UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA

In re:	**Chapter 11**
GORDMANS STORES, INC., *et al.*,[1]	**Case No. 17-80304 (TLS)**
	(Jointly Administered)
Post-Effective Date Debtors.	

MOTION OF THE POST-EFFECTIVE DATE DEBTORS FOR AN ORDER APPROVING THE SALE OF THEIR RIGHT, TITLE, AND INTEREST IN A CLASS ACTION LITIGATION TO OPTIUM FUND 2 LLC FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES

G-Estate Liquidation Stores, Inc., formerly known as Gordmans Stores, Inc., and its debtor affiliates in the above-captioned chapter 11 cases (collectively, the "Post-Effective Date Debtors"), by and through META Advisors LLC, in its capacity as plan administrator (the "Plan Administrator"), hereby move (the "Motion") this Court for an entry of an order pursuant to sections 105, 363, 1142(b), and 1146(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 6004-1 and 9013-1 of the Nebraska Rules of Bankruptcy Procedure (the "Local Rules") (i) authorizing the Post-Effective Date Debtors to enter into the APA (defined herein) and (ii) approving the sale of the Post-Effective Date Debtors' Class Action Interchange Claim (defined below) to Optium Fund 2 LLC (the "Optium") free and clear of all liens, claims, encumbrances, and interests, pursuant to the terms of the Asset Purchase and Sale Agreement

[1] The debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: G-Estate Liquidation Stores, Inc., formerly known as Gordmans Stores, Inc. (1987); G-Estate Liquidation, Inc., formerly known as Gordmans, Inc. (1211); G-Estate Management Company, Inc., formerly known as Gordmans Management Company, Inc. (5281); G-Estate Distribution Company, Inc., formerly known as Gordmans Distribution Company, Inc. (5421); G-Estate Intermediate Holdings Corp., formerly known as Gordmans Intermediate Holdings Corp. (9938); and G-Estate Liquidation, LLC, formerly known as Gordmans LLC (1987) (collectively, before the Plan Effective Date (defined herein), the "Debtors").

attached hereto as **Exhibit A** (the "APA"). In support of this Motion, the Post-Effective Date Debtors submit the Declaration of James B. Hunt (the "Declaration"), attached hereto as **Exhibit B**, and respectfully state:[2]

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and Article XI of the Debtors' confirmed chapter 11 plan [Docket No. 912] (the "Plan").

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief sought in this Motion are sections 105, 363 1142(b) and 1146(a) of the Bankruptcy Code, Bankruptcy Rules 2002 and 6004, Local Rules 6004-1 and 9013-1, and Article IV of the Plan (defined herein).

BACKGROUND

A. Case Background

4. On March 13, 2017 (the "Petition Date"), the Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nebraska (this "Court"). From and after the Petition Date, the Debtors continued to operate as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. This Court entered an order jointly administering these chapter 11 cases on the Petition Date [Docket No. 20].

5. On October 18, 2017, this Court entered the *Order (I) Approving the Adequacy of Disclosure Statement for the Debtors' Joint Plan of Liquidation and (II) Confirming Debtors'*

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan (defined herein).

Modified Joint Chapter 11 Plan [Docket No. 1036] (the "Confirmation Order"), which, among other things confirmed the Plan.

6. The effective date of the Plan occurred on November 15, 2017 [Docket No. 1057] (the "Plan Effective Date"). Pursuant to the Plan, the Plan Administrator was appointed on the Plan Effective Date.

7. Under the Plan, the Plan Administrator is authorized and empowered to collect, liquidate or otherwise monetize, as appropriate, any and all Plan Administrator Assets.[3] Further, Article IV.F provides that the Post-Effective Date Debtors and Plan Administrator "shall be authorized to execute, deliver, File, or record such contracts, instruments, release, and other agreements or documents take such other actions as they may deem in their sole discretion necessary or appropriate to effectuate and implement the provisions of the Plan."

8. The Post-Effective Date Debtors have good, valid and marketable title to the Interchange Claim (as defined below) and can sell the Interchange Claim free and clear of any mortgage, pledge, lien, security interest, claim or encumbrance pursuant to the sale order. The Interchange Claim has not been previously sold or transferred.

B. Interchange Claim

9. On October 20, 2005, numerous merchants, retailers, and trade associations (the "Plaintiffs") commenced a class action case against Visa U.S.A. Inc. and Mastercard International Incorporated, among other entities (collectively, the "Defendants"), styled *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (Case No. 1:05 md-1720-JG-JO) (the "Class Action Interchange Litigation") in the United States District Court for the Eastern District of New York (the "District Court"). The Plaintiffs allege, among other

[3] Article I.A.73 of the Plan provides that "Plan Administrator Assets" are "on the Effective Date, all assets of the Estates vested in the Plan Administrator, and, thereafter, all assets held from time to time by the Plan Administrator."

things, that the Defendants conspired to unlawfully fix the price of "interchange fees" and other fees charged to merchants for transactions that were processed through the Defendants' networks.

