

**TEXAS LOTTERY COMMISSION**  
**Scratch Ticket Game Closing Analysis**  
**SUMMARY REPORT**

**Instant Ticket Information**

Date Completed

2/21/2023

Game #	2416	Confirmed Packs	1,539
Game Name	Houston Texans	Active Packs	1,067
Quantity Printed	5,627,550	Warehouse Packs	28,770
Price Point	\$5	Returned Packs	1,675
Start Date	8/15/2022	Printed Payout Percentage	67.90%
Top Prize	\$ 100,000	Percent Sold	54.01%
Number of Top Prizes Remaining	2	Number of Weeks Out	27

**Current Game Sales Analysis****TANGIBLE COSTS****Expenditure Impact:**

Cost to print tickets	\$ 134,787	Actual ticket production costs
Licensing Fee	\$ 293,750	From Agreement Amendment
Non-cash Prize Allocation	\$ 1,349,390	From EOPPS (non-cash prizes plus withholdings)
Prize payout expense	\$ 9,172,300	Data from Instant Ticket Tier Liability screen in ES

**Estimated Direct Costs**      \$ 10,950,226

**TANGIBLE BENEFITS****Revenue Impact:**

Estimated sales	\$ 15,197,199	Based on # of tkts printed, times % sold from DaVinci report, times the price point
<b>Total Estimated Benefits</b>	<u><u>\$ 15,197,199</u></u>	

**Excess of Revenue over Expended**      \$ 4,246,972

**INTANGIBLE POSITIVE BENEFITS:**

- Allows for open bin space for new games at same price point with higher average weekly sales.
- Allows retailers to return inventory to TLC that is not selling thus releasing their financial burden

**INTANGIBLE NEGATIVE BENEFITS:**

- There are still valuable prizes remaining in this game.

**Assumptions:**

- Estimated sales revenue is calculated based on the number of tickets printed times the percent sold from the DaVinci report. The percent sold amount is based on pack settlements. Some partial packs could be returned thus slightly reducing the sales revenue amount reported above.

**Weekly Sales Comparison Information**

<u>Previous 3 Weeks Sales from DaVinci</u>		
Most recent week sales	\$	129,295
Next week	\$	163,450
Next week	\$	154,360
Avg Weekly Sales Current Game	\$	149,035
Avg Weekly Sales \$5; 5M-9.99M Qty	\$	1,868,249
<b>Percentage Of Variance In Sales</b>		<b>92%</b>

**TEXAS LOTTERY COMMISSION**  
**Scratch Ticket Game Closing Analysis**  
**RECOMMENDATION AND APPROVALS**

### Instant Ticket Information

Game #	2416	Printed Payout Percentage	67.90%
Game Name	Houston Texans	Actual Payout Percentage	69.23%
Percent Sold	54.01%	Number of Weeks Out	27
Average # of Weeks for 85% Sell-through for Same Price Point Game With Similar Print Run.			18

### Recommendation

☐ Based on the findings in this Summary Report, I am recommending closing the above game.

☒ I am recommending closing the above game based on the below business reason(s):

This Houston Texans game needs to be pre-called in March to permit the game to be closed and the final drawing  
conducted prior to the launch of the next Houston Texans game tentatively scheduled to launch in August 2023, as well  
as to ensure the winners of season ticket prizes from the final drawing will receive tickets to the next season.

*Dale Bowersock*

2/22/2023

Scratch Ticket Strategy Coordinator Date

*Rene McLoey*

2/22/2023

Products Manager Date

By signing below, I agree with the recommendation of the Products Department Staff to close the above game.

*Robert Lee*

2/23/2023

Lottery Operations Division Director Date

*Kelly Stuckey*

2/27/2023

Controller Date

*Roy Mitchell*

2/27/2023

Deputy Executive Director Date

*Gary Brief*

2/28/2023

Executive Director Date

## Bowersock, Dale

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**From:** Bowersock, Dale  
**Sent:** Wednesday, February 22, 2023 9:49 AM  
**To:** Bowersock, Dale  
**Subject:** Will Russ - Out of Office - Friday, 2/17 - Thursday, 2/23 Afternoon

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**From:** Russ, Will <[Will.Russ@lottery.state.tx.us](mailto:Will.Russ@lottery.state.tx.us)>  
**Sent:** Thursday, February 16, 2023 2:41 PM  
**To:** Products <[Productsgw@lottery.state.tx.us](mailto:Productsgw@lottery.state.tx.us)>  
**Cc:** Mendoza, Merry <[Merry.Mendoza@lottery.state.tx.us](mailto:Merry.Mendoza@lottery.state.tx.us)>; Bland, Angie <[Angie.Bland@lottery.state.tx.us](mailto:Angie.Bland@lottery.state.tx.us)>; Moreno, Heidi <[Heidi.Moreno@lottery.state.tx.us](mailto:Heidi.Moreno@lottery.state.tx.us)>; Austin, Casey <[Casey.Austin@lottery.state.tx.us](mailto:Casey.Austin@lottery.state.tx.us)>; Tirloni, Robert <[Robert.Tirloni@lottery.state.tx.us](mailto:Robert.Tirloni@lottery.state.tx.us)>; ManagersLO <[ManagersLO@lottery.state.tx.us](mailto:ManagersLO@lottery.state.tx.us)>  
**Subject:** RE: Will Russ - Out of Office - Friday, 2/17 - Thursday, 2/23 Afternoon

I will be out of the office Friday, 2/17 – the afternoon of Thursday, 2/23.

Rene' McCoy will have signature authority while I am out. Rene' will approve ISRs and EREQs in my absence; please let her know when you have one that needs to be reviewed.

Thanks and enjoy the weekend.

**Will Russ | Products Manager | Texas Lottery®**  
1801 Congress Ave. | Austin, Texas | 78701  
Office 512.344.5386 [www.texaslottery.com](http://www.texaslottery.com)



*Play the Games of Texas!*

Da Vinci Report

2/21/23

Week End Date:2/18/23

Product Line	Game	\$	Tix Run	Name	Start	Call	Close	Wks	% Sold	Confirmed	Active	Ware	Return	Net Sales			
														2/18/23	2/11/23	2/4/23	1/28/23
Mature	2440	\$5	12,237,000	\$200,000 CASH BLOWOUT	9/6/22			24	61.43%	9,902	7,796	41,620	43	\$983,365.00	\$1,056,340.00	\$1,032,350.00	\$989,265.00
	2428	\$5	23,203,950	BINGO TIMES 20	4/11/22			45	52.95%	12,125	8,769	121,221	39	\$1,507,095.00	\$1,484,015.00	\$1,430,435.00	\$1,417,700.00
	2415	\$5	9,906,375	COWBOYS	8/15/22			27	49.81%	2,233	1,934	60,139	299	\$248,145.00	\$313,875.00	\$321,485.00	\$372,060.00
	2444	\$5	10,272,825	DAY OF THE DEAD	10/3/22			20	47.70%	1,330	1,125	62,488	4,115	\$193,450.00	\$235,125.00	\$267,230.00	\$278,480.00
	2416	\$5	5,627,550	HOUSTON TEXANS	8/15/22			27	54.01%	1,539	1,067	28,770	1,675	\$129,295.00	\$163,450.00	\$154,360.00	\$162,925.00
	2374	\$5	27,786,375	POWER 50X	1/3/22			59	69.77%	5,330	4,953	98,767	58	\$747,470.00	\$806,275.00	\$768,575.00	\$778,000.00
	2425	\$5	32,632,050	SUPER CROSSWORD	2/24/22			51	70.74%	14,497	9,191	98,543	50	\$2,163,085.00	\$2,218,080.00	\$2,165,890.00	\$2,138,415.00
	2333	\$10	28,628,600	\$250,000 50X CASHWORD	12/20/21			61	72.62%	19,424	8,253	123,404	41	\$3,122,070.00	\$3,181,570.00	\$3,166,400.00	\$3,173,980.00
	2369	\$10	12,077,250	\$50, \$100 OR \$500!	8/1/22			29	85.76%	18,017	7,144	4,192	23	\$2,673,380.00	\$2,721,600.00	\$2,768,860.00	\$2,796,330.00
	2441	\$10	14,063,350	\$500,000 CASH BLOWOUT	9/6/22			24	36.28%	14,801	7,694	152,746	45	\$1,301,520.00	\$1,361,820.00	\$1,296,860.00	\$1,360,460.00
	2422	\$10	8,199,450	7	10/3/22			20	75.35%	9,358	4,986	23,904	52	\$1,324,860.00	\$1,409,260.00	\$1,523,930.00	\$1,644,920.00
	2407	\$10	12,236,750	PAYOUT MULTIPLIER	7/5/22			33	52.75%	5,563	2,947	105,372	59	\$573,040.00	\$657,000.00	\$668,720.00	\$689,110.00
	2452	\$10	5,882,300	PEPPERMINT PAYOUT DELUXE	11/7/22			15	81.34%	6,117	3,556	3,463	853	\$951,330.00	\$1,299,840.00	\$1,377,490.00	\$1,636,210.00
	2311	\$10	8,067,400	TRIPLE RED 777 SUPER TICKET	7/11/22			32	71.63%	13,254	6,658	22,544	16	\$1,591,960.00	\$1,677,100.00	\$1,585,210.00	\$1,627,060.00
	2442	\$20	10,250,650	\$1,000,000 CASH BLOWOUT	9/6/22			24	31.52%	17,188	7,599	251,609	57	\$1,766,140.00	\$1,654,720.00	\$1,597,360.00	\$1,708,460.00
	2438	\$20	19,277,675	\$1,000,000 CROSSWORD	6/6/22			37	45.99%	25,179	8,934	374,501	34	\$4,936,620.00	\$4,749,340.00	\$4,646,900.00	\$4,745,940.00
	2349	\$20	8,200,000	500X	7/18/22			31	79.39%	11,725	5,163	47,622	34	\$2,108,120.00	\$2,008,520.00	\$1,990,880.00	\$2,140,680.00
	2367	\$20	16,392,750	CASH SPECTACULAR	11/15/21			66	49.47%	11,763	5,585	310,420	62	\$1,814,440.00	\$1,757,660.00	\$1,622,340.00	\$1,638,700.00
	2434	\$20	16,932,075	MILLION DOLLAR LOTERIA	9/19/22			22	52.99%	48,345	12,576	244,290	17	\$8,440,240.00	\$8,422,460.00	\$8,127,020.00	\$8,313,440.00
	2402	\$20	8,199,050	MONEY	6/20/22			35	49.05%	7,137	3,416	154,516	40	\$951,580.00	\$920,600.00	\$901,220.00	\$975,600.00
	2053	\$30	34,080,725	\$750 MILLION WINNER'S CIRCLE	3/19/18			257	74.67%	11,003	6,095	323,278	88	\$2,800,470.00	\$2,757,420.00	\$2,568,180.00	\$2,639,730.00
	2387	\$30	9,009,725	PREMIER CASH	4/4/22			46	58.37%	12,714	7,080	126,574	63	\$2,778,810.00	\$2,749,590.00	\$2,522,040.00	\$2,579,760.00
	2423	\$50	6,608,840	\$1,000,000 DIAMOND RICHES	8/1/22			29	44.05%	18,144	6,590	156,574	40	\$3,632,650.00	\$3,567,300.00	\$3,222,300.00	\$3,582,300.00
	2358	\$50	5,984,660	\$1,000,000 ULTIMATE	12/20/21			61	84.24%	13,247	4,838	26,021	64	\$2,414,800.00	\$2,254,000.00	\$2,179,450.00	\$2,316,550.00
	2378	\$50	6,116,960	\$200,000,000 CASH BLOWOUT!	3/7/22			50	79.73%	13,043	4,764	41,036	89	\$2,820,200.00	\$2,556,500.00	\$2,296,300.00	\$2,410,650.00
	2344	\$50	10,279,600	500X LOTERIA SPECTACULAR	10/18/21			70	80.83%	18,335	6,473	69,093	89	\$5,153,050.00	\$4,968,300.00	\$4,568,400.00	\$4,819,300.00
	2400	\$100	10,379,010	\$20 MILLION SUPREME	5/16/22			40	42.32%	22,784	9,116	362,249	85	\$8,772,200.00	\$8,431,900.00	\$7,888,300.00	\$8,495,200.00
Out of Wareh	2453	\$2	7,173,250	TRIPLE 777	12/19/22			9	75.70%	6,623	5,803	46	4	\$692,316.00	\$1,195,026.00	\$1,219,782.00	\$862,088.00
Sold/Closing	2405	\$1	17,149,800	LOOSE CHANGE	7/5/22	3/5/23	4/19/23	33	92.15%	1,762	2,152	512	1,627	\$186,020.00	\$334,338.00	\$375,697.00	\$330,483.00
	2325	\$2	28,601,250	BONUS GAME BINGO	12/13/21			62	90.17%	8,430	7,139	2,882	45	\$796,680.00	\$934,378.00	\$877,918.00	\$869,386.00
	2403	\$2	9,058,125	LUCKY 3	7/18/22	1/8/23	2/22/23	31	72.47%	50	29	15,184	2,003	-\$2,768.00	\$27,046.00	\$57,216.00	\$79,766.00
	2450	\$3	6,115,750	WINTER WORDS	11/7/22	1/10/23	2/24/23	15	86.51%	209	40	8	726	-\$29,328.00	\$101,892.00	\$190,167.00	\$270,522.00



