

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

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FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

May 2, 2017

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Date of Report (Date of earliest event reported)

The Hershey Company

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(Exact name of registrant as specified in its charter)

Delaware

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(State or other jurisdiction of incorporation)

1-183

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(Commission File Number)

23-0691590

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(IRS Employer Identification No.)

100 Crystal A Drive, Hershey, Pennsylvania 17033

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(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (717) 534-4200

Not Applicable

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(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On May 2, 2017, the Compensation and Executive Organization Committee (the “Committee”) of the Board of Directors of The Hershey Company (the “Company”) approved a special equity award for Terence L. O’Day, the Company’s Senior Vice President, Chief Product Supply and Technology Officer.

In recognition of his expanded role and overall accountability for the Company’s supply chain and information technology initiatives, as well as his day-to-day leadership of the Company’s recently announced Margin for Growth Program, the Committee granted Mr. O’Day 9,341 contingent target performance stock units (“PSUs”). In general, the PSUs will vest on May 2, 2019, the second anniversary of the grant date (subject to earlier, pro-rata vesting in the event of Mr. O’Day’s death or disability). The actual number of PSUs earned can range between 0% and 150% of the contingent target PSUs granted to Mr. O’Day, based on his performance relative to certain individual performance objectives established by the Committee in connection with the award.

The award was granted pursuant to the terms and conditions of The Hershey Company Equity and Incentive Compensation Plan and a Notice of Special Award of Performance Stock Units (the “PSU Award Agreement”). The Committee approved the form of PSU Award Agreement on May 2, 2017.

The foregoing is not a complete description of the PSU Award Agreement and is qualified in its entirety by reference to the full text of the PSU Award Agreement, the form of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 5.07. Submission of Matters to a Vote of Security Holders.**

The Company held its 2017 Annual Meeting of Stockholders on May 3, 2017. Set forth below are the final voting results from the meeting.

*Proposal No. 1 — Election of Directors*

Holders of the Company's Common Stock and Class B Common Stock, voting together without regard to class, elected the following directors by the votes set forth as follows:

Name	Votes For	Votes Withheld	Broker Non-Votes
Pamela M. Arway	702,045,041	10,696,841	23,327,065
John P. Bilbrey	709,058,837	3,683,045	23,327,065
James W. Brown	711,609,118	1,132,764	23,327,065
Michele G. Buck	711,687,077	1,054,805	23,327,065
Charles A. Davis	711,020,322	1,721,560	23,327,065
M. Diane Koken	711,579,034	1,162,848	23,327,065
James M. Mead	703,087,728	9,654,154	23,327,065
Anthony J. Palmer	711,563,426	1,178,456	23,327,065
Thomas J. Ridge	707,758,295	4,983,587	23,327,065
David L. Shedlarz	711,388,725	1,353,157	23,327,065

Holders of the Company's Common Stock, voting separately as a class, elected the following directors by the votes set forth as follows:

Name	Votes For	Votes Withheld	Broker Non-Votes
Mary Kay Haben	102,001,646	4,619,396	23,266,495
Robert M. Malcolm	105,404,822	1,216,220	23,266,495

*Proposal No. 2 — Independent Registered Public Accounting Firm*

Holders of the Company's Common Stock and Class B Common Stock, voting together without regard to class, ratified the appointment of Ernst & Young LLP as the Company's independent auditors for the fiscal year ending December 31, 2017, by the votes set forth as follows:

Votes For	Votes Against	Abstentions
734,845,212	877,182	346,553

*Proposal No. 3 — Non-Binding Advisory Vote on Named Executive Officer Compensation*

Holders of the Company's Common Stock and Class B Common Stock, voting together without regard to class, approved the compensation of the Company's named executive officers on a non-binding advisory basis by the votes set forth as follows:

Votes For	Votes Against	Abstentions	Broker Non-Votes
708,211,368	3,928,008	602,506	23,327,065

*Proposal No. 4 — Non-Binding Advisory Vote on Frequency of Future Advisory Votes on Named Executive Officer Compensation*