10. On September 18, 2018, the parties filed the *Superseding and Amended Definitive Class Settlement Agreement* with the District Court seeking approval of a proposed $5.56-$6.26 billion settlement (the "Proposed Settlement").

11. As of the date hereof, the District Court has not granted preliminary approval of the Proposed Settlement. Moreover, inclusion in a specific class, as well as monetary allocations based on potential claim amounts, have not yet been determined, and the District Court has not yet approved a claim form for claimants or a timetable for claim submissions.

12. The Post-Effective Date Debtors may have a right to a share in the Proposed Settlement or other recovery the Plaintiffs may obtain in the Class Action Interchange Litigation on account of interchange fees paid to the Defendants (the "Interchange Claim").

A. The Marketing and Sale of the Interchange Claim

13. The ultimate value of the Interchange Claim and the timing of any distribution or recovery to the Post-Effective Date Debtors are unknown, as a result, the Post-Effective Date Debtors determined that soliciting bids from certain parties that specialize in the purchase and sale of claims in the Class Action Interchange Litigation (the "Potential Purchasers") would reduce the costs and expenses attendant to the sale, while simultaneously serving to maximize value.

14. Nine Potential Purchasers were given access to an electronic data room and provided identical information concerning the interchange fees charged to the Debtors.

15. Subsequently, the Post-Effective Date Debtors sent the bid procedures (the "Bid Procedures") and proposed asset purchase agreement ("Proposed APA") to the Potential Purchasers. The Bid Procedures set forth the procedures for the auction whereby the Potential Purchases were instructed to submit their proposals (the "Qualified Proposals") by October 26, 2018 at 5:00 p.m. prevailing Eastern Time. The Post-Effective Date Debtors also required that all Qualified Proposals be accompanied by a good faith deposit in an amount equal to ten percent (10%) of the value of the Potential Purchaser's Qualified Proposal (the "Deposit") in immediately available funds by confirmed wire transfer to the attorney trust account of Frost Brown Todd LLC, counsel for the Post-Effective Date Debtors.

16. On November 1, 2018 at 10:00 a.m. prevailing Eastern Time, the Post-Effective Date Debtors conducted the auction (the "Auction"). Four Potential Purchasers participated in the Auction. At the end of the Auction, the Post-Effective Date Debtors determined the bid of Optium to be the highest and best offer.

17. The APA provides for the sale of the Interchange Claim by the Post-Effective Date Debtors to Optium for the purchase price of $392,000 (the "Purchase Price"). The APA also provides for the following:[4]

- Sale and Purchase of Claim. Optium agrees to purchase all rights, title and interest in the Claim from Seller, and Seller agrees to sell, transfer and assign right, title and interest in the Claim to Optium for the sum of $392,000, plus the reimbursement by Optium of Seller's reasonable costs and expenses (including attorneys' fees) in an amount not to exceed $15,000 in connection with Seller's efforts to obtain the Approval Order. (APA § 2.1).

- Closing. The closing of the purchase and sale of the Claim shall take place via electronic mail within two (2) business days after entry of the Approval Order, provided there is no stay pending appeal (APA § 2.2(a)).

[4] This summary is provided for the convenience of the Court and parties in interest. To the extent that there is any inconsistency between the summary and the APA, the APA controls. Capitalized terms not otherwise defined shall have the meaning set forth in the APA.

- Notice of Assignment; Data Authorization. In addition to the APA, the parties will execute a Notice of Assignment in the form attached as Exhibit A to the APA and Limited Authorization to Obtain Transactional Data in the form attached as Exhibit B to the APA (APA § 2.2(b)).

- No Assumption of Obligations or Liabilities. Optium does not assume any obligation or liability of Seller related to or in connection with the Claim (APA § 3.13).

- Disclaimers; No Representations or Warranties. Seller expressly disclaims and does not make any warranties, guarantees, promises, or representations of any kind whatsoever regarding the Claim, including, but not limited to: (i) the value of the Claim; and (ii) the anticipated recovery or timing of recovery on the Claim (APA § 3.6).

- Approval Order. The transaction contemplated by the APA is subject to the approval of the Bankruptcy Court (APA § 5.4).

- Termination. If Optium fails to close the transaction contemplated by the APA on the Closing Date or otherwise materially breaches the APA, Seller is permitted to terminate the APA and retain the Deposit (APA §§ 6.1 & 6.2).

RELIEF REQUESTED

18. By this Motion, the Post-Effective Date Debtors request entry an order authorizing the sale of the Interchange Claim to Optium pursuant to section 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 6004, and Local Rules 6004-1 and 9013-1.

19. Although the Post-Effective Date Debtors and Plan Administrator have full power and authority under the terms of the Plan to enter into the APA and to convey the Interchange Claim to Optium without further order of this Court, Optium seeks the entry of an order containing customary findings and protections, including a finding that Optium is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and that the sale of the Interchange Claim to Optium is free and clear of all liens, claims, and encumbrances.