**Liability for 2416 / for Life to Date****Product Status:**  
Active**SmartCash Enabled:**  
N/A**Validation Range:** 07/28/2022 - 12/31/2037**Outstanding Prizes**

Tier	Ref	SmartCash	Tier Value	Count	Amount	Tickets Paid Life to Date	Amount Paid Life to Date	% paid	Est. Tickets Sold
1	1	N/A	\$5.00	298384	\$1,491,920.00	301804	\$1,509,020.00	50.28%	2829808
2	2	N/A	\$10.00	144703	\$1,447,030.00	155543	\$1,555,430.00	51.81%	2915362
3	3	N/A	\$10.00	183688	\$1,836,880.00	191414	\$1,914,140.00	51.03%	2871730
4	4	N/A	\$20.00	53443	\$1,068,860.00	59087	\$1,181,740.00	52.51%	2954901
5	5	N/A	\$20.00	18277	\$365,540.00	19261	\$385,220.00	51.31%	2887533
6	0	N/A	\$50.00	12318	\$615,900.00	13580	\$679,000.00	52.44%	2950889
7	0	N/A	\$50.00	4496	\$224,800.00	4885	\$244,250.00	52.07%	2930453
8	0	N/A	\$100.00	2183	\$218,300.00	2524	\$252,400.00	53.62%	3017619
9	0	N/A	\$100.00	1284	\$128,400.00	1470	\$147,000.00	53.38%	3003812
10	0	N/A	\$100.00	890	\$89,000.00	982	\$98,200.00	52.46%	2952058
11	0	N/A	\$100.00	1336	\$133,600.00	1464	\$146,400.00	52.29%	2942404
12	0	N/A	\$100.00	891	\$89,100.00	988	\$98,800.00	52.58%	2959031
13	0	N/A	\$100.00	1090	\$109,000.00	1249	\$124,900.00	53.40%	3005049
14	0	N/A	\$100.00	2204	\$220,400.00	2465	\$246,500.00	52.80%	2971066
15	0	N/A	\$100.00	236	\$23,600.00	228	\$22,800.00	49.14%	2765261
16	0	N/A	\$500.00	334	\$167,000.00	379	\$189,500.00	53.16%	2991362
17	0	N/A	\$500.00	222	\$111,000.00	244	\$122,000.00	52.36%	2946614
18	0	N/A	\$500.00	46	\$23,000.00	50	\$25,000.00	52.08%	2931015
19	0	N/A	\$5,000.00	3	\$15,000.00	5	\$25,000.00	62.50%	3517218
20	0	N/A	\$5,000.00	1	\$5,000.00	1	\$5,000.00	50.00%	2813775
21	0	N/A	\$100,000.00	1	\$100,000.00	1	\$100,000.00	50.00%	2813775
22	0	N/A	\$100,000.00	1	\$100,000.00	1	\$100,000.00	50.00%	2813775
<b>Totals:</b>				<b>726031</b>	<b>\$8,583,330.00</b>	<b>757,625</b>	<b>\$9,172,300.00</b>		

END OF PRODUCTION PRIZE STRUCTURE  
July 13, 2022 - (POOLS # 1 – 56 COMPLETE)

Prize Structure  
TEXAS LOTTERY  
GAME NO.2416 "HOUSTON TEXANS"  
February 7, 2022 - VERSION A

										Instant Payout		Total Payout									
Order Quantity:		5,627,550		Pack Size:		75		Pool Size:		120,000		Winners:		1,483,656		Prize Fund:		\$17,755,630.00		\$19,105,019.50	
Price Point:		\$5.00		Packs/Game:		75,034		Number of Pools:		46.90		Non-winners:		4,143,894		Payout:		63.10%		67.90%	
Revenue:		\$28,137,750.00		Packs/Pool:		1,600						Overall Odds:		3.7930							
Kind	Wins	Tier						Get	Win	Value	Odds (1 in)	Winners			Total Prize Cost	% Prize Fund					
		Level										Pack	Pool	Total							
Low Tiers																					
01	1	L						\$5	\$5	\$5.00	9.3763	8.00	12,800.00	600,188	\$3,000,940.00	15.71%					
02	2	L						\$5 x 2	\$10	\$10.00	18.7431	4.00	6,400.00	300,246	\$3,002,460.00	15.72%					
03	1	L						\$10	\$10	\$10.00	15.0027	5.00	8,000.00	375,102	\$3,751,020.00	19.63%					
											Total (\$10.00):	8.3328	9.00	14,400.00	675,348	\$6,753,480.00	35.35%				
04	3	L						\$10 + (\$5 x 2)	\$20	\$20.00	50.0093	1.50	2,400.00	112,530	\$2,250,600.00	11.78%					
05	1	L						\$20	\$20	\$20.00	149.9161	0.50	800.00	37,538	\$750,760.00	3.93%					
											Total (\$20.00):	37.5000	2.00	3,200.00	150,068	\$3,001,360.00	15.71%				
											Total (Low Tiers):	3.9475	19.00	30,400.00	1,425,604	\$12,755,780.00	66.77%				
Mid Tiers																					
06	1	M						\$10 (GOALPOST)	\$50	\$50.00	217.2967	0.34	550.00	25,898	\$1,294,900.00	6.78%					
07	1	M						\$50	\$50	\$50.00	599.8881	0.13	200.00	9,381	\$469,050.00	2.46%					
											Total (\$50.00):	159.5156	0.47	750.00	35,279	\$1,763,950.00	9.23%				
08	20	M						\$5 X 20	\$100	\$100.00	1195.5704	0.06	100.00	4,707	\$470,700.00	2.46%					
09	11	M						\$10 (GOALPOST) + (\$5 x 10)	\$100	\$100.00	2043.4096	0.04	59.00	2,754	\$275,400.00	1.44%					
10	7	M						\$10 (GOALPOST) + \$5 (GOALPOST) + (\$5 x 5)	\$100	\$100.00	3006.1699	0.03	40.00	1,872	\$187,200.00	0.98%					
11	7	M						(\$10 x 5) + (\$5 (GOALPOST) x 2)	\$100	\$100.00	2009.8393	0.04	60.00	2,800	\$280,000.00	1.47%					
12	7	M						\$50 + \$5 (GOALPOST) + (\$5 x 5)	\$100	\$100.00	2994.9707	0.03	40.00	1,879	\$187,900.00	0.98%					
13	3	M						\$50 + (\$5 (GOALPOST) x 2)	\$100	\$100.00	2405.9641	0.03	50.00	2,339	\$233,900.00	1.22%					
14	1	M						\$20 (GOALPOST)	\$100	\$100.00	1205.3009	0.06	100.00	4,669	\$466,900.00	2.44%					
15	1	M						\$100	\$100	\$100.00	12128.3405	0.01	10.00	464	\$46,400.00	0.24%					
											Total (\$100.00):	261.9414	0.29	459.00	21,484	\$2,148,400.00	11.25%				
16	20	M						(\$20 (GOALPOST) x 4) + (\$10 x 4) + (\$5 x 12)	\$500	\$500.00	7892.7770	0.01	15.00	713	\$356,500.00	1.87%					
17	6	M						\$50 (GOALPOST) + \$20 (GOALPOST) + (\$10 (GOALPOST) x 2) + (\$5 (GOALPOST) x 2)	\$500	\$500.00	12076.2876	0.01	10.00	466	\$233,000.00	1.22%					
18	1	M						\$500	\$500	\$500.00	58620.3125	0.00	2.00	96	\$48,000.00	0.25%					
											Total (\$500.00):	4413.7647	0.02	27.00	1,275	\$637,500.00	3.34%				
											Total (Mid Tiers):	96.9632	0.77	1,236.00	58,038	\$4,549,850.00	23.82%				
High Tiers																					
19	20	H						\$500 (GOALPOST) + (\$500 x 3) + (\$100 x 7) + (\$50 x 4) + (\$20 x 5)	\$5,000	\$5,000.00	703443.7500	0.00	0.17	8 *	\$40,000.00	0.21%					
20	1	H						\$5,000	\$5,000	\$5,000.00	2813775.0000	0.00	0.04	2 *	\$10,000.00	0.05%					
											Total (\$5,000.00):	562755.0000	0.00	0.22	10	\$50,000.00	0.26%				
21	20	H						\$5,000 x 20	\$100,000	\$100,000.00	2813775.0000	0.00	0.04	2 *	\$200,000.00	1.05%					
22	1	H						\$100,000	\$100,000	\$100,000.00	2813775.0000	0.00	0.04	2 *	\$200,000.00	1.05%					