Holders of the Company's Common Stock and Class B Common Stock, voting together without regard to class, indicated a preference to hold future advisory votes on named executive officer compensation every year by the votes set forth as follows:

1 Year	2 Years	3 Years	Abstentions
702,494,017	448,601	9,384,631	414,633

**Item 9.01. Financial Statements and Exhibits.**

(d) *Exhibits.*

<u>Exhibit Number</u>	<u>Description</u>
10.1	Form of Notice of Special Award of Performance Stock Units

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE HERSHEY COMPANY

Date: May 5, 2017

By: */s/ Patricia A. Little*

\_\_\_\_\_  
Patricia A. Little  
Senior Vice President, Chief Financial Officer

**EXHIBIT INDEX**

<u>Exhibit Number</u>	<u>Description</u>
10.1	Form of Notice of Special Award of Performance Stock Units

The Hershey Company  
100 Crystal A Drive  
Hershey, Pennsylvania 17033

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Notice of Special Award of Performance Stock Units

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1. **EFFECTIVE DATE AND CONTINGENT TARGET AWARD.** Effective \_\_\_\_\_ (the “Grant Date”), Grantee will be awarded \_\_\_\_\_ contingent target Performance Stock Units (“PSUs”) pursuant to the terms of this agreement. The actual number of PSUs earned may be equal to, exceed or be less than the contingent target award, and will be based upon the Grantee’s attainment of the performance goals approved for the two-year performance cycle commencing on the Grant Date (the “Performance Cycle”). Each earned PSU represents the right to receive one share of Hershey Common Stock, \$1.00 par value, at a future date and time, subject to the terms of this Notice of Special Award of Performance Stock Units (the “Notice of Special Award”).

The Grantee will have forty-five (45) days to accept the terms of this Notice of Special Award. By accepting the award of PSUs under this Notice of Special Award, Grantee accepts and agrees to: (i) these terms and conditions, (ii) the terms and conditions of The Hershey Company Equity and Incentive Compensation Plan (“EICP”), which are incorporated herein by reference, and (iii) as applicable, the terms and conditions of The Hershey Company Deferred Compensation Plan, which are incorporated herein by reference. This award of PSUs is expressly contingent upon Grantee agreeing to the obligations contained herein. Failure to agree to all the terms and conditions set forth herein in the form presented by The Hershey Company (“Hershey”) shall result in the PSUs being cancelled, with no benefit to Grantee.

The terms of this Notice of Special Award extend not only to the Grantee and Hershey, but also to Hershey’s past and present affiliated and related companies, subsidiaries, joint ventures, affiliated entities, parent companies and its and their respective successors and assigns, its and their past, present and future benefit and severance plans, including the EICP and the terms and conditions of The Hershey Company Deferred Compensation Plan, and their representatives, agents, trustees, officials, shareholders, officers, directors, employees, attorneys, benefit plan administrators and fiduciaries, both past and present, in their individual or representative capacities, and all of their successors and assigns (collectively with Hershey, the “Company”).

2. **DEFINITIONS.** Wherever used herein, the following terms shall have the meanings set forth below. ***Capitalized terms not otherwise defined in this Notice of Special Award shall have the same meanings as set forth in the EICP.***

(A) “Business Relationships” means the Company’s relationships with customers, suppliers, agents, licensees, licensors and others that likewise give the Company a competitive advantage.

(B) “Committee” means the Compensation and Executive Organization Committee of the Board of Directors.

(C) “Competing Business” means any business, person, entity or group of business entities, regardless of whether organized as a corporation, partnership (general or limited), joint venture, association or other organization that (i) conducts or is planning to conduct a business similar to and/or in competition with any business conducted or planned by the Company and for which Grantee was employed or performed services in a job or had knowledge of the operations of such business(es) over the last two (2) years of Grantee’s employment with Hershey, or (ii) designs, develops, produces, offers for sale or sells a product or service that can be used as a substitute for or is generally intended to satisfy the same customer needs for, any one or more

products or services designed, developed, manufactured, produced or offered for sale or sold by the Company for which Grantee was employed or performed services in a job or had knowledge of the operations of such business(es) of the Company during the two (2) years prior to the termination of Grantee's employment with Hershey. Grantee acknowledges that he/she will be deemed to have such knowledge if Grantee received, was in possession of or otherwise had access to Confidential Information regarding such business.