20. The relief sought herein falls squarely within section 1142(b) of the Bankruptcy Code, which provides, "The court may direct the debtor and any other necessary party to execute

or deliver . . . any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act . . . that is necessary for the consummation of the plan." Further, Article X.8 of the Plan provides that this Court may "enter and implement such Orders as may be necessary or appropriate to execute, implement, or consummate provisions of the Plan", and under Article X.10 this Court retains jurisdiction "to enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code."

21. Moreover, the sale of the Interchange Claim is taking place "under a plan confirmed under section 1129" of the Bankruptcy Code as contemplated under section 1146(a), and therefore is exempt from any and all sales, transfer, recording, stamp tax or similar taxes. This exemption is also provided for in Article IV.I of the Plan, which states "any post-Confirmation transfer from any Entity pursuant to, in contemplation of, or in connection with the Plan . . . shall not be subject to any document recording tax, stamp tax, conveyance fee . . ."

22. The Post-Effective Date Debtors respectfully request leave to submit a proposed order for the Court's consideration to grant the relief requested herein.

BASIS FOR RELIEF

A. The Sale of the Interchange Claim is an Exercise of Sound Business Judgment

23. Section 363(b)(1) of the Bankruptcy Code governs the sale of assets of a debtor outside the ordinary course of business. Specifically, that section provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." Although section 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, courts have found that a debtor's sale or use of assets outside the ordinary course of business should be approved if the debtor can demonstrate a sound business

justification for the proposed transaction. *See, e.g., In re Trilogy Development Co., LLC*, No. 09-42219-DRD-11, 2010 WL 6972664 (Bkrtcy.W.D.Mo. Aug. 31, 2010) ("The decision to enter into an agreement out of the ordinary course of a debtor's business is to be based on the reasonable business judgment of the debtor."); *In re Channel One Commc'ns, Inc.*, 117 B.R. 493, 496 (Bankr. E.D. Mo. 1990) ("A debtor-in-possession may sell substantially all of its assets under 11 U.S.C. Section 363(b)(1) so long as the court can 'expressly find from the evidence presented before [it] at the hearing a good business reason to grant such an application.'"); *In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("[T]here must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.").

24. The key consideration is the court's finding that a good business reason exists for the sale. *Stephens Industries, Inc. v. McClung*, 789 F.2d 386 (6th Cir. 1986); *see also, Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3rd Cir. 1996); *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp., (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (Bankr. D. Del. 1999).

> Whether the proffered business justification is sufficient depends on the case. As the Second Circuit held in Lionel, the bankruptcy judge should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike. He might, for example, look to such relevant factors as the proportionate value of the assets of the estate as a whole, the amount of elapsed time since the filing, the likelihood that a plan of reorganization will be proposed and confirmed in the near future, the effect of the proposed disposition on future plans of reorganization, the proceeds to be obtained from the disposition vis-a-vis any appraisals of the property, which of the alternatives of use, sale or lease the proposal envisions and, most importantly perhaps, whether the asset is increasing or decreasing in value. This list is not intended to be exclusive, but merely to provide guidance to the bankruptcy judge.

In re Walter, 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988), citing *In re Lionel Corporation*, 722 F.2d 1063, 1070-71 (2nd Cir. 1983).

25. Once a debtor articulates a valid business justification, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.'" *In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. Ill. 1995); *see also In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) ("The business judgment rule's presumption shields corporate decision-makers and their decisions from judicial second guessing when certain factors are present . . ."); *In re Johns-Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("a presumption of reasonableness attaches to a debtor's management decisions").

26. Moreover, under Bankruptcy Rule 6004(f)(1), a debtor has discretion to conduct a sale not in the ordinary course by private sale or by public action. Fed. R. Bankr. P. 6004(f)(1); *see Berg v. Scanlon (In re Alisa P 'ship)*, 15 B.R. 802, 802 (Bankr. D. Del. 1981) ("[T]he manner of [a] sale is within the discretion of the trustee . . .").

27. Here, the ultimate value of the Interchange Claim and the timing of distribution are unknown. The marketing and sale process employed for the Interchange Claim accurately determined the market value for this asset, and that the substantial administrative costs attendant to a public sale process, including, without limitation, establishing and seeking approval of bidding procedures and the publication of a sale notice, would have only resulted in a diminished net value to these estates. Additionally, the Post-Effective Date Debtors do not believe that further marketing of the Interchange Claim is likely to attract a higher bid, but would only result in additional cost and delay.

28. Receipt of immediate payment for an asset that may not otherwise result in a recovery for several years will benefit these estates, and the Post-Effective Date Debtors have determined that the sale of the Interchange Claim to Optium is in the best interests of their estates.

B. Sale of the Interchange Claim Free and Clear of Liens, Claims, Encumbrances is Appropriate

29. The Interchange Claim may be sold free and clear of liens, claims, encumbrances and interests. Under Article IV.B.2 of the Plan, "[o]n the Effective Date, the Plan Administrator Assets shall vest automatically in the Plan Administrator free and clear of all Liens, claims, encumbrances, and other interests."