			Total (\$100,000.00):	1406887.5000	0.00	0.09	4	\$400,000.00	2.09%
			Total (High Tiers):	401967.8571	0.00	0.30	14	\$450,000.00	2.36%
			Total (Low Tiers + Mid Tiers + High Tiers):	3.7930	19.77	31,636.30	1,483,656	\$17,755,630.00	92.94%
Other Prize Tiers									
-	-	O	HOUSTON TEXANS MERCHANDISE PRIZE PACK	\$580.00	-	-	-	810	\$469,800.00 2.46%
-	-	O	LUXURY SUITE & ON-FIELD CONTEST EXPERIENCE	\$49,550.00	-	-	-	5	\$247,750.00 1.30%
-	-	O	PRIVATE PLANE AWAY GAME TRIP	\$49,950.00	-	-	-	5	\$249,750.00 1.31%
-	-	O	SEASON TICKETS FOR 2 (ONE YEAR)	\$5,000.00	-	-	-	45	\$225,000.00 1.18%
-	-	O	LUXURY SUITE & ON-FIELD CONTEST EXPERIENCE Federal Withholding	\$15,645.79	-	-	-	5	\$78,228.95 0.41%
-	-	O	PRIVATE PLANE AWAY GAME TRIP Federal Withholding	\$15,772.11	-	-	-	5	\$78,860.55 0.41%
			Total (Other Prize Tiers):	-	-	-	875	\$1,349,389.50	7.06%
			Total :	3.7930	19.77	31,636.30	1,483,656	\$19,105,019.50	100.00%

\* Exact Quantity by Kind Level

GOALPOST = win 5 TIMES the prize



# INTEROFFICE MEMO

Gary Grief, Executive Director      LaDonna Castañuela, Charitable Bingo Operations Director

## Payment Approval

July 19, 2022

The attached invoice(s) for service is being submitted for approval.

<b>Vendor Name</b>	<b>Scientific Games</b>
<b>P.O. Number (if applicable)</b>	362-22-9019RL018RV1
<b>Invoice Number</b>	TX 071922
<b>Tx Game Name:</b>	Game #2416 Houston Texans
<b>Invoice Amount:</b>	<b>\$134,786.78</b>

The above referenced invoice(s) have been reviewed and certified as proper, accurate and should be paid by the Texas Lottery Commission.

The above referenced invoices have been reviewed and certified as proper, accurate and should be paid by the Texas Lottery Commission.

Dale Bowersock (Scratch Ticket Strategy Coordinator)  
Please forward to the next person for approval

7/21/2022

Date

JB  
7/21/2022



Robert Tirloni (Products Manager)  
Please forward to the next person for approval

7/21/2022

Date

Ryan Mindell (Lottery Operations Division Director)

7/21/2022

Date

Please return to Maria Perez in the Office of the Controller by

**July 29, 2022**



Invoice: TX 071922  
 "TX 2416 HOUSTON TEXANS"™  
 July 19, 2022

Supplier : Scientific Games International  
 1500 Bluegrass Lakes Parkway  
 Alpharetta, Georgia 30004 USA

Customer : TEXAS LOTTERY  
 Attn: Accounts Payable  
 P.O. BOX 16630  
 AUSTIN, TX 78761-6630  
 United States

<u>Game</u>	<u>Shipment</u>	<u>Description</u>	<u>Quantity</u>	<u>Price Per</u>	<u>Total Amount</u>	<u>SG Invoice #</u>
TX-2416	1	TX-2416 HOUSTON TEXANS	2,718,225	24.45 \$	66,460.60	1043650
Additional Charges: TX-2416 3 Pack Inserts on Foil (up to 200,000 pieces)			73,620	0.139 \$	10,233.18	
TX-2416	4	FY22 Print Credit	1	-13040 \$	(13,040.00)	
TX-2416	2	TX-2416 HOUSTON TEXANS	2,909,325	24.45 \$	71,133.00	1043649
Total Due					<u>\$134,786.78</u>	

\*Please include the SG invoice numbers with your remittance

Due Date: August 17, 2022

Wire Transfer Instructions:

Bank: Bank of America  
 Swift: BOFAUS3N  
 Acct Name: Scientific Games International, Inc.-Operating  
 Acct #: 501017395032  
 Wire Routing #: 026009593



# INTEROFFICE MEMO

*Gary Grief, Executive Director     Tyler Vance, Acting Charitable Bingo Operations Director*

TO: Michael Fernandez, Administration Director\*  
Ryan Mindell, Lottery Operations Director  
Angie Bland, Senior Operational Coordinator  
Bob Biard, General Counsel  
Lea Garey, Senior Contracts Attorney  
Kathy Pyka, Controller  
Anthony Vela, Accounts Payable Manager  
Robert Tirloni, Products Manager  
Dale Bowersock, Scratch Ticket Strategy Coordinator  
Heidi Moreno, Advertising & Promotions Manager  
Debbie Pina, Purchasing Manager  
Casey Austin, Executive Assistant  
Kelly Stuckey, Financial Operations Manager

FROM: Contracts Administration

DATE: May 27, 2021

RE: Trademark License Agreement between the Texas Lottery Commission and  
Houston NFL Holdings, L.P. (TLC Contract No. 2021-0019)

Attached is a copy of the above-referenced for your file.

Please call Contracts Management & Procurement if you have any questions.

\*memo only

## **TRADEMARK LICENSE AND PROMOTIONAL AGREEMENT**

### **Between**

### **TEXAS LOTTERY COMMISSION AND HOUSTON NFL HOLDINGS, L.P.**

**THIS TRADEMARK LICENSE AND PROMOTIONAL AGREEMENT** (the “**Agreement**”), binding as of the last date shown next to the signature lines below (the “**Effective Date**”), is by and between Houston NFL Holdings, L.P. dba Houston Texans (hereinafter called “**LICENSOR**”), a Delaware limited partnership that owns and/or has the rights to license certain marketing, advertising and promotional rights and other benefits, including trademarks of the Houston Texans NFL Football club (hereinafter referred to as the “**Team**” or “**Houston Texans**”), with its principal place of business located at NRG Stadium, Two NRG Park, Houston, Texas, 77054-1573, and the Texas Lottery Commission (hereinafter called “**SPONSOR**”), a Texas state agency, with its principal place of business located at 611 East 6th Street, Austin, Texas 78701-3715 (LICENSOR and SPONSOR are each sometimes referred to herein individually as a “**Party**,” and collectively as the “**Parties**”).

**WHEREAS**, LICENSOR is the owner and licensor of the trademarks, name, logos, symbols, emblems, characters, artwork, depictions, illustrations, insignia, trade dress, service marks, copyrights and other intellectual property rights relating to the Houston Texans, a franchise of the National Football League (“**NFL**”) as shown in Exhibit A, attached hereto (hereinafter called the “**Team’s Trademarks**”);

**WHEREAS**, LICENSOR and SPONSOR wish to expand on the success of SPONSOR’s Texas Lottery Houston Texans game by entering into this Agreement;

**WHEREAS**, in consideration for fees paid by SPONSOR to LICENSOR under this Agreement, LICENSOR agrees to provide to SPONSOR marketing and value-added promotional support (including rights to place SPONSOR advertisements in and to use NRG Stadium in Houston, Texas (the “**Stadium**”), and rights to use trademarks related to the Houston Texans to market and promote Texas Lottery games), in accordance with the terms and conditions of this Agreement;

**WHEREAS**, SPONSOR is the owner and licensor of the trademarks, name, logos, symbols, emblems, characters, artwork, depictions, illustrations, insignia, trade dress, service marks, copyrights and other intellectual property rights relating to the Texas Lottery and the Texas Lottery Commission as shown in Exhibit B attached hereto (hereinafter called the “**SPONSOR’s Trademarks**”); and,

**WHEREAS**, SPONSOR desires to license the Team’s Trademarks in connection with its business, and LICENSOR desires to use SPONSOR’s Trademarks in connection with its business.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual promises hereinafter set forth, the Parties agree as follows:

#### **1. DEFINITIONS**

**1.1 “Licensed Products”** means Texas Lottery scratch tickets and lottery prize packages pertaining to such tickets, and materials or services related or ancillary to the offering or sale of such lottery tickets and lottery prize packages (e.g., advertising, marketing, billboards, flyers, brochures, point of sale materials, player contests, retailer incentives, and other lottery promotional activities, etc.), all bearing or using the Team’s Trademarks.



**1.2** “**Game**” means any Houston Texans games launched by SPONSOR in the Territory and utilizing the Licensed Products during the Term of the Agreement.

**1.3** “**Sales,**” “**sale,**” “**sell**” or “**sold**” refers to Game tickets sold and processed by SPONSOR’s Lottery Gaming System, less (a) any Game tickets that have been canceled or returned, (b) any promotional tickets or promotional coupons, and (c) any retailer adjustments.

**1.4** “**Territory**” means within the geographic boundaries of the State of Texas.

**2. TERM**

This Agreement shall be binding and effective as of the last date shown next to the signature lines below and continue through June 30, 2023, unless otherwise terminated or extended pursuant to this Agreement or as mutually agreed by the Parties (the “**Term**”). The Parties reserve the right to mutually extend this Agreement for one additional two-year period (the “**Renewal Period**” and by providing written notice of intent to renew and consent (as applicable) on or before December 31, 2022.

