deemed “filed” for purposes of the Exchange Act.

**Item 4. Description of Securities**

Not applicable.

**Item 5. Interests of Named Experts and Counsel**

Not applicable.

**Item 6. Indemnification of Officers and Directors**

Section 145 of the Delaware General Corporation Law (the "DGCL") provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent of the registrant. The DGCL provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaws, agreement, vote of stockholders or disinterested directors or otherwise. Our Certificate of Incorporation and Bylaws provide for indemnification by us of our directors and officers to the fullest extent permitted by the DGCL.

Section 102(b)(7) of the DGCL permits a corporation to provide in its Certificate of Incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions or (4) for any transaction from which the director derived an improper personal benefit. Our Certificate of Incorporation provides for such limitation of liability to the fullest extent permitted by the DGCL.

We maintain standard policies of insurance under which coverage is provided (1) to our directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, while acting in their capacity as our directors and officers, and (2) to us with respect to payments which may be made by us to such officers and directors pursuant to any indemnification provision contained in our Certificate of Incorporation and Bylaws or otherwise as a matter of law.

**Item 7. Exemption From Registration Claimed**

Not applicable.

## Item 8. Exhibits

<u>Exhibit Number</u>	<u>Description</u>
5.1	<a href="#"><u>Opinion of Hunton Andrews Kurth LLP</u></a>
21.1	<a href="#"><u>Subsidiaries of Hall of Fame Resort &amp; Entertainment Company</u></a>
23.1	<a href="#"><u>Consent of Marcum LLP</u></a>
23.2	<a href="#"><u>Consent of Marcum LLP</u></a>
23.4	<a href="#"><u>Consent of Hunton Andrews Kurth LLP (included in Exhibit 5.1)</u></a>
24.1	<a href="#"><u>Power of Attorney (contained on the signature page this registration statement)</u></a>
99.1	<a href="#"><u>Hall of Fame Resort &amp; Entertainment Company 2020 Omnibus Incentive Plan</u></a>
99.2	<a href="#"><u>Form of Restricted Stock Award Agreement under Hall of Fame Resort &amp; Entertainment Company 2020 Omnibus Incentive Plan</u></a>
99.3	<a href="#"><u>Restricted Stock Unit Award Agreement, by and between the Company and Tara Charnes, dated as of September 16, 2020</u></a>
99.4	<a href="#"><u>Restricted Stock Unit Award Agreement, by and between the Company and Erica Muhleman, dated as of September 16, 2020</u></a>
99.5	<a href="#"><u>Form of Restricted Stock Unit Award Agreement under Hall of Fame Resort &amp; Entertainment Company 2020 Omnibus Incentive Plan</u></a>
99.6	<a href="#"><u>Form of Non-Employee Director Restricted Stock Unit Award Agreement under Hall of Fame Resort &amp; Entertainment Company 2020 Omnibus Incentive Plan</u></a>

## Item 9. Undertakings

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the “Securities Act”);

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission (the “Commission”) pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however*, that: Paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.



(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser:

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Canton, State of Ohio, on September 16, 2020.

HALL OF FAME RESORT & ENTERTAINMENT  
COMPANY

By: /s/ Michael Crawford  
Name: Michael Crawford  
Title: *Chief Executive Officer*

## POWER OF ATTORNEY

Each of the undersigned, whose signature appears below, hereby constitutes and appoints Michael Crawford and Jason Krom, and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any or all amendments to this registration statement and to file the same with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing necessary or appropriate to be done with respect to this registration statement or any amendments hereto in the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Capacity in Which Signed</u>	<u>Date</u>
<u>/s/ Michael Crawford</u> Michael Crawford	Chief Executive Officer and Director (Principal Executive Officer)	September 16, 2020
<u>/s/ Jason Krom</u> Jason Krom	Chief Financial Officer (Principal Financial and Accounting Officer)	September 16, 2020
<u>/s/ Anthony J. Buzzelli</u> Anthony J. Buzzelli	Director	September 16, 2020
<u>/s/ David Dennis</u> David Dennis	Director	September 16, 2020
<u>/s/ James J. Dolan</u> James J. Dolan	Director	September 16, 2020
<u>/s/ Karl L. Holz</u> Karl K. Holz	Director	September 16, 2020
<u>Stuart Lichter</u>	Director	September 16, 2020
<u>/s/ Curtis Martin</u> Curtis Martin	Director	September 16, 2020
<u>/s/ Mary Owen</u> Mary Owen	Director	September 16, 2020
<u>Edward J. Roth III</u>	Director	September 16, 2020
<u>/s/ Kimberly K. Schaefer</u> Kimberly K. Schaefer	Director	September 16, 2020

## Section 2: EX-5.1 (OPINION OF HUNTON ANDREWS KURTH LLP)

Exhibit 5.1



HUNTON ANDREWS  
KURTH LLP  
FILE NO: 010280.0000001

September 16, 2020

Hall of Fame Resort & Entertainment Company  
2626 Fulton Drive NW  
Canton, Ohio 44718

### Hall of Fame Resort & Entertainment Company Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Hall of Fame Resort & Entertainment Company, a Delaware corporation (the "Company"), in connection with the preparation and filing by the Company of the Registration Statement on Form S-8 (the "Registration Statement") with the Securities and Exchange Commission (the "Commission") on the date hereof pursuant to the Securities Act of 1933, as amended (the "Securities Act"). The Registration Statement relates to the registration of up to 2,095,908 shares of the common stock, par value \$0.0001 per share ("Common Stock") of the Company (the "Shares"), which includes (i) 1,812,727 shares of Common Stock issuable pursuant to the GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan, as amended (the "Plan"), (ii) 138,568 shares of Common Stock issuable upon the vesting of a restricted stock unit award granted to Tara Charnes pursuant to the terms of a Restricted Stock Unit Award Agreement by and between the Company and Ms. Charnes, dated as of September 16, 2020 (the "Charnes Award Agreement") and (iii) 144,613 shares of Common Stock issuable upon the vesting of a restricted stock unit award granted to Erica Muhlemen pursuant to the terms of a Restricted Stock Unit Award Agreement by and between the Company and Ms. Muhleman, dated as of September 16, 2020 (the "RSU Award Agreements" and, together with the Charnes Award Agreement, the "Inducement Awards"). Capitalized terms used herein but not otherwise defined have the same meanings provided in the Registration Statement.

This opinion letter is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K in connection with the Registration Statement.

In connection with this opinion letter, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents and records as we have deemed necessary to render the opinion set forth herein, including (i) the Registration Statement, (ii) the Company's Certificate of Incorporation, as amended through the date hereof, (iii) the Company's Amended and Restated By-Laws, as amended through the date hereof, (iv) certain resolutions of the Company's Board of Directors; (v) a certificate issued by the Secretary of State of the State of Delaware on the date hereof to the effect that the Company is existing under the laws of the State of Delaware and in good standing (the "Good Standing Certificate"); and (vi) such other documents, certificates and records as we have deemed necessary to render the opinion set forth herein.

ATLANTA AUSTIN BANGKOK BEIJING BOSTON BRUSSELS CHARLOTTE DALLAS DUBAI HOUSTON LONDON  
LOS ANGELES MIAMI NEW YORK NORFOLK RICHMOND SAN FRANCISCO THE WOODLANDS TYSONS WASHINGTON, DC  
[www.HuntonAK.com](http://www.HuntonAK.com)

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For purposes of the opinion expressed below, we have assumed (i) the legal capacity of all natural persons, (ii) the genuineness of all signatures, (iii) the authenticity of all documents submitted to us as originals, (iv) the conformity to authentic original documents of all documents submitted to us as certified, electronic or photostatic copies and (v) the due authorization, execution and delivery of all documents by all parties and the validity, binding effect and enforceability thereof on such parties (other than the authorization, execution, delivery and enforceability of certain documents by the Company).

As to factual matters, we have relied upon, and assumed the accuracy of, representations included in the documents submitted to us, without independent verification of their accuracy.

Based upon the foregoing and such other information and documents as we have considered necessary for the purposes hereof, and subject to the assumptions, qualifications and limitations stated herein, we are of the opinion that:

1. The Company is a corporation validly existing and in good standing under the laws of the State of Delaware.

2. The Shares have been duly authorized by the Company and, when issued and sold against payment therefor in accordance with the terms of the Plan (and any award agreement entered under the Plan), the RSU Award Agreements, as applicable, and the Registration Statement, the Shares will be validly issued, fully paid and nonassessable.

The opinion expressed above is limited to the General Corporation Law of the State of Delaware in effect on the date hereof. We do not express any opinion as to the laws of any other jurisdiction.

The opinion set forth in paragraph 1 above as to the valid existence and good standing of the Company is based solely upon our review of the Good Standing Certificate.

We hereby consent to the filing of this opinion letter with the Commission as an exhibit to the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

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This opinion letter is rendered as of the date hereof, and we disclaim any obligation to advise you of facts, circumstances, events or developments that hereafter may be brought to our attention and that may alter, affect or modify the opinion expressed herein. This opinion letter is expressly limited to the matters set forth above and we render no opinion, whether by implication or otherwise, as to any matters beyond the matters expressly set forth herein.

Very truly yours,

/s/ Hunton Andrews Kurth LLP

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### **Section 3: EX-21.1 (SUBSIDIARIES OF HALL OF FAME RESORT & ENTERTAINMENT COMPANY)**

**Exhibit 21.1**

#### **Subsidiaries of Hall of Fame Resort & Entertainment Company**

<b><u>Subsidiary</u></b>	<b><u>State of Incorporation</u></b>
Gordon Pointe Acquisition Corp.	Delaware corporation
HOF Village Newco, LLC	Delaware limited liability company

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### **Section 4: EX-23.1 (CONSENT OF MARCUM LLP)**

**Exhibit 23.1**

#### **INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT**

We consent to the incorporation by reference in this Registration Statement of Hall of Fame Resort & Entertainment Company (the "Company") on Form S-8 of our report dated March 10, 2020, which includes an explanatory paragraph as to HOF Village, LLC and Subsidiaries' ability to continue as a going concern, with respect to our audits of the consolidated financial statements of HOF Village LLC and Subsidiaries as of December 31, 2019 and 2018 and for each of the two years in the period ended December 31, 2019, which report appears in the Proxy Statement / Prospectus, which is part of the Registration Statement of GPAQ Acquisition Holdings, Inc. on Post-Effective Amendment No. 3 to Form S-4 (File No. 333-234655).

/s/ Marcum LLP

Marcum LLP  
New York, NY  
September 16, 2020

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### **Section 5: EX-23.2 (CONSENT OF MARCUM LLP)**

**Exhibit 23.2**

#### **INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT**

We consent to the incorporation by reference in this Registration Statement of Hall of Fame Resort & Entertainment Company on Form S-8 of our report dated March 10, 2020 with respect to our audits of the consolidated financial statements of Gordon Pointe Acquisition Corp. as of December 31, 2019 and 2018 and for each of the two years in the period ended December 31, 2019 appearing in the Annual Report on Form 10-K of Gordon Pointe Acquisition Corp. for the year ended December 31, 2019.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
September 16, 2020



Marcum LLP n 750 Third Avenue n 11th Floor n New York, New York 10017 n Phone 212.485.5500 n Fax 212.485.5501 n marcumllp.com

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## **Section 6: EX-99.1 (HALL OF FAME RESORT & ENTERTAINMENT COMPANY 2020 OMNIBUS INCENTIVE PLAN)**

**Exhibit 99.1**

**HALL OF FAME RESORT & ENTERTAINMENT COMPANY  
2020 OMNIBUS INCENTIVE PLAN**

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**HALL OF FAME RESORT & ENTERTAINMENT COMPANY  
2020 OMNIBUS INCENTIVE PLAN**

1. Purpose of Plan.

The purpose of the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (this “Plan”) is to advance the interests of Hall of Fame Resort & Entertainment Company, a Delaware corporation (the “Company”), and its stockholders by enabling the Company and its Subsidiaries and Affiliates to attract and retain qualified individuals to perform services for the Company and its Affiliates and Subsidiaries, providing incentive compensation for such individuals that is linked to the growth and profitability of the Company and increases in stockholder value and aligning the interests of such individuals with the interests of its stockholders through opportunities for equity participation in the Company.

2. Definitions.

The following terms will have the meanings set forth below, unless the context clearly otherwise requires. Terms defined elsewhere in this Plan will have the same meaning throughout this Plan.

2.1 “Adverse Action” means any action or conduct by a Participant that the Committee, in its sole discretion, determines to be injurious, detrimental, prejudicial or adverse to the interests of the Company or any Subsidiary, including: (a) disclosing confidential information of the Company or any Subsidiary or Affiliate to any person not authorized by the Company or any Subsidiary or Affiliate to receive it, (b) engaging, directly or indirectly, in any commercial activity that in the judgment of the Committee competes with the business of the Company or any Subsidiary or Affiliate or (c) interfering with the relationships of the Company or any Subsidiary or Affiliate and their respective employees, independent contractors, customers, prospective customers and vendors.

2.2 “Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with, such Person where “control” will have the meaning given such term under Rule 405 of the Securities Act.

2.3 “Applicable Law” means any applicable law, including without limitation, (a) provisions of the Code, the Securities Act, the Exchange Act and any rules or regulations thereunder; (b) corporate, securities, tax or other laws, statutes, rules, requirements or regulations, whether federal, state, local or foreign; and (c) rules of any securities exchange, national market system or automated quotation system on which the shares of Common Stock are listed, quoted or traded.

2.4 “Award” means, individually or collectively, an Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit, Deferred Stock Unit, Performance Award, Non-Employee Director Award, or Other Stock-Based Award, in each case granted to an Eligible Recipient pursuant to this Plan.

2.5 “Award Agreement” means either: (a) a written or electronic (as provided in Section 23.7) agreement entered into by the Company and a Participant setting forth the terms and provisions applicable to an Award granted under this Plan, including any amendment or modification thereof, or (b) a written or electronic (as provided in Section 23.7) statement issued by the Company to a Participant describing the terms and provisions of such an Award, including any amendment or modification thereof.

2.6 “Board” means the Board of Directors of the Company.

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2.7 “Broker Exercise Notice” means a written notice pursuant to which a Participant, upon exercise of an Option, irrevocably instructs a broker or dealer to sell a sufficient number of shares of Common Stock to pay all or a portion of the exercise price of the Option or any related withholding tax obligations and remit such sums to the Company and directs the Company to deliver shares of Common Stock to be issued upon such exercise directly to such broker or dealer or its nominee.

2.8 “Cause” means, unless otherwise provided in an Award Agreement, (a) “Cause” as defined in any employment, consulting, severance or similar agreement between the Participant and the Company or one of its Subsidiaries (an “Individual Agreement”), or (b) if there is no such Individual Agreement or if it does not define Cause: (i) dishonesty, fraud, misrepresentation, embezzlement or deliberate injury or attempted injury, in each case related to the Company or any Subsidiary; (ii) any unlawful or criminal activity of a serious nature; (iii) any intentional and deliberate breach of a duty or duties that, individually or in the aggregate, are material in relation to the Participant’s overall duties; (iv) any material breach by a Participant of any employment, service, confidentiality, non-compete or non-solicitation agreement entered into with the Company or any Subsidiary; or (v) before a Change in Control, such other events as will be determined by the Committee. The Committee will, unless otherwise provided in an Individual Agreement, have the sole discretion to determine whether “Cause” exists with respect to sub-clauses (i), (ii), (iii), (iv) or (v) above, and its determination will be final.