30. Since under the Plan no liens of any kind survive the occurrence of the Effective Date with respect to the Interchange Claim, it is proper for the Court to find and to determine that the Plan Administrator may sell the Interchange Claim to Optium free and clear of all liens, claims, and encumbrances.

31. Accordingly, the Post-Effective Date Debtors request that the Interchange Claim be transferred to Optium free and clear of liens, claims, interests and other encumbrances.

C. Optium is a Good Faith Purchaser

32. The Post-Effective Date Debtors seek the protections afforded under section 363(m) of the Bankruptcy Code, which provide in pertinent part

> The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

33. Section 363(m) provides that a purchaser of property of the estate is protected from the effects of a reversal on appeal of the authorization to sell such property as long as the purchaser acted in good faith and the appellant failed to obtain a stay of the sale.

34. Although the Bankruptcy Code does not define "good faith purchaser," the phrase "encompasses one who purchases in 'good faith' and 'for value.' *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d at 147. Courts have determined that the type of misconduct that would destroy a purchaser's good faith status involves "'fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.'" *Id. (quoting In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)).

35. As set forth in the Declaration, the terms and conditions of the sale of the Interchange Claims were negotiated at arms' length and in good faith. There is no evidence of fraud or collusion in the terms of the proposed sale of the Interchange Claims. Accordingly, the sale of the Interchange Claim warrants a finding that the Interchange Claim was acquired in good faith and within the meaning of section 363(m) of the Bankruptcy Code.

D. Request for Waiver of Stay Under Bankruptcy Rule 6004(h)

36. Pursuant to Bankruptcy Rule 6004(h), unless the court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for 14 days after entry of the order. Fed. R. Bankr. P. 6004(h).

37. Although Rule 6004(h) should not apply to the sale of the Interchange Claim given the terms of the Plan, out of an abundance of caution and to allow the immediate realization of value from the sale for the benefit of creditors, the Post-Effective Date Debtors request that the Court waive the 14-day stay period under Bankruptcy Rules 6004(h). The relief requested is necessary and appropriate and in the best interests of the estates and creditors.

Accordingly, the Post-Effective Date Debtors request this Court waive the stay under Bankruptcy Rule 6004(h).

NOTICE

38. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for Region 13, (ii) Optium, and (iii) those parties that have requested notice pursuant to Bankruptcy Rule 2002, as required under the Plan.

WHEREFORE, for the reasons stated, the Post-Effective Date Debtors respectfully request that this Court enter an order: (i) granting the Motion; (ii) approving the APA and the sale of the Interchange Claim to Optium free and clear of all liens, claims, encumbrances, and other interests, and (iii) granting such other and further relief as the Court may deem just and proper.

[*Signature page follows*]

Dated: November 15, 2018

Respectfully submitted,

/s/ Douglas L. Lutz

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Counsel to the Post-Effective Date Debtors and Plan Administrator

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2018, a copy of the foregoing was served electronically through the court's ECF System to all CM/ECF system participants and on the following via regular U.S. Mail:

United States Trustee for Region 13
Attn: Jerry L. Jensen and Patricia D. Fahey
Roman L. Hruska U.S. Courthouse
111 S 18th Plaza Ste. 1148
Omaha, Nebraska 68102

Optium Fund 2 LLC
610 Newport Center Drive, Suite 610
Newport Beach, CA 92660
Attn: Neil B. Kornswiet, CEO

/s/ Douglas L. Lutz

EXHIBIT A

ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase and Sale Agreement (this "Agreement") is made and entered into as of November __, 2018, by and among G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.), G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.), G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.), G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.) and G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.), on the one hand (collectively, the "Seller); and Optium Fund 2 LLC, a Delaware limited liability company ("Purchaser"). Purchaser and Seller are sometimes collectively referred to herein as "Parties" or individually as "Party".

RECITALS

A. Seller may be a member of the plaintiff class ("Class") and, as such, potential beneficiaries of that certain putative consolidated class action entitled *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (Case No. 1:05 md-1720-JG-JO) pending in the United States District Court for the Eastern District of New York (the "District Court") (such action, together with all other actions in any forum constituting a reformation of the causes of action therein or in which the same claims are alleged, the "Litigation"). If there is a judgment in favor of the plaintiffs in the Litigation, such Litigation results in a settlement, or the Litigation and the operative facts, causes of action and/or types of claims for relief alleged therein are otherwise resolved in any way or by any forum in favor of putative class members (each, a "Settlement Event"), Seller may be entitled to a monetary recovery.

B. Seller may have a right, now or in the future, to benefits arising from and/or relating to the Litigation and the injuries alleged therein, including the right to a monetary recovery. These rights to benefits are called, individually and collectively, the "Claim." The term "Claim" as used herein encompasses and expressly includes all rights, title, and ownership interest of any kind, now existing or arising hereafter, to which Seller may be entitled, arising in any way or form, from the claims and causes of action alleged in the Litigation, or the operative facts alleged in the Litigation, and includes any rights in regard to any successor or alternative litigation that may be filed subsequently based on the facts alleged in the Litigation. Whether such recovery will occur is unknown by the Seller and Purchaser at the time of this Agreement. The term "Claim" also includes all documents, whether now existing or hereinafter arising, evidencing or substantiating the Claim that are owned or possessed by Seller (the "Claim Documents").