(D) "Confidential Information" means trade secrets and other confidential and proprietary information relating to the Company's business, including, but not limited to, information about Hershey's manufacturing processes; manuals, recipes and ingredient percentages; engineering drawings; product and process research and development; new product information; cost information; supplier data; strategic business information; information related to Hershey's legal strategies or legal advice rendered to Hershey; marketing, financial and business development information, plans, forecasts, reports and budgets; customer information; new product strategies, plans and project activities; and acquisition and divestiture strategies, plans and project activities.

(E) "Deferred Compensation Plan" means The Hershey Company Deferred Compensation Plan and any successor or replacement plan thereof.

(F) "Disabled" means Grantee is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Company.

(G) "Key Employee" means a "specified employee" under Internal Revenue Code ("Code") section 409A(a)(2)(B)(i) (i.e., a key employee (as defined in Code section 416(i) (without regard to paragraph (5) thereof)) of a corporation any stock in which is publicly traded on an established securities market or otherwise) and applicable Treasury regulations and other guidance under Code section 409A. Key Employees shall be determined in accordance with Code section 409A and pursuant to the methodology established by the Employee Benefits Committee.

(H) Wherever reference is made to a "performance metric," the reference is intended to refer to a Performance Goal and the performance period over which attainment of the Performance Goal is measured.

(I) "EICP" means The Hershey Company Equity and Incentive Compensation Plan, as in effect from time to time and any successor or replacement plan thereof.

(J) "Material Contact" means contact for the purpose of furthering the Company's business.

(K) "Separation from Service" or "Separate from Service" means a "separation from service" within the meaning of Code section 409A.

3. VESTING DATE. On the second anniversary of the Grant Date (such second anniversary, the "Vesting Date"), the Grantee shall vest in the number of PSUs earned based on the Grantee's actual performance during the Performance Cycle relative to each performance metric, provided that the Grantee has remained in continuous employment with the Company from the Grant Date through such date and has accepted and agreed to all terms and conditions in this agreement.

In the event of a Change in Control, vesting of PSUs, if any, shall be determined in accordance with paragraph 15 of the EICP. In accordance with paragraph 15 of the EICP, if the PSUs are assumed or replaced, or remain outstanding, such that the PSUs as assumed, replaced or continued qualify as a Replacement Award under paragraph 15 of the EICP, the occurrence of the Change in Control shall not affect the vesting or payment of the PSUs which shall then constitute a Replaced Award as defined in the EICP. However, if within two (2) years following the Change in Control and prior to the Vesting Date, Grantee's employment is terminated by the Company for any reason other than for Cause (as defined in the EICP), by the Grantee for Good Reason (as defined in the EICP), as a result of Grantee's death or as a result of Grantee becoming Disabled, the Grantee

shall immediately vest in the Replacement Award upon such termination based on the provisions of The Hershey Company Executive Benefits Protection Plan (“EBPP”) applicable to Grantee. Notwithstanding the foregoing, if the Committee determines that the PSUs are not replaced in connection with a Change in Control with awards meeting the requirements for Replacement Awards, the Grantee shall vest in the PSUs and receive payment in accordance with the provisions of the EBPP applicable to Grantee.

If prior to the Vesting Date, the Grantee’s employment with the Company terminates for any reason, then the PSUs subject to this Notice of Special Award shall terminate and be completely forfeited on the date of such termination of the Grantee’s employment unless the Grantee is entitled to vesting with respect to the PSUs under the terms of the EICP or other Company-sponsored plan or agreement or as described in this paragraph 3 relating to a Change in Control, paragraph 4 below relating to special vesting conditions or paragraph 13(G) below relating to Foreign Nationals, in which case such vesting of the PSUs will be in accordance with the terms of this Notice of Special Award or the applicable plan, agreement or local law. Notwithstanding anything in the EICP or this Notice of Special Award to the contrary, if the Grantee is terminated for Cause (as defined in the EICP) from the Company prior to payment pursuant to paragraph 6, all of the PSUs will immediately and automatically without any action on the part of the Grantee or the Company, be forfeited by the Grantee.