2.9 “Change in Control” means, unless otherwise provided in an Award Agreement or any Individual Agreement, and except as provided in Section 18, an event described in Section 15.1 of this Plan.

2.10 “Code” means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code herein will be deemed to include a reference to any applicable regulations thereunder and any successor or amended section of the Code.

2.11 “Committee” means the Board or, if the Board so delegates, the Compensation Committee of the Board or a subcommittee thereof, or any other committee delegated authority by the Board to administer this Plan. If the Board determines appropriate, such committee may be comprised solely of directors designated by the Board to administer this Plan who are (a) “non-employee directors” within the meaning of Rule 16b-3 under the Exchange Act, and (b) “independent directors” within the meaning of the rules of the Nasdaq Stock Market (or other applicable exchange or market on which the Common Stock may be traded or quoted). The members of the Committee will be appointed from time to time by and will serve at the discretion of the Board. Any action duly taken by the Committee will be valid and effective, whether or not the members of the Committee at the time of such action are later determined not to have satisfied the requirements of membership provided herein.

2.12 “Common Stock” means the common stock of the Company, par value \$0.0001 per share, or the number and kind of shares of stock or other securities into which such Common Stock may be changed in accordance with Section 4.4 of this Plan.

2.13 “Company” means Hall of Fame Resort & Entertainment Company, a Delaware corporation, and any successor thereto as provided in Section 23.5 of this Plan.

2.14 “Consultant” means a person engaged to provide consulting or advisory services (other than as an Employee or a Director) to the Company or any Subsidiary that: (a) are not in connection with the offer and sale of the Company’s securities in a capital raising transaction and (b) do not directly or indirectly promote or maintain a market for the Company’s securities.

2.15 “Deferred Stock Unit” means a right granted to an Eligible Recipient pursuant to Section 8 of this Plan to receive shares of Common Stock (or the equivalent value in cash or other property if the Committee so provides) at a future time as determined by the Committee, or as determined by the Participant within guidelines established by the Committee in the case of voluntary deferral elections.

2.16 “Director” means a member of the Board.

2.17 “Disability” means, unless otherwise provided in an Award Agreement, with respect to a Participant who is a party to an Individual Agreement, which agreement contains a definition of “disability” or “permanent disability” (or words of like import) for purposes of termination of employment thereunder by the Company, “disability” or “permanent disability” as defined in the most recent of such agreements; or in all other cases, means the disability of the Participant such as would entitle the Participant to receive disability income benefits pursuant to the long-term disability plan of the Company or any Subsidiary then covering the Participant or, if no such plan exists or is applicable to the Participant, the permanent and total disability of the Participant within the meaning of Section 22(e)(3) of the Code.

2.18 “Dividend Equivalents” has the meaning set forth in Section 3.2(l) of this Plan.

2.19 “Effective Date” means such date as the mergers provided for in that certain Agreement and Plan of Merger, dated as of September 16, 2019, by and among by and among Gordon Pointe Acquisition Corp., the Company, GPAQ Acquiror Merger Sub, Inc., GPAQ Company Merger Sub, LLC, HOF Village, LLC and HOF Village Newco, LLC, as amended, are completed.

2.20 “Eligible Recipients” means all Employees, all Non-Employee Directors and all Consultants.

2.21 “Employee” means any individual performing services for the Company or a Subsidiary and designated as an employee of the Company or a Subsidiary on the payroll records thereof. An Employee will not include any individual during any period he or she is classified or treated by the Company or Subsidiary as an independent contractor, a consultant, or any employee of an employment, consulting or temporary agency or any other entity other than the Company or Subsidiary, without regard to whether such individual is subsequently determined to have been, or is subsequently retroactively reclassified as a common-law employee of the Company or Subsidiary during such period. An individual will not cease to be an Employee in the case of: (a) any leave of absence approved by the Company, or (b) transfers between locations of the Company or between the Company or any Subsidiaries. For purposes of Incentive Stock Options, no such leave may exceed ninety (90) days, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company or a Subsidiary, as applicable, is not so guaranteed, then three (3) months following the ninety-first (91st) day of such leave, any Incentive Stock Option held by a Participant will cease to be treated as an Incentive Stock Option and will be treated for tax purposes as a Non-Statutory Stock Option. Neither service as a Director nor payment of a Director’s fee by the Company will be sufficient to constitute “employment” by the Company.

2.22 “Exchange Act” means the Securities Exchange Act of 1934, as amended. Any reference to a section of the Exchange Act herein will be deemed to include a reference to any applicable rules and regulations thereunder and any successor or amended section of the Exchange Act.

2.23 “Fair Market Value” means, with respect to the Common Stock, as of any date the closing sale price of a share of Common Stock as reported on the Nasdaq Stock Market, New York Stock Exchange, or other established stock exchange (or exchanges) at the end of the regular trading session on the applicable date, (or, if no shares were traded on such date, as of the next preceding date on which there was such a trade) or if the Common Stock is not so listed, admitted to unlisted trading privileges or reported on any national exchange, the closing sale price at the end of the regular trading session on such date, as reported by the OTC Bulletin Board, OTC Markets or other comparable quotation service (or, if no shares were traded or quoted on such date, as of the next preceding date on which there was such a trade or quote). In the event the Common Stock is not publicly traded at the time a determination of its value is required to be made hereunder, the determination of Fair Market Value shall be made by the Committee in such manner as it deems appropriate and in good faith in the exercise of its reasonable discretion, and consistent with the definition of “fair market value” under Section 409A of the Code. If determined by the Committee, such determination will be final, conclusive and binding for all purposes and on all persons, including the Company, the stockholders of the Company, the Participants and their respective successors-in-interest. No member of the Committee will be liable for any determination regarding the fair market value of the Common Stock that is made in good faith.

2.24 “Grant Date” means the date an Award is granted to a Participant pursuant to this Plan and as determined pursuant to Section 5 of this Plan.

2.25 “Incentive Stock Option” means a right to purchase Common Stock granted to an Employee pursuant to Section 6 of this Plan that is designated as and intended to meet the requirements of an “incentive stock option” within the meaning of Section 422 of the Code.

2.26 “Individual Agreement” has the meaning set forth in Section 2.8 of this Plan.

2.27 “Merger Agreement” means the Agreement and Plan of Merger, dated as of September 16, 2019, by and among Gordon Pointe Acquisition Corp., the Company, GPAQ Acquiror Merger Sub Inc., GPAQ Company Merger Sub LLC, HOF Village LLC, and HOF Village Newco, LLC, as amended November 5, 2019, March 10, 2020, and May 22, 2020.

2.28 “Non-Employee Director” means a Director who is not an Employee.

2.29 “Non-Employee Director Award” means any Award granted, whether singly, in combination, or in tandem, to an Eligible Recipient who is a Non-Employee Director, pursuant to such applicable terms, conditions and limitations as the Board or Committee may establish in accordance with this Plan, including any Non-Employee Director Option.

2.30 “Non-Employee Director Option” means a Non-Statutory Stock Option granted to a Non-Employee Director pursuant to Section 10 of this Plan.

2.31 “Non-Statutory Stock Option” means a right to purchase Common Stock granted to an Eligible Recipient pursuant to Section 6 of this Plan that is not intended to meet the requirements of or does not qualify as an Incentive Stock Option.

2.32 “Option” means an Incentive Stock Option or a Non-Statutory Stock Option, including a Non-Employee Director Option.

2.33 “Other Stock-Based Award” means an Award, denominated in Shares, not otherwise described by the terms of this Plan, granted pursuant to Section 11 of this Plan.

2.34 “Participant” means an Eligible Recipient who receives one or more Awards under this Plan.

2.35 “Performance Award” means a right granted to an Eligible Recipient pursuant to Section 9 of this Plan to receive an amount of cash, number of shares of Common Stock, or a combination of both, contingent upon and the value of which at the time it is payable is determined as a function of the extent of the achievement of one or more Performance Goals during a specified Performance Period or the achievement of other objectives during a specified period.

2.36 “Performance Goals” mean with respect to any applicable Award, one or more targets, goals or levels of attainment required to be achieved during the specified Performance Period, as set forth in the related Award Agreement.

2.37 “Performance Period” means the period of time, as determined by the Committee, during which the Performance Goals must be met in order to determine the degree of payout or vesting with respect to an Award.

2.38 “Period of Restriction” means the period when a Restricted Stock Award, Restricted Stock Units, Performance Award, Deferred Stock Units or Other Stock-Based Award are subject to a substantial risk of forfeiture (based on the passage of time, the achievement of Performance Goals, or upon the occurrence of other events as determined by the Committee, in its discretion), as provided in Section 8, 9, 10 or 11 of this Plan, as the case may be.

2.39 “Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or any other entity of whatever nature.

2.40 “Plan” means the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan, as may be amended from time to time.

2.41 “Plan Limit” has the meaning set forth in Section 4.1 of this Plan.

2.42 “Plan Year” means the Company’s fiscal year.

2.43 “Previously Acquired Shares” means shares of Common Stock that are already owned by the Participant or, with respect to any Award, that are to be issued to the Participant upon the grant, exercise, vesting or settlement of such Award.

2.44 “Restricted Stock Award” means an award of Common Stock granted to an Eligible Recipient pursuant to Section 8 of this Plan that is subject to the restrictions on transferability and the risk of forfeiture imposed by the provisions of such Section 8.

2.45 “Restricted Stock Unit” means an award denominated in shares of Common Stock granted to an Eligible Recipient pursuant to Section 8 of this Plan.

2.46 “Retirement,” means, unless otherwise defined in the Award Agreement or in an Individual Agreement between the Participant and the Company or one of its Subsidiaries or Affiliates, “Retirement” as defined from time to time for purposes of this Plan by the Committee or by the Company’s chief human resources officer or other person performing that function or, if not so defined, means voluntary termination of employment or service by the Participant on or after the date the Participant reaches age six-five (65) with the present intention to leave the Company’s industry or to leave the general workforce.

2.47 “Securities Act” means the Securities Act of 1933, as amended. Any reference to a section of the Securities Act herein will be deemed to include a reference to any applicable rules and regulations thereunder and any successor or amended section of the Securities Act.

2.48 “Stock Appreciation Right” means a right granted to an Eligible Recipient pursuant to Section 7 of this Plan to receive a payment from the Company upon exercise, in the form of shares of Common Stock, cash or a combination of both, equal to the excess of the Fair Market Value of one or more shares of Common Stock on the exercise date and the grant price of such shares under the terms of such Stock Appreciation Right.

2.49 “Stock-Based Award” means any Award, denominated in Shares, made pursuant to this Plan, including Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Deferred Stock Units, Performance Awards or Other Stock-Based Awards.

2.50 “Subsidiary” means any corporation or other entity, whether domestic or foreign, in which the Company has or obtains, directly or indirectly, an interest of more than fifty percent (50%) by reason of stock ownership or otherwise.

2.51 “Tax Date” means the date any withholding or employment related tax obligation arises under the Code or any Applicable Law for a Participant with respect to an Award.

2.52 “Tax Laws” has the meaning set forth in Section 23.8 of this Plan.

### 3. Plan Administration.

3.1 The Committee. The Plan will be administered by the Committee. The Committee will act by majority approval of the members at a meeting or by unanimous written consent, and a majority of the members of the Committee will constitute a quorum. The Committee may exercise its duties, power and authority under this Plan in its sole discretion without the consent of any Participant or other party, unless this Plan specifically provides otherwise. The Committee will not be obligated to treat Participants or Eligible Recipients uniformly, and determinations made under this Plan may be made by the Committee selectively among Participants or Eligible Recipients, whether or not such Participants and Eligible Recipients are similarly situated. Each determination, interpretation or other action made or taken by the Committee pursuant to the provisions of this Plan will be final, conclusive and binding for all purposes and on all persons, and no member of the Committee will be liable for any action or determination made in good faith with respect to this Plan or any Award granted under this Plan.

3.2 Authority of the Committee. In accordance with and subject to the provisions of this Plan, the Committee will have full and exclusive discretionary power and authority to take such actions as it deems necessary and advisable with respect to the administration of this Plan, including the following:

(a) To designate the Eligible Recipients to be selected as Participants;

(b) To determine the nature, extent and terms of the Awards to be made to each Participant, including the amount of cash or number of shares of Common Stock to be subject to each Award, any exercise price or grant price, the manner in which Awards will vest, become exercisable, settled or paid out and whether Awards will be granted in tandem with other Awards, and the form of Award Agreement, if any, evidencing such Award;

(c) To determine the time or times when Awards will be granted;

(d) To determine the duration of each Award;

(e) To determine the terms, restrictions and other conditions to which the grant of an Award or the payment or vesting of Awards may be subject;

(f) To construe and interpret this Plan and Awards granted under it, and to establish, amend and revoke rules and regulations for its administration and in so doing, to correct any defect, omission, or inconsistency in this Plan or in an Award Agreement, in a manner and to the extent it will deem necessary or expedient to make this Plan fully effective;

(g) To determine Fair Market Value in accordance with Section 2.23 of this Plan;

(h) To amend this Plan or any Award Agreement, as provided in this Plan;

(i) To adopt sub-plans or special provisions applicable to Awards regulated by the laws of a jurisdiction other than, and outside of, the United States, which except as otherwise provided in this Plan, such sub-plans or special provisions may take precedence over other provisions of this Plan;

(j) To authorize any person to execute on behalf of the Company any Award Agreement or any other instrument required to effect the grant of an Award previously granted by the Committee;

(k) To determine whether Awards will be settled in shares of Common Stock, cash or in any combination thereof;

(l) To determine whether Awards will be adjusted for dividend equivalents, with "Dividend Equivalents" meaning a credit, made at the discretion of the Committee, to the account of a Participant in an amount equal to the ordinary cash dividends paid on one share of Common Stock for each share of Common Stock represented by an Award held by such Participant, subject to Section 12 of this Plan and any other provision of this Plan, and which Dividend Equivalents may be subject to the same conditions and restrictions as the Awards to which they attach and may be settled in the form of cash, shares of Common Stock, or in any combination of both; and

(m) To impose such restrictions, conditions or limitations as it determines appropriate as to the timing and manner of any resales by a Participant or other subsequent transfers by the Participant of any shares of Common Stock, including restrictions under an insider trading policy, stock ownership guidelines, restrictions as to the use of a specified brokerage firm for such resales or other transfers and other restrictions designed to increase equity ownership by Participants or otherwise align the interests of Participants with the Company's stockholders.