C. On March 13, 2017, Seller and its affiliate G-Estate Liquidation, LLC (f/k/a Gordmans LLC) filed a voluntary petition for relief (the "Filing") commencing cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nebraska (the "Bankruptcy Court"), lead case number 17-80304 (TLS) the "Bankruptcy Case"). As of the date hereof, G-Estate Liquidation, LLC has been dissolved pursuant to applicable state law.

D. On October 18, 2017, the Bankruptcy Court entered an order, among other things, confirming the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* (together with the exhibits thereto, and all documents and agreements executed pursuant thereto, and as modified from time to time, the "Plan").

E. Purchaser desires to purchase the Claim of Seller, and Seller desires to sell all right, title and interest in and to the Claim to Purchaser as provided for in this Agreement, in exchange for the consideration expressly set forth herein.

F. The Parties desire to consummate the transaction contemplated hereby as promptly as practicable after full execution of this Agreement and, solely to the extent requested by Purchaser, after obtaining any necessary approval from the Bankruptcy Court pursuant to entry of an order approving this agreement (the "Approval Order").

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations and warranties contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

SECTION 1 – RECITALS INCORPORATED IN AGREEMENT

1.1 The above recitals are hereby incorporated herein by reference.

SECTION 2 – TERMS OF PURCHASE AND SALE

2.1 Sale and Purchase of Claim. On the terms and subject to the conditions and other provisions set forth in this Agreement, Purchaser agrees to purchase all rights, title and interest in the Claim from Seller, and Seller agrees to sell, transfer and assign right, title and interest in the Claim to Purchaser for the sum of $392,000.00 (the "Purchase Price"), plus the reimbursement by Purchaser of Seller's reasonable costs and expenses (including attorneys' fees) in an amount not to exceed $15,000.00 in connection with Seller's efforts to obtain the Approval Order in accordance with Section 5.4 hereof ("Purchaser's Approval Order Reimbursement Obligation"). Purchaser has deposited with Seller the sum of $30,000.00 (such amount, the "Deposit") in immediately available funds by confirmed wire transfer to Frost Brown Todd LLC's attorney trust account. The Deposit shall (i) become property of the Seller at the Closing (and credited against the Purchase Price due and payable at the Closing), (ii) if this Agreement is terminated pursuant to Section 6.1(a)(ii), be retained by Seller in accordance with Section 6.2(b), as liquidated damages, or (iii) be returned to Purchaser as set forth in Section 6.2(c). The Deposit shall not constitute property of the Seller's bankruptcy estate unless and until the occurrence of one of the events described in clauses (i) or (ii) of the immediately preceding sentence.

2.2 Closing. The transactions contemplated by this Agreement will be consummated at a closing as follows:

(a) The closing of the purchase and sale of the Claim ("Closing") shall take place via electronic mail within two (2) business days after entry of the Approval Order, provided there is no stay pending appeal. The date and time the Closing actually

occurs are referred herein to as the "Closing Date". The Closing will be effective as of 12:01 a.m., prevailing Eastern Time, on the Closing Date.

(b) On the Closing Date, the Sellers shall execute and deliver to Purchaser the Notice of Assignment, in the form attached hereto as Exhibit A (the "Assignment") and the Limited Authorization to Obtain Transactional Data, in the form attached hereto as Exhibit B ("Data Authorization", together with the Assignment, the "Ancillary Agreements").

(c) Contemporaneously with the delivery of the Ancillary Agreements pursuant to Section 2.3(b), Purchaser shall pay to Seller at the Closing an amount equal to (i) (x) the Purchase Price less (y) the Deposit, plus (ii) Purchaser's Approval Order Reimbursement Obligation, in immediately available funds by confirmed wire transfer to a bank account to be designated by Seller.

(d) Upon Closing, Purchaser shall be deemed the owner of each Claim and shall be entitled to identify itself as the owner of each Claim for all purposes, and after Closing, no Seller shall be entitled to identify itself as the owner of the Claim or object in any forum, including any court hearing in the Litigation, to the terms of this Agreement or the sale and purchase contemplated hereby.

2.3 Cooperation of Seller. Seller understands and acknowledges that for Purchaser to verify and/or collect the Claim, Purchaser may require the Seller's reasonable assistance, and, solely to the extent that Seller still exists and has at least one independent contractor that is available to respond, Seller agrees to provide such reasonable assistance to Purchaser at the sole expense of Purchaser, as may be necessary for the assignment of the Claim to Purchaser and the collection of the Claim by Purchaser, including but not limited to verification of data and the provision of Claim Documents solely to the extent within Seller's possession and/or control at the time Purchaser requests such assistance or that may be reasonably obtained with the assistance/authorization of such Seller (including, for avoidance of doubt, banking records). Purchaser acknowledges that (i) Seller is a party to the Filing, has already provided to Purchaser the information reasonably available to Seller, has ceased to be a going concern, and will have diminishing resources with which to provide such assistance, and (ii) nothing in this Section 2.3 shall prohibit any Seller from ceasing operations, winding up its affairs and/or terminating its existence following the Closing.