4. **SPECIAL VESTING CONDITIONS.** The Committee has determined that the following special vesting conditions shall apply to this award.

(A) If the Grantee’s employment with the Company terminates (i) as a result of the Grantee’s death or (ii) solely as a result of Grantee becoming Disabled, then the Grantee will vest immediately on the date of such termination in a prorated portion of the PSUs allocated to each performance metric in effect as of the date of employment termination and the number of PSUs earned, if any, will be determined based on the Grantee’s actual performance during the Performance Cycle relative to each performance metric measured through the date of termination of employment.

(B) The prorated portion of the earned PSUs allocated to each performance metric, determined as described in paragraph 4(A) above, shall be equal to the number of PSUs allocated at the start of the Performance Cycle to such performance metric multiplied by a fraction, the numerator of which equals the number of full and partial calendar months during the performance period for such performance metric preceding the date of the Grantee’s termination and the denominator of which equals the number of months in the performance period for such performance metric. Any fractional share resulting from such calculations shall be eliminated by rounding down to the nearest whole number for each performance metric. Any PSUs subject to this Notice of Special Award in excess of the prorated amounts shall not vest pursuant to paragraph 4(A) but instead shall terminate and be completely forfeited as of the date of termination.

5. **DETERMINATION OF EARNED PSUs.** The number of PSUs earned, if any, with respect to each performance metric shall be determined following the conclusion of the Performance Cycle, based upon achievement against the applicable Performance Goals. Any fractional share resulting from such calculations shall be eliminated by rounding down to the nearest whole number for each performance metric. The determination of earned PSUs and the prorated amounts under paragraphs 4(A) and 4(B) in the event of Grantee’s termination due to death or becoming Disabled will be made within 60 days following such termination. The final determination of the number of PSUs earned is subject to review, approval and modification by the Committee.

6. **PAYMENT OF AWARD.** Unless deferred under the Deferred Compensation Plan, earned PSUs that have vested (“Vested Units”) shall be paid in the form of a share of Common Stock, unless prohibited by applicable local law or as otherwise provided by the Committee or other applicable agreement or the EBPP, in which case the Vested Units will be paid in the cash equivalent, effective as of (A) the date the Committee approves the number of PSUs earned for the Performance Cycle (or, if earlier, the date the award vests in accordance with the provisions of paragraph 3 applicable upon a Change in Control), (B) the date of Grantee’s death, or (C) the date Grantee becomes Disabled. In the event payment is made pursuant to clause (A) above, such

payment shall be made as soon as practicable following the Vesting Date and the Committee's approval of the number of PSUs earned, but in no event later than March 15 following the calendar year in which the applicable date occurs. In the event payment is made pursuant to clause (B) or (C) above, such payment shall be made on or before the sixtieth (60<sup>th</sup>) day following the date of the applicable event.

Notwithstanding the foregoing, distributions due to a Separation from Service may not be made to a Key Employee before the date which is six months after the date of the Key Employee's Separation from Service (or, if earlier, the date of death of the Key Employee). Any payments that would otherwise be made during this period of delay as a result of the Grantee's Separation from Service shall be accumulated and paid within fifteen (15) days after the first day of the seventh month following the Grantee's Separation from Service (or, if earlier, on or before the first day of the third month after the Participant's death).