**3. GRANT OF LICENSE, EXCLUSIVITY**

(a) Subject to the terms and conditions hereof, and as set forth in **Addendum No. 1**, which is attached hereto and fully incorporated herein by reference, LICENSOR grants to SPONSOR an exclusive, non-transferable right and license to use the Team’s Trademarks during the Term solely in connection with the sale, marketing, advertising, and promotion (including but not limited to television, radio, print mediums, social media, and the Internet) of the Licensed Products and Game (or for such other use as may be approved by LICENSOR and agreed to by SPONSOR), tickets for which shall be prepared and printed by one or more of SPONSOR’s ticket manufacturers or vendors (hereinafter called “**PRINTER**”) and to be offered for sale in the Territory, at duly licensed lottery sales agent locations and/or directly by SPONSOR. SPONSOR shall be solely and exclusively responsible for the design and execution of the Game, including selection and notification of prizewinners, and for compliance with all rules and regulations of any state, federal, or other governmental body with respect to the Game.

(b) LICENSOR represents that it is duly authorized to grant such right and license to SPONSOR, and to PRINTER for the sole purpose of producing the Texas Lottery scratch tickets. LICENSOR has not previously granted any right or authority to any third party that would conflict with the licensed rights granted to SPONSOR herein. LICENSOR further represents that this Agreement does not violate any obligation owed by LICENSOR to the National Football League or any other third party.

(c) The Game shall be designated as “The Official Texas Lottery Game of the Houston Texans.” For the Term of the Agreement, LICENSOR shall not permit any other person or entity to utilize the Team’s Trademarks to advertise, promote, offer or sell any goods or services that are the same as or similar to the Licensed Products. LICENSOR’s grant of exclusivity to SPONSOR is subject to the rules and policies of the National Football League, as such may be amended from time to time, including but not limited to NFL 2009 Resolution BV-1 and the December 3, 2013 NFL Extension of Lottery Policy.

(d) SPONSOR hereby grants to LICENSOR a non-exclusive, non-transferable right and license to use Sponsor’s Trademarks during the Term in connection with the marketing,

advertising, and promotion (including but not limited to television, radio, print mediums, social media, and the Internet) only of the Licensed Products and Game.

#### **4. OWNERSHIP OF RESPECTIVE INTELLECTUAL PROPERTY**

(a) SPONSOR acknowledges the ownership and/or rights in the Team's Trademarks by LICENSOR and SPONSOR agrees that it will do nothing inconsistent with such ownership and/or rights and that all use of the Team's Trademarks by SPONSOR shall inure to the benefit of and be on behalf of LICENSOR. SPONSOR agrees that nothing in this Agreement shall give SPONSOR any right, title or interest in the Team's Trademarks other than the right to use the Team's Trademarks in accordance with this Agreement and SPONSOR agrees that it will not attack the title of LICENSOR to the Team's Trademarks or attack the validity of this Agreement. Further, SPONSOR shall not claim adversely to any right or interest of LICENSOR in and to: (i) the Team's Trademarks; or (ii) any trademarks, service marks, trade dress or trade names confusingly similar to the Team's Trademarks. SPONSOR agrees not to attempt to register or to use or to aid any third party in attempting to register or use any trademarks, service mark, or trade name, or apply for any copyright or design right which may be confusingly similar to the Team's Trademarks in any territory and shall fully inform PRINTER of this obligation.

(b) LICENSOR acknowledges the ownership of SPONSOR's Trademarks by SPONSOR and LICENSOR agrees that it will do nothing inconsistent with such ownership and that all use of SPONSOR's Trademarks by LICENSOR shall inure to the benefit of and be on behalf of SPONSOR. LICENSOR agrees that nothing in this Agreement shall give LICENSOR any right, title or interest in SPONSOR's Trademarks other than the right to use SPONSOR's Trademarks in accordance with this Agreement and LICENSOR agrees that it will not attack the title of SPONSOR to SPONSOR's Trademarks or attack the validity of this Agreement. Further, LICENSOR shall not claim adversely to any right or interest of SPONSOR in and to: (i) SPONSOR's Trademarks; or (ii) any trademarks, service marks, trade dress or trade names confusingly similar to SPONSOR's Trademarks. LICENSOR agrees not to attempt to register or to use or to aid any third party in attempting to register or use any trademarks, service mark, or trade name, or apply for any copyright or design right which may be confusingly similar to SPONSOR's Trademarks in any territory.

#### **5. QUALITY STANDARDS**

Each Party agrees that the nature and quality of all goods produced and services rendered by a Party in connection with the other Party's intellectual property, and all related advertising, promotional and other uses of the other Party's intellectual property, shall conform to standards set by and be under the control of the Party owning that intellectual property.

#### **6. QUALITY MAINTENANCE**

Each Party agrees to cooperate with the other Party in facilitating the owning Party's control of the nature and quality of use of the owning Party's intellectual property. Each Party agrees to submit to the other Party color proofs of all tickets, point-of-sale and marketing materials containing the Team's Trademarks and/or SPONSOR's Trademarks (the "Artwork") prior to production, for approval in writing. The receiving Party shall have three (3) business days to approve in writing each piece of Artwork or to return the Artwork to the submitting Party for revision. The submitting Party shall submit any such revised Artwork to the receiving Party, and the receiving Party shall again have three (3) business days to approve in writing

all such revised Artwork or return the Artwork to the submitting Party for further revision. If the receiving Party does not return the Artwork within the aforementioned time periods, the Artwork shall be deemed approved by the receiving Party. Notwithstanding the foregoing, LICENSOR shall have the duty to submit the relevant Artwork to the National Football League for final written approval, which shall not be deemed approved until written confirmation of same. The receiving Party's approval of, and requests for revision of, Artwork shall be communicated via email, fax, or other written documentation. Neither Party hereto will unreasonably withhold its approval of any act or request of the other to which its approval is necessary or desirable. The submitting Party agrees not to change such Artwork in any material respect after approval by the receiving Party. SPONSOR agrees to supply LICENSOR with ten (10) packs of voided tickets as finally produced for each Game, and specimens of all other authorized uses of the Team's Trademarks upon LICENSOR's request. Each Party agrees that it will comply with all applicable laws and regulations and obtain all appropriate government or NFL approvals pertaining to the sale, distribution and marketing of goods and services covered by this Agreement.

**7. FORM OF USE**

SPONSOR agrees to use the Team's Trademarks on the Licensed Products in the form and manner and with appropriate legends as approved or prescribed by LICENSOR, and not to use any other trademark or service mark of LICENSOR in combination with the Team's Trademarks without prior written approval of LICENSOR. Without restricting or limiting the foregoing, all goods sold by SPONSOR using the Team's Trademarks, and all marketing and promotional materials of SPONSOR using the Team's Trademarks shall bear the following statement: "The Houston Texans and the Houston Texans' logo are registered trademarks of Houston NFL Holdings, L.P. and are used under license. All Rights Reserved." SPONSOR shall place the registered trademark symbol "®" whenever the Team's Trademarks appear in tangible form. LICENSOR shall place the registered trademark symbol "®" whenever SPONSOR's Trademarks appear in tangible form. LICENSOR agrees to use SPONSOR's trademark only as approved or prescribed by SPONSOR.

**8. INFRINGEMENT PROCEEDINGS**

Each Party agrees to promptly notify the other Party of any unauthorized use of the other Party's intellectual property by others if or when such unauthorized use comes to the Party's attention. The owning Party shall have the sole right and discretion to bring infringement, unfair competition or other legal or equitable actions involving the owning Party's intellectual property.

**9. TERMINATION IN THE EVENT OF INSOLVENCY, FOR CAUSE OR FOR IMPOSSIBILITY OF PERFORMANCE**

Each Party shall have the right to terminate this Agreement upon thirty (30) days' prior written notice to the other Party in the event of: (a) any affirmative act of insolvency by the other Party, (b) the appointment of any receiver or trustee to take possession of all or any part of the property of the other Party, (c) the winding-up, sale, consolidation, merger or any sequestration by government authority of the other Party, or (d) a breach of the material terms of this Agreement that is not cured within thirty (30) days after receipt of written notice of such breach.

**10. SPONSOR TERMINATION RIGHT**

If there is any act by LICENSOR that would (i) bring SPONSOR into material public disrepute, contempt, scandal, or ridicule or (ii) not comply with the State Lottery Act (TEX. GOV'T CODE ANN., Ch. 466) and Texas Lottery rules, procedures and policies, and such act could result in a material adverse effect to SPONSOR, then the parties shall meet and discuss for thirty (30) days in good faith a reasonable remedy for such act (e.g., suspension of this Agreement). After the meeting to discuss the remedy, SPONSOR shall have the right to terminate this Agreement upon no less than thirty (30) days' notice if SPONSOR believes in its good faith opinion that termination is the only reasonable remedy.

**11. NON-APPROPRIATION OF FUNDS**

Notwithstanding anything herein to the contrary, the Parties acknowledge this Agreement (including SPONSOR's obligations to make royalty and merchandise sales allocations payments to LICENSOR) is contingent on the continued availability of funding. SPONSOR and LICENSOR each hereby reserves the right to terminate, in whole or in part, the Agreement upon no less than five (5) days' notice upon any of the following conditions: (a) the failure of the Texas Legislature to appropriate funds to SPONSOR for this Agreement; or (b) any act or omission by the Texas Legislature which renders performance by SPONSOR impossible.

**12. TERMINATION COSTS**

Upon termination by the SPONSOR, SPONSOR agrees to pay LICENSOR the then-current Contract rate(s) for goods or services provided by LICENSOR under this Contract and accepted by SPONSOR, in its sole discretion, through the Contract termination date. This Agreement, however, does not waive any right or remedy otherwise available to SPONSOR, such as withholding of payment, should the goods or services fail to meet specifications, or for any reason otherwise allowed under this Contract.

**13. EFFECT OF TERMINATION OR EXPIRATION**

Upon termination or expiration of this Agreement, each Party agrees to discontinue all use of the other Party's intellectual property, or anything confusingly similar thereto, and to cooperate with each other or their respective appointed agents to destroy or remove from public display all printed materials bearing the other Party's intellectual property, subject to SPONSOR's right to sell through its existing inventory of Licensed Products for a period of six (6) months following such expiration or termination; provided that the SPONSOR may continue to reproduce, display, and use copies of the scratch ticket that bears the Team's Trademarks solely for historical, archival, illustrative, or legally-required purposes, including but not limited to agency reports, open records responses, records retention, and other similar uses that document the existence and performance of the Game. Each Party agrees that before and after any such expiration or termination, all right, title and interest in the intellectual property, and the goodwill connected therewith, shall remain the sole property of the respective owning Party.

**14. PROHIBITED ASSIGNMENT AND SUB-LICENSING**

Each Party agrees that this Agreement and the rights conveyed hereunder may not be assigned and that neither Party shall be entitled to grant sub-licenses without the prior, express written consent of the other Party.