SECTION 3 – REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser as follows:

3.1 Organization. Seller is in good standing under the respective laws under which it was formed.

3.2 Authority. The execution and delivery of this Agreement by Seller and the consummation by Seller of the transaction contemplated by this Agreement are within Seller's authority as granted by the Bankruptcy Court in the Bankruptcy Case and the Plan does not require Bankruptcy Court approval of this Agreement.

3.3 Due Execution; Validly Binding Agreement. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, subject only, if applicable, to entry of the Approval Order.

3.4 No Litigation. Except for the commencement of the Bankruptcy Case, there is no known suit, action, litigation or other proceeding or governmental or administrative investigation or inquiry, pending or, to Seller's knowledge, threatened against any Seller or concerning the Claim that could prevent or prohibit Seller from selling the Claim or from otherwise complying in full with the provisions of this Agreement.

3.5 Title to Claim; No Liens. Seller has good, valid and marketable title to its Claim and can sell the Claim free and clear of any mortgage, pledge, lien, security interest, claim or encumbrance subject only, if applicable, to entry of the Approval Order. Prior to the Closing, Seller has not transferred the Claim or any interest therein. Seller has not opted out of the Class or opted out or otherwise excluded itself from any Class settlement with respect to the Claim.

3.6 Disclaimers; No Representations or Warranties. Seller expressly disclaims and does not make any warranties, guarantees, promises, or representations of any kind whatsoever regarding the Claim, including, but not limited to: (i) the value of the Claim; and (ii) the anticipated recovery or timing of recovery on the Claim; *provided* that nothing herein shall in any way limit any claim for fraud or intentional misrepresentation or misconduct. Seller has advised Purchaser that it should consult with an attorney and/or other relevant professional advisors prior to the execution of this Agreement.

3.7 Independent Investigation. Seller acknowledges that it has had an opportunity to conduct its own independent investigation regarding the Claim and has had an opportunity to review the documents and information available through publicly available sources of information. Seller acknowledges that the value of the Claim and the final recovery on the Claim may not be determined with certainty by such Seller or Purchaser as of the time of execution of this Agreement. Seller further acknowledges that Purchaser may possess material information not known to Seller and, aside from representations or warranties contained herein, Seller agrees that Purchaser shall have no liability to such Seller with respect to the non-disclosure of any such information.

3.8 Information Provided to Purchaser. Purchaser acknowledges that that Seller has ceased doing business as a going concern and that its assets and liabilities are being administered by a Plan Administrator (as defined under the Plan) that has no direct knowledge of, or involvement in, the affairs of the Debtors prior to the Effective Date, and, as such, the information provided by Seller to Purchaser is "as is," and the sale of the Claim under this Agreement is a sale "as is," "where is," and with all faults. To Seller's knowledge, Seller has provided to Purchaser all material information within its possession about the Claim.

3.9 Own Advisors. Seller acknowledges that it has had an opportunity to consult with an attorney and/or other relevant professional advisors prior to the execution of this Agreement.

3.10 No Fiduciary or Confidential Relationship. Seller acknowledges that Seller and Purchaser are not in a fiduciary, confidential, agency or otherwise special relationship, including one of trust, confidence or privity, and that Seller and Purchaser are each acting for their own self-interest.

3.11 No Bad Acts. To Seller's knowledge, Seller has not engaged in any acts, conduct or omissions or had any relationship with the defendants in the Litigation or any of their respective affiliates that might result in Seller receiving in respect of any Claim proportionately less payments or distributions, or any other less favorable treatment (including the timing of payments or distributions) with respect to the Claim than is received by any other member of the Class.

3.12 Filing Service. Seller has not engaged a filing service for the Litigation or the Claim.

3.13. No Setoff or Recoupment. To Seller's knowledge, the Claim is not subject to any claim or right of setoff or recoupment, in whole or in part, whether on contractual, legal or equitable grounds, that has been or may be asserted by any defendant in the Litigation. To Seller's knowledge, Seller has no obligation or liability related to or in connection with the Claim or the Litigation, and has not effected and will not effect any netting, set-off, recoupment or other recovery of all or any portion of the Claim against any claim or obligation owed to the defendants in the Litigation or any of their affiliates. For the avoidance of doubt, Purchaser does not assume any obligation or liability of Seller related to or in connection with the Claims.

SECTION 4 – REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to each Seller as follows:

4.1 Organization. Purchaser is a limited liability company, validly existing and in good standing under the laws of Delaware.