7. **NON-COMPETITION.** Grantee acknowledges that due to the nature of his/her employment with Hershey, he/she has and will have access to, contact with, and Confidential Information about the Company's business and Business Relationships. Grantee acknowledges that the Company has incurred considerable expense and invested considerable time and resources in developing its Confidential Information and Business Relationships, and that such Confidential Information and Business Relationships are critical to the success of the Company's business. Accordingly, both (i) during the term of his/her employment with Hershey, and (ii) for a period of twelve (12) months following the termination of his/her employment, Grantee, except in the performance of his/her duties to Hershey, shall not, without the prior written consent of Hershey's Chief Human Resources Officer, directly or indirectly serve or act in a consulting, employee or managerial capacity, or engage in oversight of any person who serves or acts in a consulting, employee or managerial capacity, as an officer, director, employee, consultant, advisor, independent contractor, agent or representative of a Competing Business. This restriction shall apply to any Competing Business that conducts business or plans to conduct business in the same or substantially similar geographic area in which Grantee was employed or, directly or indirectly, performed services for Hershey during the two years prior to his/her termination of Grantee's employment. Grantee acknowledges: (i) that the Company's business is conducted throughout the United States and the world, (ii) notwithstanding the state of incorporation or principal office of Hershey, it is expected that the Company will have business activities and have valuable business relationships within its industry throughout the United States and around the world, and (iii) as part of Grantee's responsibilities, Grantee has conducted or may conduct business throughout the United States and around the world in furtherance of the Company's business and its relationships. Grantee further acknowledges and understands that if he/she has any question about whether any prior position which Grantee has held at the Company over the last two (2) years subjects Grantee to specific restrictions, and will be used to identify Competing Business(es), Grantee should contact his/her Human Resource representative at Hershey.

8. **NON-SOLICITATION.** Grantee acknowledges that the Company has invested and will invest significant time and money to recruit and retain its employees and to develop valuable, continuing relationships with existing and prospective clients and customers of the Company. Accordingly, recognizing that Grantee has obtained and will obtain valuable information about employees of the Company and their respective talents and areas of expertise and information about the Company's customers, suppliers, business partners, and/or vendors and their requirements, Grantee agrees both (i) during the term of his/her employment, and (ii) for a period of twelve (12) months following his/her termination of employment, Grantee, except in the performance of his/her duties to Hershey, shall not directly or indirectly (including as an officer, director, employee, consultant, advisor, agent or representative), for himself/herself or on behalf of any other person or entity:

(A) for any purpose that is in competition with any of the aspects of the Company's business, solicit, take away or engage, or participate in soliciting, taking away or engaging, any current or potential customers, suppliers, agents, licensees or licensors of the Company with whom Grantee had contact while employed by Hershey, or about whom Grantee had access to Confidential Information as a result of Grantee's employment; or

(B) recruit, hire, or attempt to recruit or hire, or solicit or encourage to leave their employment with the Company (either directly or by assisting others), any Company employee with whom Grantee

had Material Contact during the last two (2) years of Grantee's employment with Hershey. Notwithstanding the foregoing, this paragraph shall not be violated by (i) general advertising or solicitation not specifically targeted at employees of the Company, or (ii) actions taken by any person or entity with which Grantee is associated if Grantee is not directly or indirectly involved in any manner in the matter and has not identified such employee of the Company for recruiting or solicitation.

9. **NON-DISCLOSURE OF CONFIDENTIAL INFORMATION.** Grantee acknowledges that due to the nature of his/her employment and the position of trust that he/she holds or will hold with Hershey, he/she will have access to, learn, be provided with, and in some cases will prepare and create for the Company, Confidential Information. Grantee acknowledges and agrees that Confidential Information, whether or not in written form, is the exclusive property of Hershey, that it has been and will continue to be of critical importance to the business of Hershey, and that the disclosure of it will cause the Company substantial and irreparable harm. Accordingly, Grantee will not, either during his/her employment or at any time after the termination of his/her employment with Hershey, use or disclose any Confidential Information relating to the business of the Company which is not generally available to the public. Notwithstanding the foregoing provisions of this paragraph 9, nothing in this Notice of Special Award prevents, prohibits or limits the Grantee from: (1) making any disclosure of relevant and necessary information or documents in connection with any charge, action, investigation, or proceeding relating to this Notice of Special Award, or as required by law or legal process; or (2) communicating with, responding to any inquiries from, providing testimony before, providing Confidential Information to, reporting possible violations of law or regulation to, filing a claim or assisting with an investigation with, a self-regulatory authority or a local, state or federal government agency or commission, including but not limited to the U.S. Equal Employment Opportunity Commission, the Department of Labor (including but not limited to the Occupational Safety and Health Administration), the National Labor Relations Board, the Department of Justice, the Securities and Exchange Commission, the Congress and any agency Inspector General, or from making other disclosures that are protected under the whistleblower provisions of a state or federal law or regulation. You do not need the prior authorization of the Company to engage in conduct protected by this paragraph, and you do not need to notify the Company that you have engaged in such conduct. Further, nothing herein prevents you from receiving any applicable award for information provided to a government enforcement agency. The Company nonetheless asserts and does not waive its attorney-client or other applicable privileges over any information appropriately protected by the privilege.