**15. EXCEPTIONS TO RESTRICTIONS ON THE TERRITORY**

The Parties agree that the Licensed Products may be sold within the State of Texas, pursuant to the terms of current Texas law. However, incidental advertising, marketing and/or promotion of the Licensed Products may occur, or be viewed by others, beyond the borders of the State of Texas, without violation of the terms of this Agreement (e.g., marketing via the Internet, television or radio broadcasts in Texas, or through publications circulated beyond the State of Texas). Notwithstanding the foregoing sentence, LICENSOR shall comply with all laws governing the broadcasting and publication of advertisements and other information concerning a lottery, including 18 U.S.C. sections 1304 and 1307. Further, LICENSOR acknowledges and agrees that a Dallas Cowboys Texas Lottery scratch ticket may be offered, sold and distributed by SPONSOR in the Territory, including in Houston, Texas, during all or any portion of approximately the same Term, without violating the terms of this Agreement. LICENSOR further acknowledges and agrees that if the Dallas Cowboys or its parent, subsidiary or related companies provide marketing support in conjunction with a Dallas Cowboys scratch ticket in the Territory, including in Houston, Texas, during all or any portion of approximately the same Term, LICENSOR will not bring a claim against SPONSOR related to such marketing support.

**16. APPROVALS**

LICENSOR's grant of rights hereunder may be subject to prior written approval by the National Football League. This Agreement is subject to the rules and policies of the National Football League, as such may be amended from time to time. In the event that SPONSOR incurs costs in reliance on this Agreement and LICENSOR's direction or authorization to proceed (e.g., advertising, promotions, or costs of printing tickets for the Game), and the National Football League rejects and/or unreasonably delays approval of this Agreement, LICENSOR agrees to reimburse SPONSOR for its out-of-pocket costs incurred in reliance on this Agreement and LICENSOR's direction or authorization to proceed. Subject to the foregoing, the Parties hereto represent that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action and government or other approvals on the part of the Parties and that this Agreement constitutes a valid and legally binding agreement of the Parties enforceable against them in accordance with its terms.

**17. NOTICES**

All notices and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally or by overnight delivery to the Parties (and shall also be transmitted by facsimile or email to the persons receiving copies thereof) at the following addresses (or to such other address as a Party may have specified by notice given to the other Party pursuant to this provision):

If to SPONSOR, to: Texas Lottery Commission  
611 East 6th Street  
Austin, Texas 78701  
Attn: Contracts Administration  
Telecopy: 512-344-5058  
Email: [Contracts@lottery.state.tx.us](mailto:Contracts@lottery.state.tx.us)

If to Licensor, to: Houston NFL Holdings, L.P.  
NRG Stadium

Two NRG Park  
Houston, Texas 77054-1573  
Attn: Senior VP, Corporate Development  
Email: greg.grissom@houstontexans.com

With copy to:  
Houston NFL Holdings, L.P.  
NRG Stadium  
Two NRG Park  
Houston, Texas 77054-1573  
Attn: General Counsel  
Email: greg.kondritz@houstontexans.com

**18. INDEMNIFICATION AND HOLD HARMLESS**

LICENSOR represents that it has the full right and authority to license the use of LICENSOR's intellectual property as contemplated in this Agreement, for the purposes set forth in this Agreement. LICENSOR therefore represents and agrees that it will indemnify and hold SPONSOR harmless from and against any claims of infringement or other loss or damage that may be alleged as a result of SPONSOR's use of LICENSOR's intellectual property for the purposes set forth in this Agreement. SPONSOR shall notify LICENSOR promptly and in writing of any such claim, give LICENSOR, at LICENSOR's sole expense, sole control over its defense or settlement, and provide reasonable assistance in the defense thereof.

SPONSOR represents that it has the full right and authority to license the use of SPONSOR's intellectual property as contemplated in this Agreement, for the purposes set forth in this Agreement. LICENSOR shall notify SPONSOR promptly and in writing of any claim of infringement arising out of the use of SPONSOR's intellectual property, give SPONSOR, at SPONSOR's sole expense, sole control over its defense or settlement, and provide reasonable assistance in the defense thereof.

This Section shall survive the expiration or termination of this Agreement.

**19. CONFLICT OF INTEREST**

LICENSOR represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

**20. FORCE MAJEURE**

If any Party is delayed in or prevented from complying, either totally or in material part, with any of the terms or provisions of this Agreement by any reason out of its control (such as but not limited to riot, war, terrorism, or rebellion; fire, flood, severe storm, accident, or other act of God) or by a player strike, management lockout, walk out, postponement or any other work stoppage (whether or not LICENSOR has supported such work stoppage) (each a "**force majeure**"), then the affected obligations of such Party shall be suspended during the period of such inability, and such inability shall not be deemed a breach of this Agreement.

If two (2) or fewer regular season home games in any single football season during the Term are cancelled and not rescheduled as a consequence of such force majeure, LICENSOR shall

have no obligations or liability to SPONSOR in connection with any prize packages set forth in Addendum No. 1 that cannot be provided during that Contract Year as a consequence.

If three (3) or more regular season home games in any single football season during the Term are cancelled and not rescheduled as a consequence of such force majeure (a “**Cancelled Season**”), then, with respect to prizes or in-Stadium benefits not provided during that Contract Year due to a Cancelled Season, the Parties will work together in good faith to agree upon additional prizes or benefits to be provided.

In any single football season, if any games are postponed or played at a location other than the Stadium due to a force majeure, or any home game is scheduled by the NFL (with or without the consent of LICENSOR) to be played at a location outside the United States, then LICENSOR may satisfy its obligations with respect to prizes or in-Stadium benefits by making commercially reasonable efforts to provide additional prizes or benefits at the remaining home games during the Term.

Except as otherwise stated above, a force majeure shall not release the Parties from their other obligations under this Agreement that are not prevented or delayed by the force majeure. A force majeure shall not include any event that a Party could have prevented by any exercise of due diligence and expressly does not include financial hardship.

## **21. APPLICABLE LAWS AND COURTS**

This Agreement shall be governed and construed in all respects according to the laws of the State of Texas, and subject to the dispute resolution provisions set forth in Section 22 below, any litigation with respect thereto shall be brought in the courts of the State of Texas. This section is purely a venue provision and shall not be deemed a waiver of sovereign immunity by SPONSOR.

## **22. DISPUTE RESOLUTION**

The dispute resolution process provided for in Texas Government Code Chapter 2260 and 16 Texas Administrative Code §§ 403.201-223 must be used by LICENSOR to attempt to resolve any disputes brought by LICENSOR arising under this Agreement.

## **23. ELIGIBILITY TO RECEIVE PAYMENTS ON STATE CONTRACTS**

Under Texas Family Code Section 231.006, LICENSOR certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

## **24. U.S. DEPARTMENT OF HOMELAND SECURITY’S E-VERIFY SYSTEM:**

By entering into a Contract for services with the Texas Lottery Commission, the Vendor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U. S. Department of Homeland Security’s E-verify system to determine the eligibility of:

1. All persons employed to perform duties within Texas, during the term of the Contract; and



2. All persons (including subcontractors) assigned by the vendor to perform work pursuant

**25. CERTIFICATIONS**

Pursuant to Texas Government Code Section 466.103, SPONSOR's Executive Director may not award a contract for the purchase or lease of facilities, goods or services related to lottery operations to a person who would be denied a license as a sales agent under Texas Government Code Section 466.155 as effective September 1, 2021 (*see* Exhibit C, attached hereto and incorporated by reference for all purposes). By executing this Agreement, LICENSOR certifies that it has reviewed the provisions of Texas Government Code Section 466.155, and further certifies that LICENSOR would not be prohibited by the terms of Texas Government Code Section 466.155 from obtaining a license as a sales agent.

In addition, LICENSOR certifies its eligibility in signing this Agreement under the clauses in Exhibit F.

**26. WAIVER**

No waiver by either Party of any default shall be deemed as a waiver of prior or subsequent defaults of the same or other provisions of this Agreement.

**27. SEVERABILITY**

If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause, or provision and such invalid term, clause, or provision shall be modified to the extent possible to comply with the terms of the then-existing law and as adhering to the intent of the Parties, and if such modification is not possible then in such event the provision shall be deemed severed from the Agreement.

**28. RIGHT TO AUDIT**

LICENSOR understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. LICENSOR further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. LICENSOR will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through LICENSOR and the requirement to cooperate is included in any subcontract awards.

These records shall be available to the Texas Lottery, its internal auditor or external auditors (and other designees) and the Texas State Auditor at all times during the Contract period and for seven (7) full years after (i) the expiration date of the Contract or (ii) final payment under any contract awarded pursuant to this solicitation, whichever is later.

**29. PAYMENT**

All payments will be made in accordance with Tex. Gov't Code ch. 2251 ("Payment for Goods and Services"). In accordance with Addendum No. 1, LICENSOR shall submit invoices for payment to the Texas Lottery Commission, P. O. Box 16630, Austin, Texas 78761-6630, Attn: Accounts Payable or by e-mail to AccountsPayable@lottery.state.tx.us.

LICENSOR shall fill out and return Exhibit D (Post Production Documentation) when submitting the final invoice for payment each Contract Year.

The LICENSOR agrees that if the Texas Comptroller of Public Accounts is prohibited from issuing a warrant to the LICENSOR under Tex. Gov't Code §403.055, any payments owed to the LICENSOR under this Agreement will be applied towards the debt or delinquent taxes that the LICENSOR owes the state of Texas until the debt or delinquent taxes are paid in full.

Pursuant to Tex. Gov't Code § 2251.025, interest is not due on a payment until it becomes "overdue." A payment is not "overdue" until the 31st day after the latter of: (1) the date the Texas Lottery receives the goods covered by the contract; (2) the date the performance of service under the contract is completed; or (3) the date the Texas Lottery receives an invoice for the goods or services. Tex. Gov't Code § 2251.021.

### **30. TICKET PURCHASE**

In accordance with Tex. Gov't Code § 466.254 (Purchase of Ticket by or Payment of Prize to Certain Persons), no member, officer or employee of the LICENSOR directly involved in selling or leasing the goods or performing the services that are the subject of this Agreement shall purchase a Texas Lottery ticket or be paid a prize in any Texas Lottery game. No spouse, child, brother, sister, or parent of such member, officer or employee who resides in the same household in the principal place of residence of such member, officer or employee (collectively, "Family Members"), shall purchase a Texas Lottery ticket or be paid a prize in any Texas Lottery game. LICENSOR shall ensure that these statutory prohibitions are made known to each member, officer and employee of the LICENSOR, prior to that person becoming involved in selling or leasing the goods or performing the services that are the subject of this Agreement. LICENSOR shall require its members, officers and employees to make the statutory prohibitions known to Family Members. LICENSOR shall promptly notify SPONSOR of any violation of Tex. Gov't Code § 466.254.