3.3 Delegation. To the extent permitted by Applicable Law, the Committee may delegate to one or more of its members or to one or more officers of the Company or any Subsidiary or to one or more agents or advisors such administrative duties or powers as it may deem advisable, and the Committee or any individuals to whom it has delegated duties or powers as aforesaid may employ one or more individuals to render advice with respect to any responsibility the Committee or such individuals may have under this Plan. The Committee may, by resolution, authorize one or more directors of the Company or one or more officers of the Company to do one or both of the following on the same basis as can the Committee: (a) designate Eligible Recipients to be recipients of Awards pursuant to this Plan; and (b) determine the size of any such Awards; provided, however, that (x) the Committee will not delegate such responsibilities to any such director(s) or officer(s) for any Awards granted to an Eligible Recipient: (i) who is a Non-Employee Director or who is subject to the reporting and liability provisions of Section 16 under the Exchange Act, or (ii) to whom authority to grant or amend Awards has been delegated hereunder; provided, further; that any delegation of administrative authority will only be permitted to the extent it is permissible under Applicable Law; (y) the resolution providing such authorization will set forth the type of Awards and total number of each type of Awards such director(s) or officer(s) may grant; and (z) such director(s) or officer(s) will report periodically to the Committee regarding the nature and scope of the Awards granted pursuant to the authority delegated. At all times, the delagatee appointed under this Section 3.3 will serve in such capacity at the pleasure of the Committee.

3.4 No Re-pricing. Notwithstanding any other provision of this Plan other than Section 4.4 of this Plan, the Committee may not, without prior approval of the Company's stockholders, seek to effect any re-pricing of any previously granted, "underwater" Option or Stock Appreciation Right by: (a) amending or modifying the terms of the Option or Stock Appreciation Right to lower the exercise price or grant price; (b) canceling the underwater Option or Stock Appreciation Right in exchange for (i) cash; (ii) replacement Options or Stock Appreciation Rights having a lower exercise price or grant price; or (iii) other Awards; or (c) repurchasing the underwater Options or Stock Appreciation Rights and granting new Awards under this Plan. For purposes of this Section 3.4, an Option or Stock Appreciation Right will be deemed to be "underwater" at any time when the Fair Market Value of the Common Stock is less than the exercise price of the Option or grant price of the Stock Appreciation Right.

3.5 Participants Based Outside of the United States. In addition to the authority of the Committee under Section 3.2(i) and notwithstanding any other provision of this Plan, the Committee may, in its sole discretion, amend the terms of this Plan or Awards with respect to Participants resident outside of the United States or employed by a non-U.S. Subsidiary in order to comply with local legal requirements, to otherwise protect the Company's or Subsidiary's interests or to meet objectives of this Plan, and may, where appropriate, establish one or more sub-plans (including the adoption of any required rules and regulations) for the purposes of qualifying for preferred tax treatment under foreign tax laws. The Committee will have no authority, however, to take action pursuant to this Section 3.5: (a) to reserve shares of Common Stock or grant Awards in excess of the limitations provided in Section 4.1 of this Plan; (b) to effect any re-pricing in violation of Section 3.4 of this Plan; (c) to grant Options or Stock Appreciation Rights having an exercise price or grant price less than one hundred percent (100%) of the Fair Market Value of one share of Common Stock on the Grant Date in violation of Section 6.3 or Section 7.3 of this Plan; or (d) for which stockholder approval would then be required pursuant to Section 19.2 of this Plan.

#### 4. Shares Available for Issuance.

4.1 Maximum Number of Shares Available. Subject to adjustment as provided in Section 4.4 of this Plan, the maximum number of shares of Common Stock that will be available for issuance under this Plan will be equal to three percent (3%) of the outstanding shares of Common Stock on a fully diluted basis on the date on which the transactions contemplated by the Merger Agreement are consummated, as determined by the Committee at such time, assuming that all warrants, options or other rights of any kind to acquire Common Stock and all securities convertible or exchangeable into Common Stock outstanding at that time, shall be deemed to have been fully exercised, converted or exchanged, as the case may be, in each case into the maximum number of shares of Common Stock pursuant to such warrants, options or conversion or exchange agreements, assuming, among other things, that all events that trigger such exercise, conversion or exchange will be deemed to have occurred on the date on which the transactions contemplated by the Merger Agreement are consummated, and with respect to securities with a variable conversion price, that such securities will convert at the lowest price to yield the greatest number of shares of Common Stock (the "Plan Limit").

4.2 Limits on Incentive Stock Options and Non-Employee Director Awards. Notwithstanding any other provisions of this Plan to the contrary and subject to adjustment as provided in Section 4.4 of this Plan,

(a) the maximum aggregate number of shares of Common Stock that will be available for issuance pursuant to Incentive Stock Options under this Plan may not exceed the Plan Limit; and

(b) the sum of any cash compensation, or other compensation, and the value (determined as of the grant date in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, or any successor thereto) of Awards granted to a Non-Employee Director as compensation for services as a Non-Employee Director during any fiscal year of the Company may not exceed \$250,000 (increased to \$350,000 with respect to any Non-Employee Director serving as Chairman of the Board or Lead Independent Director or in the fiscal year of a Non-Employee Director's initial service as a Non-Employee Director) (with any compensation that is deferred counting towards this limit for the year in which the compensation is first earned, and not a later year of settlement).

4.3 Accounting for Awards. Shares of Common Stock that are issued under this Plan or that are subject to outstanding Awards will be applied to reduce the maximum number of shares of Common Stock remaining available for issuance under this Plan only to the extent they are used; provided, however, that the full number of shares of Common Stock subject to a stock-settled Stock Appreciation Right or other Stock-Based Award will be counted against the shares authorized for issuance under this Plan, regardless of the number of shares actually issued upon settlement of such Stock Appreciation Right or other Stock-Based Award. Furthermore, any shares of Common Stock withheld to satisfy tax withholding obligations on Awards issued under this Plan, any shares of Common Stock withheld to pay the exercise price or grant price of Awards under this Plan and any shares of Common Stock not issued or delivered as a result of the "net exercise" of an outstanding Option pursuant to Section 6.5 or settlement of a Stock Appreciation Right in shares of Common Stock pursuant to Section 7.6 will not be counted against the shares of Common Stock authorized for issuance under this Plan and will be available again for grant under this Plan. Shares of Common Stock subject to Awards settled in cash will again be available for issuance pursuant to Awards granted under the Plan. Any shares of Common Stock repurchased by the Company on the open market using the proceeds from the exercise of an Award will not increase the number of shares of Common Stock available for future grant of Awards. Any shares of Common Stock related to Awards granted under this Plan that terminate by expiration, forfeiture, cancellation or otherwise without the issuance of the shares of Common Stock, will be available again for grant under this Plan. To the extent permitted by Applicable Law, shares of Common Stock issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by the Company or a Subsidiary pursuant to Section 20 of this Plan or otherwise will not be counted against shares of Common Stock available for issuance pursuant to this Plan. The shares of Common Stock available for issuance under this Plan may be authorized and unissued shares or treasury shares.

4.4 Adjustments to Shares and Awards.

(a) In the event of any reorganization, merger, consolidation, recapitalization, liquidation, reclassification, stock dividend, stock split, combination of shares, rights offering, divestiture or extraordinary dividend (including a spin off) or any other similar change in the corporate structure or shares of Common Stock the Company, the Committee (or, if the Company is not the surviving corporation in any such transaction, the board of directors of the surviving corporation) will make appropriate adjustment or substitutions (which determination will be conclusive) as to: (i) the number and kind of securities or other property (including cash) available for issuance or payment under this Plan, including the sub-limits set forth in Section 4.2 of this Plan, and (ii) in order to prevent dilution or enlargement of the rights of Participants, the number and kind of securities or other property (including cash) subject to outstanding Awards and the exercise price of outstanding Awards; provided, however, that this Section 4.4 will not limit the authority of the Committee to take action pursuant to Section 15 of this Plan in the event of a Change in Control. The determination of the Committee as to the foregoing adjustments and/or substitutions, if any, will be final, conclusive and binding on Participants under this Plan.



(b) Notwithstanding anything else herein to the contrary, without affecting the number of shares of Common Stock reserved or available hereunder, the limits in Section 4.2 of this Plan, the Committee may authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock or reorganization upon such terms and conditions as it may deem appropriate, subject to compliance with the rules under Sections 422, 424 and 409A of the Code, as and where applicable.

5. Participation.

Participants in this Plan will be those Eligible Recipients who, in the judgment of the Committee, have contributed, are contributing or are expected to contribute to the achievement of the objectives of the Company or its Subsidiaries. Eligible Recipients may be granted from time to time one or more Awards, singly or in combination or in tandem with other Awards, as may be determined by the Committee in its sole discretion. Awards will be deemed to be granted as of the date specified in the grant resolution of the Committee, which date will be the Grant Date of any related Award Agreement with the Participant.

6. Options.

6.1 Grant. An Eligible Recipient may be granted one or more Options under this Plan, and such Options will be subject to such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion. Incentive Stock Options may be granted solely to eligible Employees of the Company or a Subsidiary. The Committee may designate whether an Option is to be considered an Incentive Stock Option or a Non-Statutory Stock Option. To the extent that any Incentive Stock Option (or portion thereof) granted under this Plan ceases for any reason to qualify as an “incentive stock option” for purposes of Section 422 of the Code, such Incentive Stock Option (or portion thereof) will continue to be outstanding for purposes of this Plan but will thereafter be deemed to be a Non-Statutory Stock Option. Options may be granted to an Eligible Recipient for services provided to a Subsidiary only if, with respect to such Eligible Recipient, the underlying shares of Common Stock constitute “service recipient stock” within the meaning of Treas. Reg. Sec. 1.409A-1(b)(5)(iii) promulgated under the Code.

6.2 Award Agreement. Each Option grant will be evidenced by an Award Agreement that will specify the exercise price of the Option, the maximum duration of the Option, the number of shares of Common Stock to which the Option pertains, the conditions upon which an Option will become vested and exercisable, and such other provisions as the Committee will determine which are not inconsistent with the terms of this Plan. The Award Agreement also will specify whether the Option is intended to be an Incentive Stock Option or a Non-Statutory Stock Option.

6.3 Exercise Price. The per share price to be paid by a Participant upon exercise of an Option granted pursuant to this Section 6 will be determined by the Committee in its sole discretion at the time of the Option grant; provided, however, that such price will not be less than one hundred percent (100%) of the Fair Market Value of one share of Common Stock on the Grant Date (one hundred and ten percent (110%) of the Fair Market Value if, at the time the Incentive Stock Option is granted, the Participant owns, directly or indirectly, more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any parent or subsidiary corporation of the Company).

6.4 Exercisability and Duration. An Option will become exercisable at such times and in such installments and upon such terms and conditions as may be determined by the Committee in its sole discretion at the time of grant, including (a) the achievement of one or more of the Performance Goals; or that (b) the Participant remain in the continuous employment or service with the Company or a Subsidiary for a certain period; provided, however, that no Option may be exercisable after ten (10) years from the Grant Date (five (5) years from the Grant Date in the case of an Incentive Stock Option that is granted to a Participant who owns, directly or indirectly, more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any parent or subsidiary corporation of the Company). Notwithstanding the foregoing, if the exercise of an Option that is exercisable in accordance with its terms is prevented by the provisions of Section 17 of this Plan, the Option will remain exercisable until thirty (30) days after the date such exercise first would no longer be prevented by such provisions, but in any event no later than the expiration date of such Option.

#### 6.5 Payment of Exercise Price.

(a) The total purchase price of the shares of Common Stock to be purchased upon exercise of an Option will be paid entirely in cash (including check, bank draft or money order); provided, however, that the Committee, in its sole discretion and upon terms and conditions established by the Committee, may allow such payments to be made, in whole or in part, by (i) tender of a Broker Exercise Notice; (ii) by tender, either by actual delivery or attestation as to ownership, of Previously Acquired Shares; (iii) a “net exercise” of the Option (as further described in paragraph (b), below); (iv) by a combination of such methods; or (v) any other method approved or accepted by the Committee in its sole discretion. Notwithstanding any other provision of this Plan to the contrary, no Participant who is a Director or an “executive officer” of the Company within the meaning of Section 13(k) of the Exchange Act will be permitted to make payment with respect to any Awards granted under this Plan, or continue any extension of credit with respect to such payment with a loan from the Company or a loan arranged by the Company in violation of Section 13(k) of the Exchange Act.

(b) In the case of a “net exercise” of an Option, the Company will not require a payment of the exercise price of the Option from the Participant but will reduce the number of shares of Common Stock issued upon the exercise by the largest number of whole shares that has a Fair Market Value on the exercise date that does not exceed the aggregate exercise price for the shares exercised under this method. Shares of Common Stock will no longer be outstanding under an Option (and will therefore not thereafter be exercisable) following the exercise of such Option to the extent of (i) shares used to pay the exercise price of an Option under the “net exercise,” (ii) shares actually delivered to the Participant as a result of such exercise and (iii) any shares withheld for purposes of tax withholding pursuant to Section 14 of this Plan.

(c) For purposes of such payment, Previously Acquired Shares tendered or covered by an attestation will be valued at their Fair Market Value on the exercise date of the Option.

6.6 Manner of Exercise. An Option may be exercised by a Participant in whole or in part from time to time, subject to the conditions contained in this Plan and in the Award Agreement evidencing such Option, by delivery in person, by facsimile or electronic transmission or through the mail of written notice of exercise to the Company at its principal executive office (or to the Company’s designee as may be established from time to time by the Company and communicated to Participants) and by paying in full the total exercise price for the shares of Common Stock to be purchased in accordance with Section 6.5 of this Plan.

7. Stock Appreciation Rights.

7.1 Grant. An Eligible Recipient may be granted one or more Stock Appreciation Rights under this Plan, and such Stock Appreciation Rights will be subject to such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion. Stock Appreciation Rights may be granted to an Eligible Recipient for services provided to a Subsidiary only if, with respect to such Eligible Recipient, the underlying shares of Common Stock constitute “service recipient stock” within the meaning of Treas. Reg. Sec. 1.409A-1(b)(5)(iii) promulgated under the Code.

7.2 Award Agreement. Each Stock Appreciation Right will be evidenced by an Award Agreement that will specify the grant price of the Stock Appreciation Right, the term of the Stock Appreciation Right, and such other provisions as the Committee will determine which are not inconsistent with the terms of this Plan.

7.3 Grant Price. The grant price of a Stock Appreciation Right will be determined by the Committee, in its discretion, at the Grant Date; provided, however, that such price may not be less than one hundred percent (100%) of the Fair Market Value of one share of Common Stock on the Grant Date.

7.4 Exercisability and Duration. A Stock Appreciation Right will become exercisable at such times and in such installments as may be determined by the Committee in its sole discretion at the time of grant; provided, however, that no Stock Appreciation Right may be exercisable after ten (10) years from its Grant Date. Notwithstanding the foregoing, if the exercise of a Stock Appreciation Right that is exercisable in accordance with its terms is prevented by the provisions of Section 17 of this Plan, the Stock Appreciation Right will remain exercisable until thirty (30) days after the date such exercise first would no longer be prevented by such provisions, but in any event no later than the expiration date of such Stock Appreciation Right.