Notwithstanding anything herein to the contrary, Grantee understands and agrees that his/her obligations under this Agreement shall be in addition to, rather than in lieu of, any obligations Grantee may have under any applicable statute or at common law.

Grantee is hereby notified in accordance with the Defend Trade Secrets Act of 2016 that Grantee will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. If Grantee files a lawsuit for retaliation against Hershey for reporting a suspected violation of law, Grantee may disclose Hershey's trade secrets to Grantee's attorney and use the trade secret information in the court proceeding, provided Grantee files any document containing the trade secret under seal, and does not disclose the trade secret, except pursuant to court order.

10. **ADDITIONAL RESTRICTIONS AND LIMITATIONS.**

(A) To the extent that no PSUs are earned or the Grantee does not vest in any PSUs, all interest in such units and any related shares of Common Stock shall be forfeited. The Grantee shall have no right or interest in any PSU or related share of Common Stock that is forfeited.



(B) Upon each issuance or transfer of shares of Common Stock in accordance with this Notice of Special Award, a number of Vested Units equal to the number of shares of Common Stock issued or transferred to the Grantee shall be extinguished and such number of Vested Units will not be considered to be held by the Grantee for any purpose.

11. WITHHOLDING.

(A) The Company's obligation to deliver shares of Common Stock or cash to settle the Vested Units shall be subject to the satisfaction of applicable tax withholding requirements. The Grantee may pay to the Company any applicable withholding tax due as a result of such payment.

(B) Unless the Grantee has otherwise paid the withholding tax due, the Company shall withhold from any cash which may be paid and/or reduce the number of shares of Common Stock issued to the Grantee to satisfy the minimum applicable tax withholding requirements.

12. OTHER LAWS. The Company shall have the right to refuse to issue or transfer any shares under this Notice of Special Award if the Company acting in its absolute discretion determines that the issuance or transfer of such Common Stock might violate any applicable law or regulation.

13. MISCELLANEOUS.

(A) This Notice of Special Award shall be subject to all of the provisions, definitions, terms and conditions set forth in the EICP and any interpretations, rules and regulations promulgated by the Committee from time to time, all of which are incorporated by reference in this Notice of Special Award. By accepting the PSUs awarded herewith, Grantee acknowledges and agrees that the PSUs are awarded under and governed by the terms and conditions set forth in this document and in the EICP, and the Employee Confidentiality and Restrictive Covenant Agreement (or similar or successor agreement), if any, applicable to Grantee. Any dispute or disagreement which shall arise under, as a result of, or in any way relate to the interpretation, construction or administration of the EICP or the PSUs awarded thereunder shall be determined in all cases and for all purposes by the Committee or any successor committee, and any such determination shall be final, binding and conclusive for all purposes. In the event of any conflict between this Notice of Special Award and the Employee Confidentiality and Restrictive Covenant Agreement (or similar or successor agreement), if any, applicable to Grantee, this Notice of Special Award shall govern. Grantee acknowledges that a remedy at law for any breach or threatened breach of this Notice of Special Award would be inadequate and therefore agrees that the Company shall be entitled to injunctive relief in case of any such breach or threatened breach. Grantee acknowledges and agrees that the Company may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive relief (without posting a bond or other security) in order to enforce or prevent any violation of this Notice of Special Award and that money damages would not be an adequate remedy. Grantee acknowledges and agrees that a violation of this Notice of Special Award would cause irreparable harm to the Company. The Company's right to injunctive relief shall be cumulative and in addition to any other remedies available by law or equity. If a court determines that Grantee has breached or threatened to breach this Notice of Special Award, Grantee agrees to reimburse the Company for all reasonable attorneys' fees and costs incurred in enforcing its terms. However, nothing contained herein shall be construed as prohibiting the Company from pursuing any other available remedies for a breach, which may include, but not be limited to, contract damages, lost profits and punitive damages.