SPONSOR considers "directly involved" to mean, by way of illustration only, responsible for and/or actively participating in (1) contract negotiations (including contract signatories); (2) contract administration (e.g., regular or direct contact with Texas Lottery Commission staff); or (3) contract performance (including assigned project/team leaders and members and anyone else who oversees or performs the work or provides the services). Again, by way of illustration, support staff (such as clerical, accounting or delivery employees) are not considered to be "directly involved" unless they also serve in the roles listed above for "directly involved" employees.

### **31. CODE OF CONDUCT**

Except when circumstances require otherwise, employees of the Texas Lottery Commission and employees, subcontractors and agents of vendor should meet only at Texas Lottery headquarters.

- Employees, subcontractors and agents of vendor may not offer or give anything of value to any Texas Lottery Commission employee.
- Employees, subcontractors and agents of vendor may not socialize with any Texas Lottery Commission employee.

**32. INTEGRATION**

This Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties, except the 2009 Trademark License Agreement which shall continue in effect for the 2021 Houston Texans Game. This Agreement shall not be modified or amended except in writing signed by the Parties hereto and specifically referring to this Agreement.

**33. REPRESENTATION, MUTUAL NEGOTIATION**

Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

**34. TEXAS PUBLIC INFORMATION ACT**

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Tex. Gov't Code (the "Public Information Act"). The requirements of Subchapter J of the Act may apply to this Agreement and the LICENSOR, contractor, or vendor agrees that the contract can be terminated if the LICENSOR, contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. *See Exhibit E.*

LICENSOR is required to make any information created or exchanged with the State under this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. LICENSOR shall provide all Contract deliverables in a format approved by the Texas Lottery and accessible by the public.

**35. SURVIVAL**

Provisions of this Agreement which by their nature and effect are necessary to enable SPONSOR to continue normal operations, to receive the full value of any benefits provided by LICENSOR hereunder, and to meet any obligations to prize winners contemplated hereunder (including prize fulfillment) shall survive termination of this Agreement until all terms of this Agreement have been fulfilled. These provisions include, but are not limited to, all provisions for LICENSOR to provide merchandise and experiential prizes and any provision that expressly provides for applicability beyond the end of any Agreement term.

**36. HEADINGS**

The headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.

**37. COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

**38. STATUS OF THE PARTIES**

This Agreement is not intended to create, and shall not be interpreted or construed as creating, a partnership, joint venture, agency, employment, master and servant, or similar relationship between the Parties, and no representation to the contrary shall be binding upon either Party.

(one signature page follows)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date written below.

HOUSTON NFL HOLDINGS, L.P. ("LICENSOR")

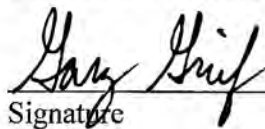
  
Signature

Date: 5/26/21

Jerry Angel  
Printed Name

VP of Corporate Development  
Title

TEXAS LOTTERY COMMISSION ("SPONSOR")

  
Signature

Date: 05-27-2021

Gary Grief  
Printed Name

Executive Director  
Title

**ADDENDUM NUMBER 1**  
**TO TRADEMARK LICENSE AND PROMOTIONAL AGREEMENT**  
**BETWEEN LICENSOR AND SPONSOR**

**CONTRACT YEARS JULY 1, 2021 – JUNE 30, 2023**

**2021-2022 and 2022-2023 NFL SEASONS** This ADDENDUM NO. 1 TO TRADEMARK LICENSE AND PROMOTIONAL AGREEMENT BETWEEN LICENSOR AND SPONSOR is attached to and fully incorporated into that certain TRADEMARK LICENSE AND PROMOTIONAL AGREEMENT, effective as of the last date shown the signature lines therein, by and between Houston NFL Holdings, L.P., d/b/a Houston Texans, and the Texas Lottery Commission (the “Agreement”).

**1. FEES AND CONSIDERATION**

In consideration of being granted the right to use the Team’s Trademarks during the Term, SPONSOR shall allocate funds not to exceed two hundred ninety-three thousand seven hundred fifty dollars (\$293,750) for Licensing Fees and one million one hundred ninety-two thousand three hundred dollars (\$1,192,300) in Merchandise and Experiential Allocation payments for the following:

- a. Payment to LICENSOR of a royalty based upon the actual Sales of the Game (as defined in Section 1.3 of the Agreement) that occur up to and including the date of the NFL Super Bowl game, as follows:

**Licensing Fee Sales Allocation**

(Based on actual ticket sales – invoiced monthly)

Sell Through Range*	Licensing Percentage	Price per Ticket	Actual Sales	Licensing Fee
Up to 4 million tickets	1.00	\$5	\$20,000,000	\$200,000
4,000,001 to 5.5 million	1.25	\$5	\$7,500,000	\$93,750
<b>Total Licensing Fee Allocation:</b>				<b>\$293,750</b>

- \* License percentage fees apply directly to the relevant sales tier and are not retroactive to lower sales levels.

SPONSOR (with the assistance of PRINTER) agrees to print with the intent to distribute and sell approximately five million five hundred thousand (5,500,000) Texas Lottery scratch tickets bearing the Team’s Trademarks and that the scratch tickets shall be sold at retail for a price of \$5.00 per ticket.

For example: If the initial sales period indicated sales of 4,250,000 tickets, the invoiced amount would be calculated as:

- 4,000,000 tickets sold at \$5 = \$20,000,000 multiplied by 1.00% licensing fee percentage = \$200,000
- 250,000 tickets sold at \$5 = \$1,250,000 multiplied by 1.25% licensing fee percentage = \$15,625
- The total Licensing Fee invoice would be for two hundred fifteen thousand six hundred twenty-five dollars (\$215,625)

Licensing Fees shall not be paid on any Sales that occur after the date of the current season NFL Super Bowl game.

b. Payment to LICENSOR for merchandise and experiential prizes that will contain a pre-determined number of individual prizes to be awarded through promotional second-chance drawings conducted by SPONSOR and fulfilled by LICENSOR. The total allocation of the merchandise and experiential prizes will be one million one hundred ninety-two thousand three hundred dollars (\$1,192,300). Payment amounts are determined based upon the prize being fulfilled and are detailed as follows:

- i. Private Plane Away Game Trip – Owner for a Day, five (5) allocated and valued at forty-nine thousand nine hundred fifty dollars (\$49,950) each.
- ii. Suite and On-Field Contest Experience, five (5) allocated and valued at forty-nine thousand five hundred fifty dollars (\$49,550) each.
- iii. Texans Season Tickets Package for One (1) Year, forty-five (45) allocated and valued at five thousand dollars (\$5,000) each.
- iv. Texans Merchandise Pack, eight hundred ten (810) allocated and valued at five hundred eighty dollars (\$580) each.

c. SPONSOR shall pay for all of the print costs incurred to print/produce the Game.

d. SPONSOR shall provide one thousand eight hundred and seventy-five (1,875) scratch tickets for the following promotions:

- i. One hundred fifty (150) – Radio Blitz (areas outside of Houston)
- ii. Three hundred (300) – Dear Drew Facebook, Texans TV feature, and social media promotions
- iii. One thousand four hundred twenty-five (1,425) – in-game fan promotion during all Home Games

LICENSOR is responsible for picking up the scratch tickets from the local Texas Lottery Claim Center and securing the scratch tickets in a safe place until tickets are needed for each promotion. LICENSOR is responsible for tracking all scratch ticket packs, including those which have been distributed. LICENSOR is responsible for distributing the scratch tickets for each promotion to recipients who are eighteen (18) years of age or older. LICENSOR shall ensure that selected scratch ticket recipients for each promotion are eighteen (18) years of age or older as identified by an official picture identification card.



### **Invoicing for Merchandise and Experiential Prize Fulfillment**

LICENSOR will be paid by SPONSOR for merchandise and experiential prizes over the course of the Game as prizes are fulfilled, as more particularly described in this section. SPONSOR agrees to conduct five (5) promotional second-chance drawings for the prizes and to award in each drawing: one (1) Private Plane Away Game Trip – Owner for a Day prize; one (1) Suite and On-Field Contest Experience; nine (9) Texans Season Tickets Package for one (1) Year prizes; and, one hundred sixty-two (162) Texans Merchandise Pack prizes. The drawings shall be conducted according to the following schedule:

<b>Drawing No.</b>	<b>Time Period</b>
1	Between Sept. 1– Oct. 15
2	Between Oct. 16– Nov. 30
3	Between Dec. 1– Jan. 15
4	Between Jan. 16– Feb. 28
5	Within fifteen (15) business days after the “End-of-Game” date described in the following section

LICENSOR will invoice SPONSOR on a monthly basis as the prizes are fulfilled. A detailed accounting of the prizes fulfilled will be included with the invoice, including the name and address of all experiential and merchandise prize pack winners during the monthly billing period and the date each experiential prize was fulfilled or each merchandise prize was mailed to each winner.

### **Invoicing for Licensing Fee Sales Allocation**

During the Term of this Agreement, SPONSOR shall deliver Game sales reports to LICENSOR on the first state business day of each month beginning after the date of the start of sales of the Game. If the first business day of the month is a state of Texas holiday, then sales report will be due on the next business day that is not a state holiday. SPONSOR will detail weekly sales totals for the applicable reporting period. LICENSOR then will issue an invoice for the licensing fee sales allocation to SPONSOR in accordance with the tiered License Fee Allocation schedule above. This process will continue until the official “Call” date for the Game determined by SPONSOR in its sole discretion or until the date of the NFL Super Bowl game, whichever comes first. The “Call” date begins a 45-day period during which all remaining tickets for the Game are returned to SPONSOR. The “End-of-Game” date is forty-five (45) days from the “Call” date and marks the end of the Game. No tickets for the closed Game may be distributed to or sold by retailers after the “End-of-Game” date. A final reconciled sales report will be provided to LICENSOR by SPONSOR no later than ninety (90) days following the official “End-of-Game” date.

The timing and decision to close a Game will be in accordance with SPONSOR’s rules, policies and procedures. All of SPONSOR’s directives, policies, procedures, rules, regulations and applicable laws shall apply to the Game.

## **2. PRIZE FULFILLMENT SERVICES**

Merchandise and experiential prizes will be awarded by promotional second-chance drawings in which qualifying non-winning tickets may be submitted as entries by eligible players. If there are not enough unique entries in the entry pool to award all the prizes in the drawing, some prizes may not be awarded and there may be fewer winners for that particular drawing.