7.5 Manner of Exercise. A Stock Appreciation Right will be exercised by giving notice in the same manner as for Options, as set forth in Section 6.6 of this Plan, subject to any other terms and conditions consistent with the other provisions of this Plan as may be determined by the Committee in its sole discretion.

7.6 Settlement. Upon the exercise of a Stock Appreciation Right, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying:

- (a) The excess of the Fair Market Value of a share of Common Stock on the date of exercise over the per share grant price; by
- (b) The number of shares of Common Stock with respect to which the Stock Appreciation Right is exercised.

7.7 Form of Payment. Payment, if any, with respect to a Stock Appreciation Right settled in accordance with Section 7.6 of this Plan will be made in accordance with the terms of the applicable Award Agreement, in cash, shares of Common Stock or a combination thereof, as the Committee determines.

8. Restricted Stock Awards, Restricted Stock Units and Deferred Stock Units.

8.1 Grant. An Eligible Recipient may be granted one or more Restricted Stock Awards, Restricted Stock Units or Deferred Stock Units under this Plan, and such Awards will be subject to such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion. Restricted Stock Units will be similar to Restricted Stock Awards except that no shares of Common Stock are actually awarded to the Participant on the Grant Date of the Restricted Stock Units. Restricted Stock Units and Deferred Stock Units will be denominated in shares of Common Stock but paid in cash, shares of Common Stock or a combination of cash and shares of Common Stock as the Committee, in its sole discretion, will determine, and as provided in the Award Agreement.

8.2 Award Agreement. Each Restricted Stock Award, Restricted Stock Unit or Deferred Stock Unit grant will be evidenced by an Award Agreement that will specify the type of Award, the period(s) of restriction, the number of shares of restricted Common Stock, or the number of Restricted Stock Units or Deferred Stock Units granted, and such other provisions as the Committee will determine that are not inconsistent with the terms of this Plan.

8.3 Conditions and Restrictions. Subject to the terms and conditions of this Plan, the Committee will impose such conditions or restrictions on a Restricted Stock Award, Restricted Stock Units or Deferred Stock Units granted pursuant to this Plan as it may deem advisable including a requirement that Participants pay a stipulated purchase price for each share of Common Stock underlying a Restricted Stock Award, Restricted Stock Unit or Deferred Stock Unit, restrictions based upon the achievement of specific Performance Goals, time-based restrictions on vesting following the attainment of the Performance Goals, time-based restrictions, restrictions under Applicable Laws or holding requirements or sale restrictions placed on the shares of Common Stock by the Company upon vesting of such Restricted Stock Award, Restricted Stock Units or Deferred Stock Units.

8.4 Voting Rights. Unless otherwise determined by the Committee and set forth in a Participant's Award Agreement, to the extent permitted or required by Applicable Law, as determined by the Committee, Participants holding a Restricted Stock Award granted hereunder will be granted the right to exercise full voting rights with respect to the shares of Common Stock underlying such Restricted Stock Award during the Period of Restriction. A Participant will have no voting rights with respect to any Restricted Stock Units or Deferred Stock Units granted hereunder.

#### 8.5 Dividend Rights.

(a) Unless otherwise determined by the Committee and set forth in a Participant's Award Agreement, to the extent permitted or required by Applicable Law, as determined by the Committee, Participants holding a Restricted Stock Award granted hereunder will have the same dividend rights as the Company's other stockholders. Notwithstanding the foregoing any such dividends as to a Restricted Stock Award that is subject to vesting requirements will be subject to forfeiture and termination to the same extent as the Restricted Stock Award to which such dividends relate and the Award Agreement may require that any cash dividends be reinvested in additional shares of Common Stock subject to the Restricted Stock Award and subject to the same conditions and restrictions as the Restricted Stock Award with respect to which the dividends were paid. In no event will dividends with respect to Restricted Stock Awards that are subject to vesting be paid or distributed until the vesting provisions of such Restricted Stock Award lapse.

(b) Unless otherwise determined by the Committee and set forth in a Participant's Award Agreement, to the extent permitted or required by Applicable Law, as determined by the Committee, prior to settlement or forfeiture, any Restricted Stock Units or Deferred Stock Unit awarded under this Plan may, at the Committee's discretion, carry with it a right to Dividend Equivalents. Such right entitles the Participant to be credited with an amount equal to all cash dividends paid on one share of Common Stock while the Restricted Stock Unit or Deferred Stock Unit is outstanding. Dividend Equivalents may be converted into additional Restricted Stock Units or Deferred Stock Units and may (and will, to the extent required below) be made subject to the same conditions and restrictions as the Restricted Stock Units or Deferred Stock Units to which they attach. Settlement of Dividend Equivalents may be made in the form of cash, in the form of shares of Common Stock, or in a combination of both. Dividend Equivalents as to Restricted Stock Units or Deferred Stock Units will be subject to forfeiture and termination to the same extent as the corresponding Restricted Stock Units or Deferred Stock Units as to which the Dividend Equivalents relate. In no event will Participants holding Restricted Stock Units or Deferred Stock Units be entitled to receive any Dividend Equivalents on such Restricted Stock Units or Deferred Stock Units until the vesting provisions of such Restricted Stock Units or Deferred Stock Units lapse.

8.6 Enforcement of Restrictions. To enforce the restrictions referred to in this Section 8, the Committee may place a legend on the stock certificates representing Restricted Stock Awards referring to such restrictions and may require the Participant, until the restrictions have lapsed, to keep the stock certificates, together with duly endorsed stock powers, in the custody of the Company or its transfer agent, or to maintain evidence of stock ownership, together with duly endorsed stock powers, in a certificateless book entry stock account with the Company's transfer agent. Alternatively, Restricted Stock Awards may be held in non-certificated form pursuant to such terms and conditions as the Company may establish with its registrar and transfer agent or any third-party administrator designated by the Company to hold Restricted Stock Awards on behalf of Participants.

8.7 Lapse of Restrictions; Settlement. Except as otherwise provided in this Plan, including without limitation this Section 8 and 16.4 of this Plan, shares of Common Stock underlying a Restricted Stock Award will become freely transferable by the Participant after all conditions and restrictions applicable to such shares have been satisfied or lapse (including satisfaction of any applicable tax withholding obligations). Upon the vesting of a Restricted Stock Unit, the Restricted Stock Unit will be settled, subject to the terms and conditions of the applicable Award Agreement, (a) in cash, based upon the Fair Market Value of the vested underlying shares of Common Stock, (b) in shares of Common Stock or (c) a combination thereof, as provided in the Award Agreement, except to the extent that a Participant has properly elected to defer income that may be attributable to a Restricted Stock Unit under a Company deferred compensation plan or arrangement.

8.8 Section 83(b) Election for Restricted Stock Award. If a Participant makes an election pursuant to Section 83(b) of the Code with respect to a Restricted Stock Award, the Participant must file, within thirty (30) days following the Grant Date of the Restricted Stock Award, a copy of such election with the Company and with the Internal Revenue Service, in accordance with the regulations under Section 83 of the Code. The Committee may provide in the Award Agreement that the Restricted Stock Award is conditioned upon the Participant's making or refraining from making an election with respect to the award under Section 83(b) of the Code.

9. Performance Awards.

9.1 Grant. An Eligible Recipient may be granted one or more Performance Awards under this Plan, and such Awards will be subject to such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion, including the achievement of one or more Performance Goals.

9.2 Award Agreement. Each Performance Award will be evidenced by an Award Agreement that will specify the amount of cash, shares of Common Stock, other Awards, or combination of both to be received by the Participant upon payout of the Performance Award, any Performance Goals upon which the Performance Award is subject, any Performance Period during which any Performance Goals must be achieved and such other provisions as the Committee will determine which are not inconsistent with the terms of this Plan.

9.3 Vesting. Subject to the terms of this Plan, the Committee may impose such restrictions or conditions, not inconsistent with the provisions of this Plan, to the vesting of such Performance Awards as it deems appropriate, including the achievement of one or more of the Performance Goals.

9.4 Earning of Performance Award Payment. Subject to the terms of this Plan and the Award Agreement, after the applicable Performance Period has ended, the holder of Performance Awards will be entitled to receive payout on the value and number of Performance Awards earned by the Participant over the Performance Period, to be determined as a function of the extent to which the corresponding Performance Goals have been achieved and such other restrictions or conditions imposed on the vesting and payout of the Performance Awards has been satisfied.

9.5 Form and Timing of Performance Award Payment. Subject to the terms of this Plan, after the applicable Performance Period has ended, the holder of Performance Awards will be entitled to receive payment on the value and number of Performance Awards earned by the Participant over the Performance Period, to be determined as a function of the extent to which the corresponding Performance Goals have been achieved. Payment of earned Performance Awards will be as determined by the Committee and as evidenced in the Award Agreement. Subject to the terms of this Plan, the Committee, in its sole discretion, may pay earned Performance Awards in the form of cash, in shares of Common Stock or other Awards (or in a combination thereof) equal to the value of the earned Performance Awards at the close of the applicable Performance Period. Payment of any Performance Award will be made as soon as practicable after the Committee has determined the extent to which the applicable Performance Goals have been achieved and not later than the fifteenth (15<sup>th</sup>) day of the third (3<sup>rd</sup>) month immediately following the later of the end of the Company's fiscal year in which the Performance Period ends and any additional vesting restrictions are satisfied or the end of the calendar year in which the Performance Period ends and any additional vesting restrictions are satisfied, except to the extent that a Participant has properly elected to defer payment that may be attributable to a Performance Award under a Company deferred compensation plan or arrangement. The determination of the Committee with respect to the form and time of payment of Performance Awards will be set forth in the Award Agreement pertaining to the grant of the Performance Award. Any shares of Common Stock or other Awards issued in payment of earned Performance Awards may be granted subject to any restrictions deemed appropriate by the Committee, including that the Participant remain in the continuous employment or service with the Company or a Subsidiary for a certain period.

9.6 Evaluation of Performance. The Committee may provide in any such Award Agreement including Performance Goals that any evaluation of performance may include or exclude any of the following events that occurs during a Performance Period: (a) items related to a change in accounting principles; (b) items relating to financing activities; (c) expenses for restructuring or productivity initiatives; (d) other non-operating items; (e) items related to acquisitions; (f) items attributable to the business operations of any entity acquired by the Company during the Performance Period; (g) items related to the disposal of a business or segment of a business; (h) items related to discontinued operations that do not qualify as a segment of a business under applicable accounting standards; (i) items attributable to any stock dividend, stock split, combination or exchange of stock occurring during the Performance Period; (j) any other items of significant income or expense which are determined to be appropriate adjustments; (k) items relating to unusual or extraordinary corporate transactions, events or developments; (l) items related to amortization of acquired intangible assets; (m) items that are outside the scope of the Company's core, on-going business activities; (n) items related to acquired in-process research and development; (o) items relating to changes in tax laws; (p) items relating to major licensing or partnership arrangements; (q) items relating to asset impairment charges; (r) items relating to gains or losses for litigation, arbitration and contractual settlements; (s) foreign exchange gains and losses; or (t) items relating to any other unusual or nonrecurring events or changes in applicable laws, accounting principles or business conditions.

9.7 Adjustment of Performance Goals, Performance Periods or other Vesting Criteria. The Committee may amend or modify the vesting criteria (including any Performance Goals or Performance Periods) of any outstanding Awards based in whole or in part on the financial performance of the Company (or any Subsidiary or division, business unit or other sub-unit thereof) in recognition of unusual or nonrecurring events (including the events described in Sections 9.6 or 4.4(a) of this Plan) affecting the Company or the financial statements of the Company or of changes in applicable laws, regulations or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent unintended dilution or enlargement of the benefits or potential benefits intended to be made available under this Plan. The determination of the Committee as to the foregoing adjustments, if any, will be final, conclusive and binding on Participants under this Plan.

9.8 Dividend Rights. Participants holding Performance Awards granted under this Plan will not receive any cash dividends or Dividend Equivalents based on the dividends declared on shares of Common Stock that are subject to such Performance Awards during the period between the date that such Performance Awards are granted and the date such Performance Awards are settled.

10. Non-Employee Director Awards.

10.1 Automatic and Non-Discretionary Awards to Non-Employee Directors. Subject to such terms and conditions, consistent with the other provisions of this Plan, the Committee at any time and from time to time may approve resolutions providing for the automatic grant to Non-Employee Directors of Non-Employee Director Awards granted under this Plan and may grant to Non-Employee Directors such discretionary Non-Employee Director Awards on such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion, and set forth in an applicable Award Agreement.

10.2 Deferral of Award Payment; Election to Receive Award in Lieu of Retainers. The Committee may permit Non-Employee Directors the opportunity to defer the payment of an Award pursuant to such terms and conditions as the Committee may prescribe from time to time. In addition, the Committee may permit Non-Employee Directors to elect to receive, pursuant to the procedures established by the Board or a committee of the Board, all or any portion of their annual retainers, meeting fees, or other fees in Restricted Stock, Restricted Stock Units, Deferred Stock Units or other Stock-Based Awards as contemplated by this Plan in lieu of cash.

11. Other Stock-Based Awards.

11.1 Other Stock-Based Awards. Subject to such terms and conditions, consistent with the other provisions of this Plan, as may be determined by the Committee in its sole discretion, the Committee may grant Other Stock-Based Awards to Eligible Recipients not otherwise described by the terms of this Plan (including the grant or offer for sale of unrestricted shares of Common Stock) in such amounts and subject to such terms and conditions as the Committee will determine. Such Awards may involve the transfer of actual shares of Common Stock to Participants as a bonus or in lieu of obligations to pay cash or deliver other property under this Plan or under other plans or compensatory arrangements, or payment in cash or otherwise of amounts based on the value of shares of Common Stock, and may include Awards designed to comply with or take advantage of the applicable local laws of jurisdictions other than the United States.

11.2 Value of Other Stock-Based Awards. Each Other Stock-Based Award will be expressed in terms of shares of Common Stock or units based on shares of Common Stock, as determined by the Committee. The Committee may establish Performance Goals in its discretion for any Other Stock-Based Award. If the Committee exercises its discretion to establish Performance Goals for any such Awards, the number or value of Other Stock-Based Awards that will be paid out to the Participant will depend on the extent to which the Performance Goals are met.

11.3 Payment of Other Stock-Based Awards. Payment, if any, with respect to an Other Stock-Based Award will be made in accordance with the terms of the Award, in cash or shares of Common Stock for any Other Stock-Based Award, as the Committee determines, except to the extent that a Participant has properly elected to defer payment that may be attributable to an Other Stock-Based Award under a Company deferred compensation plan or arrangement.

12. Dividend Equivalents.

Subject to the provisions of this Plan and any Award Agreement, any Participant selected by the Committee may be granted Dividend Equivalents based on the dividends declared on shares of Common Stock that are subject to any Award (including any Award that has been deferred), to be credited as of dividend payment dates, during the period between the date the Award is granted and the date the Award is exercised, vests, settles, is paid or expires, as determined by the Committee. Such Dividend Equivalents will be converted to cash or additional shares of Common Stock by such formula and at such time and subject to such limitations as may be determined by the Committee and the Committee may provide that such amounts (if any) will be deemed to have been reinvested in additional shares of Common Stock or otherwise reinvested. Notwithstanding the foregoing, the Committee may not grant Dividend Equivalents based on the dividends declared on shares of Common Stock that are subject to an Option or Stock Appreciation Right or unvested Performance Awards; and further, no dividend or Dividend Equivalents will be paid out with respect to any unvested Awards.