4.2 Authorization. Purchaser has the requisite power and authority to purchase the Claim from Seller, execute and deliver this Agreement, and to perform the transactions contemplated hereby or thereby, and that such performance does not constitute a violation of the Purchaser's certificate of formation, limited partnership agreement or any other valid instrument to which Purchaser is a party or by which Purchaser may be bound.

4.3 Due Execution; Validly Binding Agreement. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights in general and subject to general principles of equity.

4.4 No Litigation. There is no suit, action, litigation or other proceeding or governmental or administrative investigation or inquiry, pending or threatened, against Purchaser that could prevent or prohibit Purchaser from purchasing the Claim or from otherwise complying in full with the provisions of this Agreement. Transfer of the Claim pursuant to this Agreement will not breach, violate or otherwise contravene any applicable law, statute, regulation or contractual term.

4.5 No Affiliation. Purchaser is not affiliated with any counsel involved in the Litigation or the District Court relating to the Litigation.

4.6 Purchaser Solvency. Purchaser is solvent and has the funds available to pay the Purchase Price.

4.7 Disclaimers; No Representations or Warranties. Purchaser expressly disclaims and does not make any warranties, guarantees, promises, or representations of any kind whatsoever regarding the Claim, including, but not limited to: (i) the value of the Claim; and (ii) the anticipated recovery or timing of recovery on the Claim. Purchaser has advised each Seller that it should consult with an attorney and/or other relevant professional prior to the execution of this Agreement.

4.8 Independent Investigation. Purchaser acknowledges that it has conducted its own independent evaluation of the transactions contemplated under this Agreement. Purchaser further acknowledges that it has had an opportunity to conduct its own independent investigation regarding the Litigation, the possibility of a Settlement Event taking place, and the Claim. Purchaser has had an opportunity to review the documents and information available through publicly available sources of information.

4.9 No Reliance. Purchaser has decided to enter into this Agreement and undertake the transactions contemplated hereunder solely in reliance on its own evaluation, based on such information as it has deemed appropriate under the circumstances. With the exception of any representations and warranties expressly set forth in or pursuant to this Agreement, Purchaser is not relying on any information provided to Purchaser or written or oral representations, whether express or implied, by any Seller or its respective members, shareholders, officers, directors, employees, agents, owners, affiliates, or subsidiaries, including, without limitation, in assessing the reasonableness of the Purchase Price. Aside from representations or warranties contained in this Agreement, Purchaser expressly acknowledges that each Seller expressly disclaims and has not made any warranties, guarantees, promises, or representations of any kind whatsoever regarding the Claim, including, but not limited to: (i) the value of the Claim, and (ii) the anticipated recovery and/or timing of recovery on the Claim, if at all.

4.10 Information. Purchaser acknowledges that, because a Settlement Event has not taken place prior to the payment of the Purchase Price, the value of the Claim and any final recovery on the Claim may not be determined with certainty by any of the Sellers or Purchaser as of the time of execution of this Agreement. Purchaser further acknowledges that the Sellers may possess material information not known to it. Aside from the

representations or warranties contained herein, Purchaser agrees that none of the Sellers shall have any liability with respect to the non-disclosure of any such information.

4.11 Expectation of Return. Purchaser represents that it is in the business of purchasing claims from entities entitled to recover funds from both existing class action lawsuit settlements and from pending class action litigation that may or may not result in a settlement. Purchaser understands that, to the extent recovery on the Claim occurs at all, Purchaser's recovery on the Claim may or may not exceed the Purchase Price.

4.12 Own Advisors. Purchaser acknowledges that it has had an opportunity to consult with an attorney and/or other relevant professional advisors prior to the execution of this Agreement.

4.13 No Fiduciary or Confidential Relationship. Purchaser acknowledges that the Seller and Purchaser are not in a fiduciary, confidential, agency or otherwise special relationship, including one of trust, confidence or privity, and that the Seller and Purchaser are each acting for their own self-interest.

SECTION 5 – COVENANTS OF SELLER

Each Seller covenants to Purchaser as follows:

5.1 Limited Power of Attorney to File and Pursue Claim. Seller hereby appoints Purchaser as its true and lawful attorney-in-fact, solely with respect to the Claim and for no other purpose whatsoever, and authorizes Purchaser to take all actions reasonably necessary to file and enforce the Claim in Seller's name, place and stead, and to act to demand, sue for, compromise and recover all such amounts which are, or may hereafter become due and payable for, or on account of the Claim sold, transferred and assigned to Purchaser as provided in Section 2.1 of this Agreement; provided, however, Purchaser may only take action in such Seller's name (including, but not limited to, filing the Claim) to the extent that (i) Purchaser cannot take such action either solely in its own name or in its own name as assignee or transferee of such Seller; and (ii) Purchaser provides such Seller with three (3) business days' prior written notice of the action to be taken in such Seller's name together with any related documentation.

5.2 Further Assurances. Subject to Section 2.3, each of the Parties will use commercially reasonable efforts (in the case of Seller, at Purchaser's sole expense) to provide such further instruments and assurances to any requesting party as may be reasonably necessary to effectuate the purposes of this Agreement.