SPONSOR shall control the procedure for the promotional second-chance drawings.

SPONSOR shall provide LICENSOR a detailed list of prizewinners after each drawing.

LICENSOR shall provide complete fulfillment of all merchandise and experiential prizes. There shall be no additional charge for any aspect of such order fulfillment.

From the date that LICENSOR is notified by SPONSOR of a winner of a Houston Texans experiential prize (Private Plane Away Game Trip – Owner for a Day, a Suite and On-Field Contest Experiences and Texans Season Tickets Package for two (2) Years), LICENSOR shall contact the winner within ten (10) business days to begin making arrangements for fulfillment (provided LICENSOR has been provided with complete and correct contact information).

From the date that LICENSOR is notified by SPONSOR of a winner of a Houston Texans merchandise prize, LICENSOR shall complete fulfillment of the prize within ten (10) business days (provided that LICENSOR has been provided all of the necessary information to complete fulfillment at or near the same time it has been notified of the winner).

LICENSOR shall bear all risks of loss of or damage to a merchandise prize until the prizewinner has received, inspected and accepted the unit, at which point those risks shall pass to the prizewinner. In the event the winner's prize is damaged or defective, LICENSOR shall immediately replace the damaged prize at no additional cost to SPONSOR or the prizewinner.

Winners of experiential prizes (Suite and On-Field Contest Experiences trip winners, Private Plane Away Game Trip – Owner for a Day trip winners, and Texans Season Tickets Package for two (2) Years prizewinners) shall complete and submit a Texas Lottery Promotional Second-Chance Claim Form which details the prize won and the value of the prize. Upon receipt of the Claim Form and acceptance of the experiential prize by the winner, SPONSOR shall provide LICENSOR a list of approved winners. Once the signed claim form has been received by SPONSOR from a winner, the prize shall be considered fulfilled for invoicing purposes.

LICENSOR shall provide a list of fulfilled prizes to SPONSOR with each invoice submitted. The list shall include an accounting of all merchandise/experiential prizes, including the names and addresses of the winners and the shipment tracking numbers. The list shall be provided in both .xls and .xml formats.

LICENSOR shall provide a monthly list of all experiential prizes that have been won but not fulfilled, with their scheduled fulfillment dates, if known.

SPONSOR has the right to monitor the fulfillment process and contact LICENSOR to discuss any reported problems with fulfillment and request possible solutions.

If the COVID-19 pandemic (including any associated recovery efforts such as vaccine or medicine distribution) is a factor preventing LICENSOR from completing prize fulfillment for experiential prizes, LICENSOR may substitute any unfulfilled experiential prizes specified herein, upon prior written approval from SPONSOR, with a unique prize package of equal or higher value incorporating similar one-of-a-kind experiential elements not available for purchase by the general public. If any such experiential prize is not fulfilled by March 1, 2023, LICENSOR shall pay the prize winner of each unfulfilled prize the cash equivalent prize value specified in this Addendum no later than March 31, 2023.

### **3. MARKETING SERVICES & PROMOTIONAL SUPPORT**

The LICENSOR agrees to provide, at no additional cost, the following promotional and marketing services to support the continued sales of each Game (provided that, LICENSOR, in its reasonable discretion, may need to substitute certain benefits of equal or greater value, upon consultation with and approval of SPONSOR, if original benefits are no longer available).

- a. SPONSOR will receive rights to primary and secondary Team Trademarks to use in approved marketing and marketing materials primarily to promote the Game.
- b. SPONSOR will also receive rights to use the Team's Trademarks imagery in approved marketing and promotional materials as well as rights to use the Houston Texans Cheerleaders trademarks, service marks, copyrights, and logos in approved marketing and promotional materials primarily to promote the Game.
- c. SPONSOR will have the right to a full rotation of the LED displays on the lower fascia of NRG Stadium for one (1) minute per quarter (based on "game time") for each Team pre- and regular season home games ("Home Games") and one (1) animation for one timeout per quarter of each Home Game. LICENSOR will provide related production/animation at LICENSOR's expense.
- d. SPONSOR will receive two (2) :30 second 360 degree "Timeout" animations per half at each Home Game. LICENSOR will provide related production/animation at LICENSOR's expense. (Ten (10) games)
- e. SPONSOR will receive one (1) :30 videoboard feature where selected fans receive a package of prizes mutually agreed upon by LICENSOR and SPONSOR. (Ten (10) games)
- f. SPONSOR will receive three (3) :30 second network commercial advertisements in each pre-season game broadcast - (Eighteen (18) total spots (original and re-broadcast combined)).

- g. SPONSOR will receive one (1) :30 second commercial advertisement during each of the twenty-one (21) broadcasts of Texans Inside the Game (Total of twenty-one (21) spots).
- h. SPONSOR will receive the following advertisements on Texans Buzz and Texans Extra Points on the original air and re-air of each show on FS Southwest:
  - i. One (1) :30 second commercial during each broadcast of the four (4) shows (Total of seventy-six (76) spots).
  - ii. One (1) :05 second billboard during each broadcast of the three (3) shows (Total of seventy-six (76) billboards).
  - iii. One (1) mutually determined feature during the twenty (20) broadcasts on one (1) of the Texans shows on FS Southwest (Up to twenty (20) features).
- i. SPONSOR will receive one (1) :30 pre-/in-/post- rotator spot (total of twenty (20) spots).
- j. SPONSOR will receive four (4) :30 second spots in each Texans Hispanic Gameday Broadcast (Total of twenty (20) Texans Hispanic Gameday broadcasts) on Mega 101 FM (Houston) (Total of eighty (80) spots).
- k. SPONSOR will receive a dedicated information page within the HoustonTexans.com site to promote the Game and all prize details. LICENSOR will provide related production/animation at LICENSOR's expense.
- l. SPONSOR will receive a minimum of six (6) mentions in the Texans Stampede email blast or other mutually agreed upon email distributions. The email blast will include a link to the Texans Texas Lottery promotional page.
- m. SPONSOR will receive the following on the Houston Texans Radio broadcast on KILT-AM and KILT-FM in Houston and throughout the Houston Texans Radio Network affiliates during Houston Texans games, weekly ancillary programming and unique off-season shows, as indicated:
  - i. Two (2) :30 spots in each Texans Mondays broadcast (Monday 6:30a – 8:30a) (Thirty-two (32) spots total).
  - ii. One (1) :30 spot in each Texans All-Access broadcast (Monday – Friday 6p – 8p) (Eighty (80) spots total).
  - iii. One (1) :30 spot in each coaches' show broadcast (Monday 5p – 6p) (Sixteen (16) spots total).

- iv. One (1) :30 spot in each Texans Replay broadcast (Tuesday 8p – 9p) (Sixteen (16) spots total).
  - v. One (1) :30 spot in each Texans All-Access Tuesday broadcast (Tuesday 6p – 8p) (Sixteen (16) spots total)
  - vi. Twenty (20) :30 spots total in Texans Training Camp broadcasts (1st two (2) weeks of Training Camp Monday – Friday 6a – 10a).
  - vii. Three (3) two-week contests during nightly Texans Tonight broadcasts where Texans scratch tickets will be featured as prizes (estimated :10 in length).
  - viii. One (1) :30 spot in each Pregame Radio show broadcast (Twenty (20) spots total)
- n. SPONSOR will receive a minimum of 600,000 ROS impressions across all Houston Texans platforms (ex: Desktop, mobile web, mobile app). Frequency of rotation and specific location shall be determined by LICENSOR.
- o. LICENSOR will promote the Game during the Dear Drew social media series presented by the Texas Lottery, which includes a question and answer session with HoustonTexans.com personality Drew Dougherty and opportunity to win Texans scratch tickets.
- p. SPONSOR will receive a link to the Texans Game promotional web page from the Fan Zone page of HoustonTexans.com throughout the duration of the Game.
- q. SPONSOR will receive a full-page, four (4) color ad in Texans Life (total annual circulation approximately 77,720).
- r. The Game will be featured on the NRG Park marquee in :25 second intervals located in the southwest corner of NRG Park, overlooking the 610 Loop from beginning of the Game through end of the Houston Texans season (approx. end of January).
- s. LICENSOR agrees to support the launch of each new Houston Texans scratch ticket. Details to be mutually agreed upon.
- t. SPONSOR will receive a DVD of videos and photos of media events related to the Game.

LICENSOR will ensure that Texas Lottery commercials pertaining to SPONSOR do not air on any stations that are not licensed to a location in the state of Texas.

Except as specifically noted above, SPONSOR shall provide to LICENSOR, at SPONSOR's own expense, the substantive television, radio and digital content and production, and/or animation, necessary for inclusion in the above-referenced Marketing Support.

SPONSOR may receive the above elements for Texans playoff games at no additional cost.

Dates and times of the television and radio shows described above are subject to change.

LICENSOR shall fill out and return Exhibit D – Post Production Documentation when submitting an invoice for payment. LICENSOR shall provide additional documentation, as appropriate, in addition to Exhibit D for all promotional items listed above to process invoices.

#### **4. SPONSOR ON-SITE SELLING AND PROMOTION ACTIVITIES**

The LICENSOR agrees to provide, at no additional cost, event space in Bud Light Plaza and Team Merchandise for each regular season Home Game and Playoff Game or mutually agreed upon retailer selling activations with retailer partner(s) and Team Merchandise to support the continued sales of Game.

On-site selling activation will support Game as follows:

- A. Selling Event Space – 10'x 20' (will include two (2) 10'x 10' tents)
- B. Electric Requirements - Four (4) 110 outlets; can run on one (1) line
- C. Worker Passes – six (6)
- D. Parking Passes – six (6) total, which includes one (1) close-in space
- E. LICENSOR will provide Team Merchandise to be used as a giveaway with purchase of lottery promotion to support the Game. SPONSOR will promote offer to buy a minimum of twenty-five dollars (\$25) of Game scratch ticket and receive team merchandise for each of the Home Game and Playoff Game selling events. A different merchandise item should be offered at each Home Game and Playoff Game selling event and tie to the game color theme. Merchandise items will be mutually agreed upon by the SPONSOR and LICENSOR. LICENSOR will provide a minimum of four hundred (400) merchandise items for each Home Game and Playoff Game selling event. Any unused merchandise will be used at a lottery promotion to support the Game. LICENSOR to contribute a maximum of thirty thousand dollars (\$30,000) towards production of merchandise.
- F. SPONSOR may provide a clear bag with the purchase of the lottery promotion. The clear bag will meet NFL sizing, material and imprint guidelines. Imprint would be SPONSORs trademarks.