13. Effect of Termination of Employment or Other Service.

13.1 Termination Due to Cause. Unless otherwise expressly provided by the Committee in its sole discretion in an Award Agreement or the terms of an Individual Agreement between the Participant and the Company or one of its Subsidiaries or Affiliates or a plan or policy of the Company applicable to the Participant specifically provides otherwise, and subject to Sections 13.4 and 13.5 of this Plan, in the event a Participant's employment or other service with the Company and all Subsidiaries is terminated for Cause:

(a) All outstanding Options and Stock Appreciation Rights held by the Participant as of the effective date of such termination will be immediately terminated and forfeited;

(b) All outstanding but unvested Restricted Stock Awards, Restricted Stock Units, Performance Awards and Other Stock-Based Awards held by the Participant as of the effective date of such termination will be terminated and forfeited; and

(c) All other outstanding Awards to the extent not vested will be immediately terminated and forfeited.



13.2 Termination Due to Death, Disability or Retirement. Unless otherwise expressly provided by the Committee in its sole discretion in an Award Agreement between the Participant and the Company or one of its Subsidiaries or Affiliates or the terms of an Individual Agreement or a plan or policy of the Company applicable to the Participant specifically provides otherwise, and subject to Sections 13.4, 13.5 and 15 of this Plan, in the event a Participant's employment or other service with the Company and all Subsidiaries is terminated by reason of death or Disability of a Participant, or in the case of a Participant that is an Employee, Retirement:

(a) All outstanding Options (excluding Non-Employee Director Options in the case of Retirement) and Stock Appreciation Rights held by the Participant as of the effective date of such termination or Retirement will, to the extent exercisable as of the date of such termination or Retirement, remain exercisable for a period of one (1) year after the date of such termination or Retirement (but in no event after the expiration date of any such Option or Stock Appreciation Right) and Options and Stock Appreciation Rights not exercisable as of the date of such termination or Retirement will be terminated and forfeited;

(b) All outstanding unvested Restricted Stock Awards held by the Participant as of the effective date of such termination or Retirement will be terminated and forfeited; and

(c) All outstanding unvested Restricted Stock Units, Performance Awards, and Other Stock-Based Awards held by the Participant as of the effective date of such termination or Retirement will be terminated and forfeited; provided, however, that with respect to any such Awards the vesting of which is based on the achievement of Performance Goals, if a Participant's employment or other service with the Company or any Subsidiary, as the case may be, is terminated prior to the end of the Performance Period of such Award, but after the conclusion of a portion of the Performance Period (but in no event less than one year), the Committee may, in its sole discretion, cause shares of Common Stock to be delivered or payment made (except to the extent that a Participant has properly elected to defer income that may be attributable to such Award under a Company deferred compensation plan or arrangement) with respect to the Participant's Award, but only if otherwise earned for the entire Performance Period and only with respect to the portion of the applicable Performance Period completed at the date of such event, with proration based on the number of months or years that the Participant was employed or performed services during the Performance Period. The Committee will consider the provisions of Section 13.5 of this Plan and will have the discretion to consider any other fact or circumstance in making its decision as to whether to deliver such shares of Common Stock or other payment, including whether the Participant again becomes employed.

13.3 Termination for Reasons Other than Death, Disability or Retirement. Unless otherwise expressly provided by the Committee in its sole discretion in an Award Agreement or the terms of an Individual Agreement between the Participant and the Company or one of its Subsidiaries or Affiliates or a plan or policy of the Company applicable to the Participant specifically provides otherwise, and subject to Sections 13.4, 13.5 and 15 of this Plan, in the event a Participant's employment or other service with the Company and all Subsidiaries is terminated for any reason other than for Cause or death or Disability of a Participant, or in the case of a Participant that is an Employee, Retirement:

(a) All outstanding Options (including Non-Employee Director Options) and Stock Appreciation Rights held by the Participant as of the effective date of such termination will, to the extent exercisable as of such termination, remain exercisable for a period of three (3) months after such termination (but in no event after the expiration date of any such Option or Stock Appreciation Right) and Options and Stock Appreciation Rights not exercisable as of such termination will be terminated and forfeited. If the Participant dies within the three (3) month period referred to in the preceding sentence, the Option or Stock Appreciation Right may be exercised by those entitled to do so under the Participant's will or by the laws of descent and distribution within a period of one (1) year following the Participant's death (but in no event after the expiration date of any such Option or Stock Appreciation Right).

(b) All outstanding unvested Restricted Stock Awards held by the Participant as of the effective date of such termination will be terminated and forfeited;

(c) All outstanding unvested Restricted Stock Units, Performance Awards, and Other Stock-Based Awards held by the Participant as of the effective date of such termination will be terminated and forfeited; provided, however, that with respect to any such Awards the vesting of which is based on the achievement of Performance Goals, if a Participant's employment or other service with the Company or any Subsidiary, as the case may be, is terminated by the Company without Cause prior to the end of the Performance Period of such Award, but after the conclusion of a portion of the Performance Period (but in no event less than one year), the Committee may, in its sole discretion, cause Shares to be delivered or payment made (except to the extent that a Participant has properly elected to defer income that may be attributable to such Award under a Company deferred compensation plan or arrangement) with respect to the Participant's Award, but only if otherwise earned for the entire Performance Period and only with respect to the portion of the applicable Performance Period completed at the date of such event, with proration based on the number of months or years that the Participant was employed or performed services during the Performance Period.

13.4 Modification of Rights upon Termination. Notwithstanding the other provisions of this Section 13, upon a Participant's termination of employment or other service with the Company or any Subsidiary, as the case may be, the Committee may, in its sole discretion (which may be exercised at any time on or after the Grant Date, including following such termination) cause Options or Stock Appreciation Rights (or any part thereof) held by such Participant as of the effective date of such termination to terminate, become or continue to become exercisable or remain exercisable following such termination of employment or service, and Restricted Stock, Restricted Stock Units, Deferred Stock Units, Performance Awards, Non-Employee Director Awards, and Other Stock-Based Awards held by such Participant as of the effective date of such termination to terminate, vest or become free of restrictions and conditions to payment, as the case may be, following such termination of employment or service, in each case in the manner determined by the Committee; provided, however, that (a) no Option or Stock Appreciation Right may remain exercisable beyond its expiration date; and (b) any such action by the Committee adversely affecting any outstanding Award will not be effective without the consent of the affected Participant (subject to the right of the Committee to take whatever action it deems appropriate under Section 4.4, 13.5, 15 or 19 of this Plan).

#### 13.5 Additional Forfeiture Events.

(a) Effect of Actions Constituting Cause or Adverse Action. Notwithstanding anything in this Plan to the contrary and in addition to the other rights of the Committee under this Plan, including this Section 13.5, if a Participant is determined by the Committee, acting in its sole discretion, to have taken any action that would constitute Cause or an Adverse Action during or within one (1) year after the termination of employment or other service with the Company or a Subsidiary, irrespective of whether such action or the Committee's determination occurs before or after termination of such Participant's employment or other service with the Company or any Subsidiary and irrespective of whether or not the Participant was terminated as a result of such Cause or Adverse Action, (i) all rights of the Participant under this Plan and any Award Agreements evidencing an Award then held by the Participant will terminate and be forfeited without notice of any kind, and (ii) the Committee in its sole discretion will have the authority to rescind the exercise, vesting or issuance of, or payment in respect of, any Awards of the Participant that were exercised, vested or issued, or as to which such payment was made, and to require the Participant to pay to the Company, within ten (10) days of receipt from the Company of notice of such rescission, any amount received or the amount of any gain realized as a result of such rescinded exercise, vesting, issuance or payment (including any dividends paid or other distributions made with respect to any shares of Common Stock subject to any Award). The Company may defer the exercise of any Option or Stock Appreciation Right for a period of up to six (6) months after receipt of the Participant's written notice of exercise or the issuance of share certificates upon the vesting of any Award for a period of up to six (6) months after the date of such vesting in order for the Committee to make any determination as to the existence of Cause or an Adverse Action. The Company will be entitled to withhold and deduct from future wages of the Participant (or from other amounts that may be due and owing to the Participant from the Company or a Subsidiary) or make other arrangements for the collection of all amounts necessary to satisfy such payment obligations. Unless otherwise provided by the Committee in an applicable Award Agreement, this Section 13.5(a) will not apply to any Participant following a Change in Control.

(b) Forfeiture or Clawback of Awards Under Applicable Law and Company Policy. If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, then any Participant who is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002 will reimburse the Company for the amount of any Award received by such individual under this Plan during the 12-month period following the first public issuance or filing with the Securities and Exchange Commission, as the case may be, of the financial document embodying such financial reporting requirement. The Company also may seek to recover any Award made as required by the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act or any other clawback, forfeiture or recoupment provision required by Applicable Law or under the requirements of any stock exchange or market upon which the shares of Common Stock are then listed or traded. In addition, all Awards under this Plan will be subject to forfeiture or other penalties pursuant to any clawback or forfeiture policy of the Company, as in effect from time to time, and such forfeiture and/or penalty conditions or provisions as determined by the Committee and set forth in the applicable Award Agreement.

14. Payment of Withholding Taxes.

14.1 General Rules. The Company is entitled to (a) withhold and deduct from future wages of the Participant (or from other amounts that may be due and owing to the Participant from the Company or a Subsidiary), or make other arrangements for the collection of, all amounts the Company reasonably determines are necessary to satisfy any and all federal, foreign, state and local withholding and employment related tax requirements attributable to an Award, including the grant, exercise, vesting or settlement of, or payment of dividends with respect to, an Award or a disqualifying disposition of stock received upon exercise of an Incentive Stock Option, or (b) require the Participant promptly to remit the amount of such withholding to the Company before taking any action, including issuing any shares of Common Stock, with respect to an Award. When withholding shares of Common Stock for taxes is effected under this Plan, it will be withheld only up to an amount based on the maximum statutory tax rates in the Participant's applicable tax jurisdiction or such other rate that will not trigger a negative accounting impact on the Company.

14.2 Special Rules. The Committee may, in its sole discretion and upon terms and conditions established by the Committee, permit or require a Participant to satisfy, in whole or in part, any withholding or employment related tax obligation described in Section 14.1 of this Plan by withholding shares of Common Stock underlying an Award, by electing to tender, or by attestation as to ownership of, Previously Acquired Shares, by delivery of a Broker Exercise Notice or a combination of such methods. For purposes of satisfying a Participant's withholding or employment-related tax obligation, shares of Common Stock withheld by the Company or Previously Acquired Shares tendered or covered by an attestation will be valued at their Fair Market Value on the Tax Date.

15. Change in Control.

15.1 Definition of Change in Control. Unless otherwise provided in an Award Agreement or Individual Agreement between the Participant and the Company or one of its Subsidiaries or Affiliates, a “Change in Control” will mean the occurrence of any of the following:

(a) The acquisition, other than from the Company, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of fifty percent (50%) or more of either the then outstanding shares of Common Stock of the Company or the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors, but excluding, for this purpose, any such acquisition by the Company or any of its Subsidiaries, or any employee benefit plan (or related trust) of the Company or its Subsidiaries, or any entity with respect to which, following such acquisition, more than fifty percent (50%) of, respectively, the then outstanding equity of such entity and the combined voting power of the then outstanding voting equity of such entity entitled to vote generally in the election of all or substantially all of the members of such entity’s governing body is then beneficially owned, directly or indirectly, by the individuals and entities who were the beneficial owners, respectively, of the Common Stock and voting securities of the Company immediately prior to such acquisition in substantially the same proportion as their ownership, immediately prior to such acquisition, of the then outstanding shares of Common Stock of the Company or the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors, as the case may be; or

(b) The consummation of a reorganization, merger or consolidation of the Company, in each case, with respect to which all or substantially all of the individuals and entities who were the respective beneficial owners of the Common Stock and voting securities of the Company immediately prior to such reorganization, merger or consolidation do not, following such reorganization, merger or consolidation, beneficially own, directly or indirectly, more than fifty percent (50%) of, respectively, the then outstanding shares of Common Stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such reorganization, merger or consolidation; or

(c) a complete liquidation or dissolution of the Company or the sale or other disposition of all or substantially all of the assets of the Company.

15.2 Effect of Change in Control. Subject to the terms of the applicable Award Agreement or an Individual Agreement, in the event of a Change in Control, the Committee (as constituted prior to such Change in Control) may, in its discretion:

(a) require that shares of stock of the corporation resulting from such Change in Control, or a parent corporation thereof, be substituted for some or all of the shares of Common Stock subject to an outstanding Award, with an appropriate and equitable adjustment to such Award as shall be determined by the Board in accordance with Section 4.4;

(b) provide that (i) some or all outstanding Options shall become exercisable in full or in part, either immediately or upon a subsequent termination of employment, (ii) the restrictions or vesting applicable to some or all outstanding Restricted Stock Awards and Restricted Stock Units shall lapse in full or in part, either immediately or upon a subsequent termination of employment, (iii) the Performance Period applicable to some or all outstanding Awards shall lapse in full or in part, and/or (iv) the Performance Goals applicable to some or all outstanding Awards shall be deemed to be satisfied at the target or any other level; and/or

(c) require outstanding Awards, in whole or in part, to be surrendered to the Company by the holder, and to be immediately cancelled by the Company, and to provide for the holder to receive (A) a cash payment in an amount determined pursuant to Section 15.3 below; (B) shares of capital stock of the corporation resulting from or succeeding to the business of the Company pursuant to such Change in Control, or a parent corporation thereof, having a fair market value not less than the amount determined under clause (A) above; or (C) a combination of the payment of cash pursuant to clause (A) above and the issuance of shares pursuant to clause (B) above.

15.3 Alternative Treatment of Incentive Awards. In connection with a Change in Control, the Committee in its sole discretion, either in an Award Agreement at the time of grant of an Award or at any time after the grant of such an Award, in lieu of providing a substitute award to a Participant pursuant to Section 15.2(a), may determine that any or all outstanding Awards granted under the Plan, whether or not exercisable or vested, as the case may be, will be canceled and terminated and that in connection with such cancellation and termination the holder of such Award will receive for each share of Common Stock subject to such Award a cash payment (or the delivery of shares of stock, other securities or a combination of cash, stock and securities with a fair market value (as determined by the Committee in good faith) equivalent to such cash payment) equal to the difference, if any, between the consideration received by stockholders of the Company in respect of a share of Common Stock in connection with such Change in Control and the purchase price per share, if any, under the Award, multiplied by the number of shares of Common Stock subject to such Award (or in which such Award is denominated); provided, however, that if such product is zero (\$0) or less or to the extent that the Award is not then exercisable, the Award may be canceled and terminated without payment therefor. If any portion of the consideration pursuant to a Change in Control may be received by holders of shares of Common Stock on a contingent or delayed basis, the Committee may, in its sole discretion, determine the fair market value per share of such consideration as of the time of the Change in Control on the basis of the Committee's good faith estimate of the present value of the probable future payment of such consideration. Notwithstanding the foregoing, any shares of Common Stock issued pursuant to an Award that immediately prior to the effectiveness of the Change in Control are subject to no further restrictions pursuant to the Plan or an Award Agreement (other than pursuant to the securities laws) will be deemed to be outstanding shares of Common Stock and receive the same consideration as other outstanding shares of Common Stock in connection with the Change in Control.