(B) Grantee acknowledges and agrees that in addition to the relief described in paragraph 13(A), if the Committee determines, in its sole judgment, that Grantee has violated or threatened to violate the terms of this Notice of Special Award or the EICP, then Hershey may cancel any part of the award that has not vested. In addition, upon the request or direction of the Committee, Grantee shall also immediately deliver to Hershey, the cash equivalent of any PSUs that have vested and been distributed to Grantee under this Notice of Special Award, inclusive of any dividends paid on any vested shares.

(C) Notwithstanding anything in the EICP or this Notice of Special Award to the contrary, Grantee acknowledges that the Company may be entitled or required by law or Hershey policy to recoup compensation paid to Grantee pursuant to the EICP, and Grantee agrees to comply with any Company request or demand for recoupment.

(D) Grantee agrees that, at any time after Grantee's termination of employment from Hershey, he/she will cooperate with the Company in (i) all investigations of any kind, (ii) helping to prepare and review documents and meetings with Company attorneys, and (iii) providing truthful testimony as a witness or a declarant during discovery and/or trial in connection with any present or future court, administrative, agency or arbitration proceeding involving the Company and with respect to which Grantee has relevant information

(E) If one or more of the provisions of this Notice of Special Award shall be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and the invalid, illegal or unenforceable provisions shall be deemed null and void; however, to the extent permissible by law, any provisions which could be deemed null and void shall first be construed, interpreted or revised retroactively to permit this Notice of Special Award to be construed so as to foster the intent of this award and the EICP.

(F) The PSUs are intended to comply with Code section 409A and official guidance issued thereunder. Notwithstanding anything herein to the contrary, this Notice of Special Award shall be interpreted, operated and administered in a manner consistent with this intention.

(G) Notwithstanding anything herein to the contrary, in the event the Grantee: (i) is an employee of the Company in a country other than the United States (a "Foreign National"), (ii) is not subject to the federal income tax laws of the United States ("U.S. Tax Law") for purposes of these PSUs, and (iii) has certain rights in the vesting and payment of the PSUs upon termination of employment under the laws of the country in which Grantee is employed, the vesting and payment of any unvested PSUs will be in accordance with the terms of a severance agreement entered into between the Company and Grantee that complies with the laws of the country in which Grantee is employed or in the absence of a severance agreement, as may be required by the laws of such country; provided, however, if any PSUs, granted to such Foreign National, are subject to U.S. Tax Law, the payment of such PSUs shall be governed by the terms of this Notice of Special Award.

(H) The award of PSUs and all terms and conditions related thereto, including those of the EICP, shall be governed by the laws of the Commonwealth of Pennsylvania. Grantee expressly consents that: (i) any action or proceeding relating to a breach or the enforceability of this Notice of Special Award will be brought only in the federal or state courts, as appropriate, located in the Commonwealth of Pennsylvania; and (ii) any such action or proceeding will be heard without a jury. Grantee expressly waives the right to bring any such action in any other jurisdiction and to have such action heard before a jury regardless of where such action is filed. The EICP shall control in the event there is a conflict between the EICP and these terms and conditions.

14. CONTACT INFORMATION. Copies of the EICP and Information Statement (Prospectus) for the EICP are available upon request from the myHR Support Center by calling 1-800-878-0440 or by email to myHR@hersheys.com. Contact the VP, Global Total Rewards for information relating to the performance metrics.