#### **5. MERCHANDISE / EXPERIENTIAL PRIZE DESCRIPTIONS**

(To be awarded through promotional second-chance drawings.)

- a) Private Plane Away Game Trip – Owner for a Day, valued at forty-nine thousand nine hundred fifty dollars (\$49,950) each. Five (5) winners will be selected through promotional second-chance drawings, one (1) per drawing. Winners must provide the

name of the winner and one guest at least twenty-one (21) days prior to the date of the game. Prize will include:

- i. Roundtrip Airfare on a Private Plane the day before the game to a next season Houston Texans Road game
  - ii. One (1) night hotel accommodation (double occupancy) for two (2) at a 3-star or above hotel (selected by the Texans) in visiting city for the selected away game chosen by the Texans
  - iii. Suite tickets including food and non-alcoholic beverages during the game with High-end Texans Gift Bag (“Ownership Collection”)
  - iv. Pre-game sideline access and the opportunity to meet the Texans Executives
  - v. Dinner in visiting team city at high-end restaurant and breakfast at hotel morning of the game
  - vi. Police escort between hotel/stadium/airport
  - vii. Round-trip airfare to Houston (from nearest major international airport within the forty-eight (48) contiguous United States and hotel accommodations), if necessary, to participate in the trip
  - viii. LICENSOR shall select the specific away game in its sole discretion.
- b) “VIP Texans Season Tickets Package for One (1) Year,” valued at five thousand dollars (\$5,000) each. Forty-five (45) winners will be selected through promotional second-chance drawings, nine (9) per drawing. Prize will include:
- i. Each winner shall receive two (2) season tickets for the next NFL Season Texans Home Games at NRG Stadium. Tickets will be located in Gridiron, TX between the thirty (30) yard lines. No travel will be provided.
  - ii. Texans Merchandise Gift Bag including two (2) hats, two (2) Texans t-shirts, and fifty dollars (\$50) in Texans Bucks for the first year of season tickets.
  - iii. Two (2) Tickets to Churrascos Club and pre-game sideline passes to one (1) Houston Texans Home Game (preseason or regular season – selected by the winners on a first-come-first-serve basis).
  - iv. Private “Meet & Greet” party for Houston Texans season ticket winners with a Houston Texans player at NRG Stadium. Winners may invite one guest. (The event date will be set by Houston Texans and winners must provide their own transportation and hotel stay if outside of Houston area.)
- c) “Suite and On-Field Contest Experience” valued at forty-nine thousand five hundred fifty dollars \$49,550 each. Five (5) winners will be selected through promotional second-chance drawings, one (1) per drawing. Winners must provide the name of the winner and three (3) guests at least twenty-one (21) days prior to the date of the game. Prize will include:
- i. Winner and three (3) guests will receive luxury suite tickets to one (1) home Houston Texans football game.



- ii. VIP pre-game sideline passes for entire group and the winner will have an exclusive opportunity to watch the player introductions on the sidelines.
- iii. Signed autographed football from high-profile Houston Texans player.
- iv. To kick off the Game, each suite and on-field contest winner will compete in an on-field contest provided at no additional cost by the LICENSOR, and hosted by the Houston Texans Cheerleaders. The LICENSOR shall provide complete fulfillment of, and take sole responsibility for, all aspects of this on-field contest. LICENSOR shall pay all prizes won by the prizewinner contestants in the on-field contest. The following are details of the on-field contest:
  - 1. Prizes include five (5) premium prizes and fifteen (15) non-premium prizes.
    - a. Premium prizes include a large cash prize (either \$1,000,000 or \$100,000, depending on the outcome of the on-field contest); a vehicle valued at twenty-five thousand dollars (\$25,000); and three (3) prizes valued at five thousand dollars (\$5,000) a piece (one prize shall be a cruise; the other two (2) prizes shall be mutually agreed upon by LICENSOR and SPONSOR).
    - b. Non-premium prizes shall be determined by LICENSOR and could include such prizes as Texans merchandise, gift cards, etc.
    - c. Specific prizes for the contest shall be announced prior to the start of the Game.
  - 2. LICENSOR shall contract with SCA Promotions to insure the awarding of the five (5) premium prizes.
  - 3. The awarding of the premium and non-premium prizes is subject to the outcome of the on-field contest; it is possible that the contestants do not win any of the prizes.
- v. Tour of the NRG Stadium with lunch in the Texans Cafe.
- vi. Dinner the night before the selected Home Game at a high-end restaurant in Houston, TX with a Texans Ambassador.
- vii. Texans Ambassador joins the winners in the suite to watch the game.
- viii. Hotel accommodations for all guests in a 3-star or above hotel in Houston, TX (double occupancy).
- ix. Transportation provided for all guests for the weekend. Airfare for all guests outside of the Houston area and/or ground transportation for guests in the Houston area. (Houston Texans determine transportation.)
- x. LICENSOR shall select the specific Home Game in its sole discretion.

LICENSOR shall be responsible for all prizes awarded in the on-field promotion(s) and any associated tax withholdings.

- d) Texans Merchandise Pack, valued at five hundred eighty dollars (\$580) each. Eight hundred ten (810) winners will be selected through promotional second-chance drawings, one hundred sixty-two (162) winners per drawing.

- i. Each merchandise pack will be delivered to the winner's home address, including the following items:
  - 1. One (1) custom Bose wireless headphone laser imprinted with the Texans logo
  - 2. One(1) custom Nike duffle bag embroidered with the Texans logo
  - 3. One (1) Autographed Texans ball cap. Player to be determined once the season's roster is finalized.
  - 4. One (1) Texans water bottle
  - 5. One Texans t-shirt
- ii. The prize will include a letter of authenticity from Team.
- iii. Items in Section 5.d may be substituted for items of equal or greater value as mutually agreed upon by SPONSOR and LICENSOR.

SPONSOR agrees not to include the specific names of the players in any marketing or other promotional materials related to the Game. However, SPONSOR shall be permitted to refer to the players as "Texans Star Players" or such other mutually agreed upon description, and to refer to the specific players in the context of legal agreements and official Game procedures (e.g., in official postings on the *Texas Register* and through a link to the official Game procedures on SPONSOR's website, pursuant to 16 Texas Administrative Code Section 401.302).

## **6. VALUE-ADDED MARKETING AND PROMOTIONAL ITEMS**

As added value, at no cost to SPONSOR, LICENSOR agrees to make available to SPONSOR marketing and promotional items to support SPONSOR's marketing and/or promotion of Texas Lottery games. At SPONSOR's option and except as otherwise specified herein, SPONSOR may use any of the marketing and promotional items for retailer incentives, player contests, and/or other Texas Lottery promotional activities.

## **7. MAKE-GOOD ENTITLEMENTS**

LICENSOR shall provide make-good entitlements ("Make-Goods") if any contractual deliverable set forth in Sections 3 and 4 or any other contractual deliverable specifically referencing Make-Goods in this Agreement, is not satisfied in the current NFL Season. All Make-Goods shall be mutually agreed upon by the SPONSOR and LICENSOR. The SPONSOR shall receive all Make-Goods within the same NFL Season.

**EXHIBIT A**  
**LICENSOR'S TRADEMARKS (2020)**

**HOUSTON TEXANS INTELLECTUAL PROPERTY GUIDELINES**

The LICENSOR provides the following guidelines regarding the LICENSOR's intellectual property.

- You may use the LICENSOR's intellectual property in connection with the promotion of the Game as referenced in the Agreement. You may not use the LICENSOR's intellectual property for any other purpose, including the sales of any merchandising or tie-in materials that may feature the LICENSOR's intellectual property, without express written consent from the LICENSOR.
- Use of the LICENSOR's intellectual property inures to the benefit of the LICENSOR, and you do not acquire any rights in such intellectual property as a result of use allowed by the LICENSOR.
- The LICENSOR's intellectual property should be printed in accordance with the guidelines set out in Exhibit A-1.
- You should not alter, manipulate, blur, distort or otherwise modify the LICENSOR's intellectual property.

## Scratch Ticket Game Closing Analysis

**08/30/20      Thru      08/27/22**

### Average Number of Weeks for 85% Average Sell Through

Print Quantities	Price Point				Price Point					
	\$1	\$2	\$3	\$5	\$10	\$20	\$25	\$30	\$50	\$100
<b>&lt; 5M</b>	None	None	Week 10*	None	None	None	None	None	None	None
<b>5M-9.99M</b>	Week 13	Week 18	Week 14*	Week 18	Week 25	Week 39	None	Week 66*	Week 38	None
<b>10M-14.99M</b>	Week 17	None	None	Week 26	Week 44	Week 29*	None	None	None	None
<b>15M-19.99M</b>	Week 24	None	Week 27*	Week 63	None	None	None	None	None	None
<b>20M-24.99M</b>	None	None	None	Week 51	Week 41*	None	None	None	None	None
<b>25M-29.99M</b>	Week 32*	None	None	None	None	Week 59*	None	None	None	None
<b>30M-34.99M</b>	None	None	None	None	None	None	None	None	None	None
<b>&gt;=35M</b>	None	Week 63	Week 54*	Week 48*	Week 43*	None	None	None	None	None

### Average Weekly Dollar Sales at 85% Average Sell Through

Print Quantities	Price Point				Price Point					
	\$1	\$2	\$3	\$5	\$10	\$20	\$20	\$30	\$50	\$100
<b>&lt; 5M</b>	None	None	\$1,280,407	None	None	None	None	None	None	None
<b>5M-9.99M</b>	\$603,552	\$790,419	\$1,135,659	\$1,868,249	\$2,632,364	\$4,140,873	None	\$3,548,614	\$6,722,847	None
<b>10M-14.99M</b>	\$573,217	None	None	\$2,195,824	\$2,593,290	\$6,888,646	None	None	None	None
<b>15M-19.99M</b>	\$618,201	None	\$1,754,298	\$1,321,610	None	None	None	None	None	None
<b>20M-24.99M</b>	None	None	None	\$2,177,872	\$4,377,999	None	None	None	None	None
<b>25M-29.99M</b>	\$795,571	None	None	None	None	\$7,343,720	None	None	None	None
<b>30M-34.99M</b>	None	None	None	None	None	None	None	None	None	None
<b>&gt;=35M</b>	None	\$1,031,140	\$1,704,990	\$4,784,040	\$7,855,672	None	None	None	None	None

None = no games at this level with 85% sell through

\* only one game at this level with 85% sell through

Excludes Promotional Tickets

Unaudited - For Internal Use Only