15.4 Limitation on Change in Control Payments. Notwithstanding anything in this Section 15 to the contrary, if, with respect to a Participant, the acceleration of the vesting of an Award or the payment of cash in exchange for all or part of a Stock-Based Award (which acceleration or payment could be deemed a "payment" within the meaning of Section 280G(b)(2) of the Code), together with any other "payments" that such Participant has the right to receive from the Company or any corporation that is a member of an "affiliated group" (as defined in Section 1504(a) of the Code without regard to Section 1504(b) of the Code) of which the Company is a member, would constitute a "parachute payment" (as defined in Section 280G(b)(2) of the Code), then the "payments" to such Participant pursuant to Section 15.2 or Section 15.3 of this Plan will be reduced (or acceleration of vesting eliminated) to the largest amount as will result in no portion of such "payments" being subject to the excise tax imposed by Section 4999 of the Code; provided, however, that such reduction will be made only if the aggregate amount of the payments after such reduction exceeds the difference between (a) the amount of such payments absent such reduction minus (b) the aggregate amount of the excise tax imposed under Section 4999 of the Code attributable to any such excess parachute payments; and provided, further that such payments will be reduced (or acceleration of vesting eliminated) by first eliminating vesting of Options with an exercise price above the then Fair Market Value of a share of Common Stock that have a positive value for purposes of Section 280G of the Code, followed by reducing or eliminating payments or benefits pro rata among Awards that are deferred compensation subject to Section 409A of the Code, and, if a further reduction is necessary, by reducing or eliminating payments or benefits pro rata among Awards that are not subject to Section 409A of the Code. Notwithstanding the foregoing sentence, if a Participant is subject to a separate agreement with the Company or a Subsidiary that expressly addresses the potential application of Section 280G or 4999 of the Code, then this Section 15.4 will not apply and any "payments" to a Participant pursuant to Section 15 of this Plan will be treated as "payments" arising under such separate agreement; provided, however, such separate agreement may not modify the time or form of payment under any Award that constitutes deferred compensation subject to Section 409A of the Code if the modification would cause such Award to become subject to the adverse tax consequences specified in Section 409A of the Code.

15.5 Exceptions. Notwithstanding anything in this Section 15 to the contrary, individual Award Agreements or Individual Agreements between a Participant and the Company or one of its Subsidiaries or Affiliates may contain provisions with respect to vesting, payment or treatment of Awards upon the occurrence of a Change in Control, and the terms of any such Award Agreement or Individual Agreement will govern to the extent of any inconsistency with the terms of this Section 15. The Committee will not be obligated to treat all Awards subject to this Section 15 in the same manner. The timing of any payment under this Section 15 may be governed by any election to defer receipt of a payment made under a Company deferred compensation plan or arrangement.

16. Rights of Eligible Recipients and Participants: Transferability.

16.1 Employment. Nothing in this Plan or an Award Agreement will interfere with or limit in any way the right of the Company or any Subsidiary to terminate the employment or service of any Eligible Recipient or Participant at any time, nor confer upon any Eligible Recipient or Participant any right to continue employment or other service with the Company or any Subsidiary.

16.2 No Rights to Awards. No Participant or Eligible Recipient will have any claim to be granted any Award under this Plan.

16.3 Rights as a Stockholder. Except as otherwise provided in the Award Agreement, a Participant will have no rights as a stockholder with respect to shares of Common Stock covered by any Stock-Based Award unless and until the Participant becomes the holder of record of such shares of Common Stock and then subject to any restrictions or limitations as provided herein or in the Award Agreement.

16.4 Restrictions on Transfer.

(a) Except pursuant to testamentary will or the laws of descent and distribution or as otherwise expressly permitted by subsections (b) and (c) below, no right or interest of any Participant in an Award prior to the exercise (in the case of Options or Stock Appreciation Rights) or vesting, issuance or settlement of such Award will be assignable or transferable, or subjected to any lien, during the lifetime of the Participant, either voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise.

(b) A Participant will be entitled to designate a beneficiary to receive an Award upon such Participant's death, and in the event of such Participant's death, payment of any amounts due under this Plan will be made to, and exercise of any Options or Stock Appreciation Rights (to the extent permitted pursuant to Section 13 of this Plan) may be made by, such beneficiary. If a deceased Participant has failed to designate a beneficiary, or if a beneficiary designated by the Participant fails to survive the Participant, payment of any amounts due under this Plan will be made to, and exercise of any Options or Stock Appreciation Rights (to the extent permitted pursuant to Section 13 of this Plan) may be made by, the Participant's legal representatives, heirs and legatees. If a deceased Participant has designated a beneficiary and such beneficiary survives the Participant but dies before complete payment of all amounts due under this Plan or exercise of all exercisable Options or Stock Appreciation Rights, then such payments will be made to, and the exercise of such Options or Stock Appreciation Rights may be made by, the legal representatives, heirs and legatees of the beneficiary.

(c) Upon a Participant's request, the Committee may, in its sole discretion, permit a transfer of all or a portion of a Non-Statutory Stock Option, other than for value, to such Participant's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, any person sharing such Participant's household (other than a tenant or employee), a trust in which any of the foregoing have more than fifty percent (50%) of the beneficial interests, a foundation in which any of the foregoing (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than fifty percent (50%) of the voting interests. Any permitted transferee will remain subject to all the terms and conditions applicable to the Participant prior to the transfer. A permitted transfer may be conditioned upon such requirements as the Committee may, in its sole discretion, determine, including execution or delivery of appropriate acknowledgements, opinion of counsel, or other documents by the transferee.

(d) The Committee may impose such restrictions on any shares of Common Stock acquired by a Participant under this Plan as it may deem advisable, including minimum holding period requirements, restrictions under applicable federal securities laws, under the requirements of any stock exchange or market upon which the Common Stock is then listed or traded, or under any blue sky or state securities laws applicable to such shares or the Company's insider trading policy.

16.5 Non-Exclusivity of this Plan. Nothing contained in this Plan is intended to modify or rescind any previously approved compensation plans or programs of the Company or create any limitations on the power or authority of the Board to adopt such additional or other compensation arrangements as the Board may deem necessary or desirable.

17. Securities Law and Other Restrictions.

17.1 Non-Registered Stock. The shares of Common Stock to be distributed under this Plan have not been, as of the Effective Date, registered under the Securities Act or any applicable state or foreign securities laws and the Company has no obligation to any Participant to register the Common Stock or to assist the Participant in obtaining an exemption from the various registration requirements, or to list the Common Stock on a national securities exchange or any other trading or quotation system.

17.2 Securities Law Restrictions. Notwithstanding any other provision of this Plan or any Award Agreements entered into pursuant to this Plan, the Company will not be required to issue any shares of Common Stock under this Plan, and a Participant may not sell, assign, transfer or otherwise dispose of shares of Common Stock issued pursuant to Awards granted under this Plan, unless (a) there is in effect with respect to such shares a registration statement under the Securities Act and any applicable securities laws of a state or foreign jurisdiction or an exemption from such registration under the Securities Act and applicable state or foreign securities laws, and (b) there has been obtained any other consent, approval or permit from any other U.S. or foreign regulatory body which the Committee, in its sole discretion, deems necessary or advisable. The Company may condition such issuance, sale or transfer upon the receipt of any representations or agreements from the parties involved, and the placement of any legends on certificates representing shares of Common Stock, as may be deemed necessary or advisable by the Company in order to comply with such securities law or other restrictions.

18. Deferred Compensation; Compliance with Section 409A.

It is intended that all Awards issued under this Plan be in a form and administered in a manner that will comply with the requirements of Section 409A of the Code, or the requirements of an exception to Section 409A of the Code, and the Award Agreements and this Plan will be construed and administered in a manner that is consistent with and gives effect to such intent. The Committee is authorized to adopt rules or regulations deemed necessary or appropriate to qualify for an exception from or to comply with the requirements of Section 409A of the Code. With respect to an Award that constitutes a deferral of compensation subject to Code Section 409A: (a) if any amount is payable under such Award upon a termination of service, a termination of service will be treated as having occurred only at such time the Participant has experienced a Separation from Service; (b) if any amount is payable under such Award upon a Disability, a Disability will be treated as having occurred only at such time the Participant has experienced a “disability” as such term is defined for purposes of Code Section 409A; (c) if any amount is payable under such Award on account of the occurrence of a Change in Control, a Change in Control will be treated as having occurred only at such time a “change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation” as such terms are defined for purposes of Code Section 409A, (d) if any amount becomes payable under such Award on account of a Participant’s Separation from Service at such time as the Participant is a “specified employee” within the meaning of Code Section 409A, then no payment will be made, except as permitted under Code Section 409A, prior to the first business day after the earlier of (i) the date that is six months after the date of the Participant’s Separation from Service or (ii) the Participant’s death, and (e) no amendment to or payment under such Award will be made except and only to the extent permitted under Code Section 409A.

19. Amendment, Modification and Termination.

19.1 Generally. Subject to other subsections of this Section 19 and Sections 3.4 and 19.3 of this Plan, the Board at any time may suspend or terminate this Plan (or any portion thereof) or terminate any outstanding Award Agreement and the Committee, at any time and from time to time, may amend this Plan or amend or modify the terms of an outstanding Award. The Committee’s power and authority to amend or modify the terms of an outstanding Award includes the authority to modify the number of shares of Common Stock or other terms and conditions of an Award, extend the term of an Award, accept the surrender of any outstanding Award or, to the extent not previously exercised or vested, authorize the grant of new Awards in substitution for surrendered Awards; provided, however that the amended or modified terms are permitted by this Plan as then in effect and that any Participant adversely affected by such amended or modified terms has consented to such amendment or modification.

19.2 Stockholder Approval. No amendments to this Plan will be effective without approval of the Company’s stockholders if: (a) stockholder approval of the amendment is then required pursuant to Section 422 of the Code, the rules of the primary stock exchange or stock market on which the Common Stock is then traded, applicable state corporate laws or regulations, applicable federal laws or regulations, and the applicable laws of any foreign country or jurisdiction where Awards are, or will be, granted under this Plan; or (b) such amendment would: (i) modify Section 3.4 of this Plan; (ii) materially increase benefits accruing to Participants; (iii) increase the aggregate number of shares of Common Stock issued or issuable under this Plan; (iv) increase any limitation set forth in this Plan on the number of shares of Common Stock which may be issued or the aggregate value of Awards which may be made, in respect of any type of Award to any single Participant during any specified period; (v) modify the eligibility requirements for Participants in this Plan; or (vi) reduce the minimum exercise price or grant price as set forth in Sections 6.3 and 7.3 of this Plan.



19.3 Awards Previously Granted. Notwithstanding any other provision of this Plan to the contrary, no termination, suspension or amendment of this Plan may adversely affect any outstanding Award without the consent of the affected Participant; provided, however, that this sentence will not impair the right of the Committee to take whatever action it deems appropriate under Sections 4.4, 9.7, 13, 15, 18 or 19.4 of this Plan.

19.4 Amendments to Conform to Law. Notwithstanding any other provision of this Plan to the contrary, the Committee may amend this Plan or an Award Agreement, to take effect retroactively or otherwise, as deemed necessary or advisable for the purpose of conforming this Plan or an Award Agreement to any present or future law relating to plans of this or similar nature, and to the administrative regulations and rulings promulgated thereunder. By accepting an Award under this Plan, a Participant agrees to any amendment made pursuant to this Section 19.4 to any Award granted under this Plan without further consideration or action.

20. Substituted Awards.

The Committee may grant Awards under this Plan in substitution for stock and stock-based awards held by employees of another entity who become employees of the Company or a Subsidiary as a result of a merger or consolidation of the former employing entity with the Company or a Subsidiary or the acquisition by the Company or a Subsidiary of property or stock of the former employing corporation. The Committee may direct that the substitute Awards be granted on such terms and conditions as the Committee considers appropriate in the circumstances.

21. Effective Date and Duration of this Plan.

This Plan is effective as of the Effective Date. This Plan will terminate at midnight on December 19, 2029, and may be terminated prior to such time by Board action. No Award will be granted after termination of this Plan, but Awards outstanding upon termination of this Plan will remain outstanding in accordance with their applicable terms and conditions and the terms and conditions of this Plan.

22. Data Privacy.

As a condition for receiving any Award, each Participant explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of personal data as described in this Section 22 by and among the Company and its Subsidiaries and Affiliates exclusively for implementing, administering and managing the Participant's participation in the Plan. The Company and its Subsidiaries and Affiliates may hold certain personal information about a Participant, including the Participant's name, address and telephone number; birthdate; social security, insurance number or other identification number; salary; nationality; job title(s); any shares held in the Company or its Subsidiaries and Affiliates; and award details, to implement, manage and administer the Plan and awards (the "Data"). The Company and its Subsidiaries and Affiliates may transfer the Data amongst themselves as necessary to implement, administer and manage a Participant's participation in the Plan, and the Company and its Subsidiaries and Affiliates may transfer the Data to third parties assisting the Company with Plan implementation, administration and management. These recipients may be located in the Participant's country, or elsewhere, and the Participant's country may have different data privacy laws and protections than the recipients' country. By accepting an award, each Participant authorizes such recipients to receive, possess, use, retain and transfer the Data, in electronic or other form, to implement, administer and manage the Participant's participation in the Plan, including any required Data transfer to a broker or other third party with whom the Company or the Participant may elect to deposit any shares of Common Stock. The Data related to a Participant will be held only as long as necessary to implement, administer, and manage the Participant's participation in the Plan. A Participant may, at any time, view the Data that the Company holds regarding such Participant, request additional information about the storage and processing of the Data regarding such Participant, recommend any necessary corrections to the Data regarding the Participant or refuse or withdraw the consents in this Section 22 in writing, without cost, by contacting the local human resources representative. The Company may cancel the Participant's ability to participate in the Plan and, in the Committee's discretion, the Participant may forfeit any outstanding awards if the Participant refuses or withdraws the consents in this Section 22. For more information on the consequences of refusing or withdrawing consent, Participants may contact their local human resources representative.

23. Miscellaneous.

23.1 Usage. In this Plan, except where otherwise indicated by clear contrary intention, (a) any masculine term used herein also will include the feminine, (b) the plural will include the singular, and the singular will include the plural, (c) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term, and (d) “or” is used in the inclusive sense of “and/or”.

23.2 Relationship to Other Benefits. Neither Awards made under this Plan nor shares of Common Stock or cash paid pursuant to such Awards under this Plan will be included as “compensation” for purposes of computing the benefits payable to any Participant under any pension, retirement (qualified or non-qualified), savings, profit sharing, group insurance, welfare, or benefit plan of the Company or any Subsidiary unless provided otherwise in such plan.

23.3 Fractional Shares. No fractional shares of Common Stock will be issued or delivered under this Plan or any Award. The Committee will determine whether cash, other Awards or other property will be issued or paid in lieu of fractional shares of Common Stock or whether such fractional shares of Common Stock or any rights thereto will be forfeited or otherwise eliminated by rounding up or down.

23.4 Governing Law. Except to the extent expressly provided herein or in connection with other matters of corporate governance and authority (all of which will be governed by the laws of the Company’s jurisdiction of incorporation), the validity, construction, interpretation, administration and effect of this Plan and any rules, regulations and actions relating to this Plan will be governed by and construed exclusively in accordance with the laws of the State of Delaware, notwithstanding the conflicts of laws principles of any jurisdictions.

23.5 Successors. All obligations of the Company under this Plan with respect to Awards granted hereunder will be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation or otherwise, of all or substantially all of the business or assets of the Company.

23.6 Construction. Wherever possible, each provision of this Plan and any Award Agreement will be interpreted so that it is valid under the Applicable Law. If any provision of this Plan or any Award Agreement is to any extent invalid under the Applicable Law, that provision will still be effective to the extent it remains valid. The remainder of this Plan and the Award Agreement also will continue to be valid, and the entire Plan and Award Agreement will continue to be valid in other jurisdictions.

23.7 Delivery and Execution of Electronic Documents. To the extent permitted by Applicable Law, the Company may: (a) deliver by email or other electronic means (including posting on a Web site maintained by the Company or by a third party under contract with the Company) all documents relating to this Plan or any Award hereunder (including prospectuses required by the Securities and Exchange Commission) and all other documents that the Company is required to deliver to its security holders (including annual reports and proxy statements), and (b) permit Participants to use electronic, internet or other non-paper means to execute applicable Plan documents (including Award Agreements) and take other actions under this Plan in a manner prescribed by the Committee.

23.8 No Representations or Warranties Regarding Tax Effect. Notwithstanding any provision of this Plan to the contrary, the Company and its Subsidiaries, the Board, and the Committee neither represent nor warrant the tax treatment under any federal, state, local, or foreign laws and regulations thereunder (individually and collectively referred to as the “Tax Laws”) of any Award granted or any amounts paid to any Participant under this Plan including, but not limited to, when and to what extent such Awards or amounts may be subject to tax, penalties, and interest under the Tax Laws.

23.9 Unfunded Plan. Participants will have no right, title or interest whatsoever in or to any investments that the Company or its Subsidiaries may make to aid it in meeting its obligations under this Plan. Nothing contained in this Plan, and no action taken pursuant to its provisions, will create or be construed to create a trust of any kind, or a fiduciary relationship between the Company and any Participant, beneficiary, legal representative, or any other individual. To the extent that any individual acquires a right to receive payments from the Company or any Subsidiary under this Plan, such right will be no greater than the right of an unsecured general creditor of the Company or the Subsidiary, as the case may be. All payments to be made hereunder will be paid from the general funds of the Company or the Subsidiary, as the case may be, and no special or separate fund will be established and no segregation of assets will be made to assure payment of such amounts except as expressly set forth in this Plan.

23.10 Indemnification. Subject to any limitations and requirements of Delaware law, each individual who is or will have been a member of the Board, or a Committee appointed by the Board, or an officer or Employee of the Company to whom authority was delegated in accordance with Section 3.3 of this Plan, will be indemnified and held harmless by the Company against and from any loss, cost, liability or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under this Plan and against and from any and all amounts paid by him or her in settlement thereof, with the Company’s approval, or paid by him or her in satisfaction of any judgment in any such action, suit or proceeding against him or her, provided he or she will give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his/her own behalf. The foregoing right of indemnification will not be exclusive of any other rights of indemnification to which such individuals may be entitled under the Company’s Certificate of Incorporation or Bylaws, as a matter of law, or otherwise, or pursuant to any agreement with the Company, or any power that the Company may have to indemnify them or hold them harmless.

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## **Section 7: EX-99.2 (FORM OF RESTRICTED STOCK AWARD AGREEMENT UNDER HALL OF FAME RESORT & ENTERTAINMENT COMPANY 2020 OMNIBUS INCENTIVE PLAN)**

**Exhibit 99.2**

### **HALL OF FAME RESORT & ENTERTAINMENT COMPANY**

#### **Restricted Stock Award Agreement**

THIS RESTRICTED STOCK AWARD AGREEMENT (the “Agreement”), dated as of the \_\_\_th day of \_\_\_\_\_, 20\_\_\_, governs the Restricted Stock Award granted by HALL OF FAME RESORT & ENTERTAINMENT COMPANY, a Delaware corporation (the “Company”), to \_\_\_\_\_ (the “Participant”), in accordance with and subject to the provisions of the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (formerly the “GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan”) (the “Plan”). A copy of the Plan has been made available to the Participant. All terms used in this Agreement that are defined in the Plan have the same meaning given them in the Plan.

1. Grant of Restricted Stock Award. In accordance with the Plan, and effective as of \_\_\_\_\_, 20\_\_\_ (the “Date of Grant”), the Company granted to the Participant, subject to the terms and conditions of the Plan and this Agreement, a Restricted Stock Award of \_\_\_\_\_ shares of Common Stock (the “Award”).

2. Vesting. Subject to Sections 13.5 and 15.4 of the Plan, the Participant’s interest in the Common Stock covered by the Award shall become vested and nonforfeitable to the extent provided in this Section 2.

(a) Vesting Upon Date of Grant. The Participant’s interest in \_\_\_\_\_ of the shares of Common Stock covered by the Award shall be vested and nonforfeitable on the Date of Grant.

(b) Continued Employment or Service. The Participant’s interest in an additional \_\_\_\_\_ of the shares of Common Stock covered by the Award shall become vested and nonforfeitable on the first anniversary of the date on which the transactions contemplated by the Merger Agreement were consummated (the “Business Combination Date”) if the Participant is employed by the Company or an Affiliate of the Company

or provides services to the Company or an Affiliate of the Company continuously from the Date of Grant until the first anniversary of the Business Combination Date. The Participant's interest in the remaining \_\_\_\_\_ shares of Common Stock covered by the Award shall become vested and nonforfeitable on the second anniversary of the Business Combination Date if the Participant is employed by the Company or an Affiliate of the Company or provides services to the Company or an Affiliate of the Company continuously from the Date of Grant until the second anniversary of the Business Combination Date.

Except as provided in this Section 2, but subject to the provisions of the Plan (including, but not limited to, Sections 13.4 and 15 of the Plan), any shares of Common Stock covered by the Award that are not vested and nonforfeitable on or before the date that the Participant's employment and service to the Company and its Affiliates ends shall be forfeited on the date that such employment and service terminates.

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3. Transferability. Shares of Common Stock covered by the Award that have not become vested and nonforfeitable as provided in Section 2 cannot be transferred. Shares of Common Stock covered by the Award may be transferred, subject to the requirements of applicable securities laws, after they become vested and nonforfeitable as provided in Section 2.

4. Shareholder Rights. On and after the Date of Grant and prior to their forfeiture, the Participant shall have all of the rights of a shareholder of the Company with respect to the shares of Common Stock covered by the Stock Award, including the right to vote the shares and to receive all dividends declared and paid on the shares. Notwithstanding the preceding sentence, (a) dividends paid on shares of Common Stock covered by the Award that have not become vested and nonforfeitable shall be accumulated (without interest) and paid or delivered when, and to the extent that, the shares of Common Stock covered by the Award become vested and nonforfeitable, (b) the Company shall retain custody of any certificates evidencing the shares of Common Stock covered by the Award until the date that the shares become vested and nonforfeitable, (c) any certificates evidencing the shares of Common Stock covered by the Award may contain an appropriate legend approved by the Committee and (d) the Participant hereby appoints the Company's Secretary as the Participant's attorney in fact, with full power of substitution, with the power to transfer to the Company and cancel any shares of Common Stock covered by the Award that are forfeited under Section 2.

5. Tax Withholdings. The Participant shall be responsible for satisfying any income or employment tax withholding requirements arising as a result of the grant of the Award or the vesting of shares of Common Stock covered by the Award. The Participant shall make arrangements acceptable to the Committee for the satisfaction of such tax withholding requirements. Notwithstanding the preceding sentence, the Participant may elect to satisfy such tax withholding requirements by directing the Company to withhold shares of Common Stock covered by the Award that have become vested and nonforfeitable (up to the maximum statutory rate or such other rate tax rate as will not have an adverse accounting impact on the Company).

6. No Right to Continued Service. The grant of the Award does not give the Participant any rights with respect to continued employment by, or service to, the Company or any Affiliate of the Company. The grant of the Award does not affect the right of the Company or an Affiliate of the Company to terminate the Participant's employment or service.

7. Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of laws rules thereof.

8. Conflicts. In the event of any conflict between the provisions of the Plan as in effect on the Date of Grant and this Agreement, the provisions of the Plan shall govern. All references herein to the Plan shall mean the Plan as in effect on the Date of Grant.

9. Participant Bound by Plan. The Participant hereby acknowledges that a copy of the Plan has been made available to the Participant and the Participant agrees to be bound by all the terms and provisions of the Plan.

10. Binding Effect. Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon the Participant and his or her successors in interest and the Company and any successors of the Company.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Participant have executed this Agreement as of the date first set forth above.

Company: HALL OF FAME RESORTS & ENTERTAINMENT  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Participant: \_\_\_\_\_  
Name: \_\_\_\_\_

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Restricted Stock Award Agreement

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## **Section 8: EX-99.3 (RESTRICTED STOCK UNIT AWARD AGREEMENT, BY AND BETWEEN THE COMPANY AND TARA CHARNES, DATED AS OF SEPTEMBER 16, 2020)**

**Exhibit 99.3**

EXECUTION COPY

HALL OF FAME RESORT & ENTERTAINMENT COMPANY

### **Restricted Stock Unit Award Agreement**

THIS RESTRICTED STOCK UNIT AWARD AGREEMENT (the "Agreement"), dated as of the 16th day of September, 2020, governs the Restricted Stock Unit Award granted by HALL OF FAME RESORT & ENTERTAINMENT COMPANY, a Delaware corporation (the "Company"), to TARA CHARNES (the "Participant"). The Restricted Stock Unit Award governed by this Agreement is granted by the Company as a material inducement to the Participant to accept and commence employment with the Company and not pursuant to the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (formerly the "GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan") (the "Plan") (although terms used in this Agreement that are defined in the Plan have the same meaning given them in the Plan). A copy of the Plan has been made available to the Participant.

1. Grant of Restricted Stock Award. In satisfaction of the obligation to grant the Participant shares of Common Stock under Section 2.3 of the Employment Agreement by and among HOF Village Newco, LLC, the Company and the Participant and effective as of September 16, 2020 (the "Date of Grant"), the Company granted to the Participant, subject to the terms and conditions of the Plan and this Agreement, a Restricted Stock Unit Award with respect to 138,568 shares of Common Stock (the "Award").

2. Vesting. Subject to Section 7 of this Agreement (with respect to Sections 13.4 and 15.2 of the Plan), the Participant's interest in the Restricted Stock Units covered by the Award shall become vested and nonforfeitable to the extent provided in this Section 2. The Participant's interest in the number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall become vested and nonforfeitable ("Vested") on the first anniversary of the Participant's effective date of employment, which is August 31, 2020 (the "Effective Date") if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the first anniversary of the Effective Date. The Participant's interest in an additional number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall become Vested on the second anniversary of the Effective Date if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the second anniversary of the Effective Date. The Participant's interest in the remaining Restricted Stock Units covered by the Award shall become Vested on the third anniversary of the Effective Date if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the third anniversary of the Effective Date.

Except as provided in this Section 2, but subject to the provisions of Section 7 of this Agreement (with respect to Sections 13.4 and 15.2 of the Plan), any Restricted Stock Units covered by the Award that are not Vested on or before the date that the Participant's employment with the Company and its Affiliates ends shall be forfeited on the date that such employment terminates for any reason.

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3. Transferability. The Restricted Stock Units covered by the Award cannot be transferred. Shares of Common Stock issued in settlement of Vested Restricted Stock Units may be transferred, subject to the requirements of applicable securities laws.

4. Settlement. The Company shall issue one share of Common Stock to the Participant for each Restricted Stock Unit that becomes Vested. The shares of Common Stock issuable in settlement of Vested Restricted Stock Units shall be issued within thirty (30) days after the date that the Restricted Stock Units become Vested. A fractional share of Common Stock shall not be issued to the Participant but the Company shall make a cash payment to the Participant in lieu of such fractional share.

5. Shareholder Rights. The Participant shall not have any of the rights of a shareholder of the Company with respect to the Restricted Stock Units covered by the Stock Award. On and after the date that shares of Common Stock are issued in settlement of Vested Restricted Stock Units, the Participant shall have all of the rights of a shareholder of the Company with respect to the shares of Common Stock issued in settlement of the Award, including the right to vote the shares and to receive all dividends declared and paid on the shares.

6. Tax Withholdings. The Participant shall be responsible for satisfying any income or employment tax withholding requirements arising as a result of the grant, vesting and settlement of the Restricted Stock Units covered by the Award. The Participant shall make arrangements acceptable to the Committee for the satisfaction of such tax withholding requirements. Notwithstanding the preceding sentence, the Participant may elect to satisfy such tax withholding requirements by directing the Company to withhold shares of Common Stock issuable in settlement of Vested Restricted Stock Units (up to the maximum statutory rate or such other rate tax rate as will not have an adverse accounting impact on the Company).

7. Plan Provisions. The following provisions of the Plan shall apply to this Award and the Restricted Stock Units covered by the Award on the same basis as if this Award had been granted pursuant to the Plan: Section 4.4 (“Adjustments to Shares and Awards”); Section 13.4 (“Modification of Rights upon Termination”); Section 13.5 (“Additional Forfeiture Events”); Section 15.2 (“Effect of Change in Control”); Section 15.4 (“Limitation of Change in Control Payments”); Section 17 (“Securities Law and Other Restrictions”); Section 18 (“Deferred Compensation; Compliance with Section 409A”); Section 19.3 (“Awards Previously Granted”); Section 19.4 (“Amendments to Conform to Law”); Section 22 (“Data Privacy”); Section 23.7 (“Delivery and Execution of Electronic Documents”) and Section 23.8 (“No Representations or Warranties Regarding Tax Effect”).

8. No Right to Continued Employment. The grant of the Award does not give the Participant any rights with respect to continued employment by the Company or any Affiliate of the Company. The grant of the Award does not affect the right of the Company or an Affiliate of the Company to terminate the Participant’s employment.

9. Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of laws rules thereof.

10. Binding Effect. Subject to the limitations stated above, this Agreement shall be binding upon the Participant and his or her successors in interest and the Company and any successors of the Company.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Participant have executed this Agreement as of the date first set forth above.

Company:

HALL OF FAME RESORTS & ENTERTAINMENT  
COMPANY

By: /s/ Michael Crawford

Name: Michael Crawford

Title: President and Chief Executive Officer

Participant:

/s/ Tara Charnes

Name: Tara Charnes

Restricted Stock Award Agreement

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## **Section 9: EX-99.4 (RESTRICTED STOCK UNIT AWARD AGREEMENT, BY AND BETWEEN THE COMPANY AND TARA CHARNES, DATED AS OF SEPTEMBER 16, 2020)**

**Exhibit 99.4**

EXECUTION COPY

HALL OF FAME RESORT & ENTERTAINMENT COMPANY

### **Restricted Stock Unit Award Agreement**

THIS RESTRICTED STOCK UNIT AWARD AGREEMENT (the "Agreement"), dated as of the 16th day of September, 2020, governs the Restricted Stock Unit Award granted by HALL OF FAME RESORT & ENTERTAINMENT COMPANY, a Delaware corporation (the "Company"), to ERICA MUHLEMAN (the "Participant"). The Restricted Stock Unit Award governed by this Agreement is granted by the Company as a material inducement to the Participant to accept and commence employment with the Company and not pursuant to the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (formerly the "GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan") (the "Plan") (although terms used in this Agreement that are defined in the Plan have the same meaning given them in the Plan). A copy of the Plan has been made available to the Participant.

1. Grant of Restricted Stock Award. In satisfaction of the obligation to grant the Participant shares of Common Stock under Section 2.3 of the Employment Agreement by and among HOF Village Newco, LLC, the Company and the Participant and effective as of September 16, 2020 (the "Date of Grant"), the Company granted to the Participant, subject to the terms and conditions of the Plan and this Agreement, a Restricted Stock Unit Award with respect to 144,613 shares of Common Stock (the "Award").

2. Vesting. Subject to Section 7 of this Agreement (with respect to Sections 13.4 and 15.2 of the Plan), the Participant's interest in the Restricted Stock Units covered by the Award shall become vested and nonforfeitable to the extent provided in this Section 2. The Participant's interest in the number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall become vested and nonforfeitable ("Vested") on the first anniversary of the Participant's effective date of employment, which is September 14, 2020 (the "Effective Date") if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the first anniversary of the Effective Date. The Participant's interest in an additional number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall become Vested on the second anniversary of the Effective Date if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the second anniversary of the Effective Date. The Participant's interest in the remaining Restricted Stock Units covered by the Award shall become Vested on the third anniversary of the Effective Date if the Participant is employed by the Company or an Affiliate of the Company continuously from the Effective Date until the third anniversary of the Effective Date.

Except as provided in this Section 2, but subject to the provisions of Section 7 of this Agreement (with respect to Sections 13.4 and 15.2 of the Plan), any Restricted Stock Units covered by the Award that are not Vested on or before the date that the Participant's employment with the Company and its Affiliates ends shall be forfeited on the date that such employment terminates for any reason.

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3. Transferability. The Restricted Stock Units covered by the Award cannot be transferred. Shares of Common Stock issued in settlement of Vested Restricted Stock Units may be transferred, subject to the requirements of applicable securities laws.

4. Settlement. The Company shall issue one share of Common Stock to the Participant for each Restricted Stock Unit that becomes Vested. The shares of Common Stock issuable in settlement of Vested Restricted Stock Units shall be issued within thirty (30) days after the date that the Restricted Stock Units become Vested. A fractional share of Common Stock shall not be issued to the Participant but the Company shall make a cash payment to the Participant in lieu of such fractional share.

5. Shareholder Rights. The Participant shall not have any of the rights of a shareholder of the Company with respect to the Restricted Stock Units covered by the Stock Award. On and after the date that shares of Common Stock are issued in settlement of Vested Restricted Stock Units, the Participant shall have all of the rights of a shareholder of the Company with respect to the shares of Common Stock issued in settlement of the Award, including the right to vote the shares and to receive all dividends declared and paid on the shares.

6. Tax Withholdings. The Participant shall be responsible for satisfying any income or employment tax withholding requirements arising as a result of the grant, vesting and settlement of the Restricted Stock Units covered by the Award. The Participant shall make arrangements acceptable to the Committee for the satisfaction of such tax withholding requirements. Notwithstanding the preceding sentence, the Participant may elect to satisfy such tax withholding requirements by directing the Company to withhold shares of Common Stock issuable in settlement of Vested Restricted Stock Units (up to the maximum statutory rate or such other rate tax rate as will not have an adverse accounting impact on the Company).

7. Plan Provisions. The following provisions of the Plan shall apply to this Award and the Restricted Stock Units covered by the Award on the same basis as if this Award had been granted pursuant to the Plan: Section 4.4 (“Adjustments to Shares and Awards”); Section 13.4 (“Modification of Rights upon Termination”); Section 13.5 (“Additional Forfeiture Events”); Section 15.2 (“Effect of Change in Control”); Section 15.4 (“Limitation of Change in Control Payments”); Section 17 (“Securities Law and Other Restrictions”); Section 18 (“Deferred Compensation; Compliance with Section 409A”); Section 19.3 (“Awards Previously Granted”); Section 19.4 (“Amendments to Conform to Law”); Section 22 (“Data Privacy”); Section 23.7 (“Delivery and Execution of Electronic Documents”) and Section 23.8 (“No Representations or Warranties Regarding Tax Effect”).

8. No Right to Continued Employment. The grant of the Award does not give the Participant any rights with respect to continued employment by the Company or any Affiliate of the Company. The grant of the Award does not affect the right of the Company or an Affiliate of the Company to terminate the Participant’s employment.

9. Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of laws rules thereof.

10. Binding Effect. Subject to the limitations stated above, this Agreement shall be binding upon the Participant and his or her successors in interest and the Company and any successors of the Company.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Participant have executed this Agreement as of the date first set forth above.

Company:

HALL OF FAME RESORTS & ENTERTAINMENT  
COMPANY

By: /s/ Michael Crawford

Name: Michael Crawford

Title: President and Chief Executive Officer

Participant:

/s/ Erica Muhleman

Name: Erica Muhleman

Restricted Stock Award Agreement

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## **Section 10: EX-99.5 (FORM OF RESTRICTED STOCK UNIT AWARD AGREEMENT UNDER HALL OF FAME RESORT & ENTERTAINMENT COMPANY 2020 OMNIBUS INCENTIVE PLAN)**

**Exhibit 99.5**

Form of

HALL OF FAME RESORT & ENTERTAINMENT COMPANY

### **Restricted Stock Unit Award Agreement**

THIS RESTRICTED STOCK UNIT AWARD AGREEMENT (the "Agreement"), dated as of the \_\_\_ day of \_\_\_\_\_, 202\_, governs the Restricted Stock Unit Award granted by HALL OF FAME RESORT & ENTERTAINMENT COMPANY, a Delaware corporation (the "Company"), to \_\_\_\_\_ (the "Participant"). The Restricted Stock Unit Award governed by this Agreement is granted by the Company pursuant to the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (formerly the "GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan") (the "Plan"). Terms used in this Agreement that are defined in the Plan have the same meaning given them in the Plan). A copy of the Plan has been made available to the Participant.

1. Grant of Restricted Stock Award. Effective as of \_\_\_\_\_, 202\_ (the "Date of Grant"), the Company granted to the Participant, subject to the terms and conditions of the Plan and this Agreement, a Restricted Stock Unit Award with respect to \_\_\_\_\_ shares of Common Stock (the "Award").

2. Vesting. Subject to Section Sections 13.4 and 15.2 of the Plan, the Participant's interest in the Restricted Stock Units covered by the Award shall become vested and nonforfeitable to the extent provided in this Section 2. The Participant's interest in the number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall be vested and nonforfeitable ("Vested") on the Date of Grant. The Participant's interest in an additional number of Restricted Stock Units covered by the Award that most nearly equals, but does not exceed, one-third of such Restricted Stock Units shall become Vested on the first anniversary of the date on which the transactions contemplated by the Merger Agreement are consummated (the "Business Combination Date") if the Participant is employed by the Company or an Affiliate of the Company continuously from the Date of Grant until the first anniversary of the Business Combination Date. The Participant's interest in the remaining Restricted Stock Units covered by the Award shall become Vested on the second anniversary of the Business Combination Date if the Participant is employed by the Company or an Affiliate of the Company continuously from the Date of Grant until the second anniversary of the Business Combination Date.

Except as provided in this Section 2, but subject to the provisions of Sections 13.4 and 15.2 of the Plan, any Restricted Stock Units covered by the Award that are not Vested on or before the date that the Participant's employment with the Company and its Affiliates ends shall be forfeited on the date that such employment terminates for any reason.

3. Transferability. The Restricted Stock Units covered by the Award cannot be transferred. Shares of Common Stock issued in settlement of Vested Restricted Stock Units may be transferred, subject to the requirements of applicable securities laws.

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4. Settlement. The Company shall issue one share of Common Stock to the Participant for each Restricted Stock Unit that is Vested on the Date of Grant or that becomes Vested. The shares of Common Stock issuable in settlement of Vested Restricted Stock Units shall be issued within thirty (30) days after the Date of Grant (with respect to Restricted Stock Units that are Vested on the Date of Grant) and within thirty (30) days after the date that the remaining Restricted Stock Units become Vested. A fractional share of Common Stock shall not be issued to the Participant but the Company shall make a cash payment to the Participant in lieu of such fractional share.

5. Shareholder Rights. The Participant shall not have any of the rights of a shareholder of the Company with respect to the Restricted Stock Units covered by the Stock Award. On and after the date that shares of Common Stock are issued in settlement of Vested Restricted Stock Units, the Participant shall have all of the rights of a shareholder of the Company with respect to the shares of Common Stock issued in settlement of the Award, including the right to vote the shares and to receive all dividends declared and paid on the shares.

6. Tax Withholdings. The Participant shall be responsible for satisfying any income or employment tax withholding requirements arising as a result of the grant, vesting and settlement of the Restricted Stock Units covered by the Award. The Participant shall make arrangements acceptable to the Committee for the satisfaction of such tax withholding requirements. Notwithstanding the preceding sentence, the Participant may elect to satisfy such tax withholding requirements by directing the Company to withhold shares of Common Stock issuable in settlement of Vested Restricted Stock Units (up to the maximum statutory rate or such other rate tax rate as will not have an adverse accounting impact on the Company).

7. Participant Bound by Plan. The Participant hereby acknowledges that a copy of the Plan has been made available to the Participant and the Participant agrees to be bound by all of the terms and provisions of the Plan.

8. No Right to Continued Employment. The grant of the Award does not give the Participant any rights with respect to continued employment by the Company or any Affiliate of the Company. The grant of the Award does not affect the right of the Company or an Affiliate of the Company to terminate the Participant's employment.

9. Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of laws rules thereof.

10. Binding Effect. Subject to the limitations stated above, this Agreement shall be binding upon the Participant and his or her successors in interest and the Company and any successors of the Company.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Participant have executed this Agreement as of the date first set forth above.

Company: HALL OF FAME RESORTS & ENTERTAINMENT COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Participant: \_\_\_\_\_  
Name: \_\_\_\_\_

Restricted Stock Unit Award Agreement

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## **Section 11: EX-99.6 (FORM OF NON-EMPLOYEE DIRECTOR RESTRICTED STOCK UNIT AWARD AGREEMENT UNDER HALL OF FAME RESORT & ENTERTAINMENT COMPANY 2020 OMNIBUS INCENTIVE PLAN)**

**Exhibit 99.6**

Form of Non-Employee Director

HALL OF FAME RESORT & ENTERTAINMENT COMPANY

### **Restricted Stock Unit Award Agreement**

THIS NON-EMPLOYEE DIRECTOR RESTRICTED STOCK UNIT AWARD AGREEMENT (the "Agreement"), dated as of the \_\_\_ day of \_\_\_\_\_, 202\_, governs the Restricted Stock Unit Award granted by HALL OF FAME RESORT & ENTERTAINMENT COMPANY, a Delaware corporation (the "Company"), to \_\_\_\_\_ (the "Participant"). The Restricted Stock Unit Award governed by this Agreement is granted by the Company pursuant to the Hall of Fame Resort & Entertainment Company 2020 Omnibus Incentive Plan (formerly the "GPAQ Acquisition Holdings, Inc. 2020 Omnibus Incentive Plan") (the "Plan"). Terms used in this Agreement that are defined in the Plan have the same meaning given them in the Plan). A copy of the Plan has been made available to the Participant.

1. **Grant of Restricted Stock Award.** Effective as of \_\_\_\_\_, 202\_ (the "Date of Grant"), the Company granted to the Participant, subject to the terms and conditions of the Plan and this Agreement, a Restricted Stock Unit Award with respect to \_\_\_\_\_ shares of Common Stock (the "Award").

2. **Vesting.** Subject to Section Sections 13.4 and 15.2 of the Plan, the Participant's interest in the Restricted Stock Units covered by the Award shall become vested and nonforfeitable to the extent provided in this Section 2. The Participant's interest in all of the Restricted Stock Units covered by the Award shall become vested and nonforfeitable ("Vested") on the first anniversary of the Date of Grant if the Participant serves as a Director continuously from the Date of Grant until the first anniversary of the Date of Grant.

Except as provided in this Section 2, but subject to the provisions of Sections 13.4 and 15.2 of the Plan, any Restricted Stock Units covered by the Award that are not Vested on or before the date that the Participant's service as a Director ends shall be forfeited on the date that such service ends for any reason.

3. **Transferability.** The Restricted Stock Units covered by the Award cannot be transferred. Shares of Common Stock issued in settlement of Vested Restricted Stock Units may be transferred, subject to the requirements of applicable securities laws.

4. **Settlement.** The Company shall issue one share of Common Stock to the Participant for each Restricted Stock Unit that becomes Vested. The shares of Common Stock issuable in settlement of Vested Restricted Stock Units shall be issued within thirty (30) days after the date that the Restricted Stock Units become Vested. A fractional share of Common Stock shall not be issued to the Participant but the Company shall make a cash payment to the Participant in lieu of such fractional share.

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5. Shareholder Rights. The Participant shall not have any of the rights of a shareholder of the Company with respect to the Restricted Stock Units covered by the Stock Award. On and after the date that shares of Common Stock are issued in settlement of Vested Restricted Stock Units, the Participant shall have all of the rights of a shareholder of the Company with respect to the shares of Common Stock issued in settlement of the Award, including the right to vote the shares and to receive all dividends declared and paid on the shares.

6. Participant Bound by Plan. The Participant hereby acknowledges that a copy of the Plan has been made available to the Participant and the Participant agrees to be bound by all of the terms and provisions of the Plan.

7. No Right to Continued Service. The grant of the Award does not give the Participant any rights with respect to continued service as a Director. The grant of the Award does not affect the right of the Company to terminate the Participant's service as a Director.

8. Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of laws rules thereof.

9. Binding Effect. Subject to the limitations stated above, this Agreement shall be binding upon the Participant and his or her successors in interest and the Company and any successors of the Company.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Participant have executed this Agreement as of the date first set forth above.

Company: HALL OF FAME RESORTS & ENTERTAINMENT  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Participant: \_\_\_\_\_  
Name: \_\_\_\_\_

Restricted Stock Unit Award Agreement

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