5.3 Payment Delivery. If the claims administrator or any other person or entity appointed in the Litigation mistakenly sends total or partial payment with respect to the Claim directly to Seller, to the extent Seller is still in existence with at least one authorized officer or independent contractor who is readily available, Seller shall promptly endorse such payment to Purchaser and deliver the payment to Purchaser, within five (5) business days, by personal delivery or by first-class mail, certified, return receipt requested, postage prepaid to the address for Purchaser set forth in Section 7.10.

5.4 Approval Order. Purchaser and Seller acknowledge that this Agreement and the transactions contemplated hereby are subject to the approval of the Bankruptcy Court and the entry by the Bankruptcy Court of a final order approving the transaction contained in the Agreement and affording Purchaser the protections under section 363 of the Bankruptcy Code as a good faith purchaser (the "Approval Order") and Sellers' obligation and Purchaser's obligation to consummate the transaction contemplated hereunder is subject to approval by the Bankruptcy Court. Within five (5) business days following exchange between the Parties of executed counterparts of this Agreement, Seller, subject to Purchaser's Approval Order Reimbursement Obligation, will file with the Bankruptcy Court a motion (the "Approval Motion") seeking, *inter alia*, entry of the Approval Order. Purchaser shall reasonably cooperate with the Seller in the prosecution of the Approval Motion.

SECTION 6 – TERMINATION

6.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary, this Agreement (a) may be terminated: (i) by mutual written consent of the Seller and Purchaser; or (ii) by Seller, if Purchaser materially breaches this Agreement, which, for the avoidance of doubt, shall include if Purchaser fails to close the transactions contemplated by this Agreement on the Closing Date; and (b) shall terminate automatically without any further action by either Seller or Purchaser, if Seller consummates a sale of the Claim pursuant to a definitive agreement with a person or entity other than Purchaser.

6.2 Effect of Termination.

(a) If this Agreement is terminated in accordance with Section 6.1, except as set forth in Sections 6.2(b) and 6.2(c), this Agreement shall terminate and each of the Parties shall be relieved of its respective duties and obligations arising under this Agreement after the date of such termination and such termination shall be without liability to Purchaser or the Seller.

(b) If Seller terminates this Agreement pursuant to Section 6.1(a)(ii), the Deposit shall be retained by Seller for its own accounts as liquidated damages.

(c) If this Agreement is terminated pursuant to Section 6.1(a)(i) or Section 6.1(b), Seller shall, within three (3) business days after such termination, return the Deposit to Purchaser.

SECTION 7 – GENERAL

7.1 Severability. In the event that any provision herein becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

7.2 Costs. The Parties shall each pay their own costs and expenses (including attorneys' fees and accountants' fees, but not including, reimbursement obligations that are "at the sole

expense of Purchaser") incurred or to be incurred in negotiating, preparing and executing this Agreement.

7.3 Entire Agreement. This Agreement (which includes its exhibits and schedules) represents the entire agreement and understanding between the Parties regarding the sale and purchase of the Claim and supersedes any and all prior representations, warranties agreements and understandings, whether written or oral, concerning the sale and/or purchase of the Claim.

7.4 Survival of Representations and Warranties. The representations and warranties contained in this Agreement will not survive the Closing.

7.5 No Oral Modification. This Agreement may only be amended in writing signed by all of the Parties.

7.6 Assignability of Claim. The terms of this Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by Purchaser and its successors and assigns. Seller acknowledges that Purchaser may at any time after the Closing sell, transfer, assign or sub-participate the Claim, together with all right, title and interest of Purchaser in and to this Agreement, in whole or in part, without notice to Seller. The acceptance of an assignment of this Agreement by any successors or assigns constitutes such party's promise to perform the assigning party's duties under this Agreement.

7.7 Jury Trial Waiver. The Parties hereby irrevocably and knowingly waive to the fullest extent permitted by law any right to a trial by jury in any action or proceeding arising out of this Agreement. The Parties agree that any such action or proceeding shall be tried before a court and not a jury.

7.8 Governing Law; Forum. Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska, without regard to the conflict of law rules, principles or provisions of such state or of any other state. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby and any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such proceeding; provided, however, that, if the Bankruptcy Case is closed, all proceedings arising out of or relating to this Agreement shall be heard and determined in a Nebraska state court or a federal court sitting in the State of Nebraska.

7.9 Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement. If so signed, the Agreement becomes effective when both signature pages are attached.

7.10 Notices. All notices, requests, demands or any other communication made under, pursuant to, or in accordance with this Agreement, except for normal day-to-day business communications, which may be made orally or in a writing, shall be in writing and shall either be delivered personally or deposited in the United States mail and sent by first-class mail, certified, return receipt requested, postage prepaid and properly addressed as follows:

If to Purchaser:

Optium Fund 2 LLC
610 Newport Center Drive, Suite 610
Newport Beach, CA 92660
Attn: Neil B. Kornswiet, Chief Executive Officer
Email: nkornswiet@optiumcapital.com

If to Seller, to:

G-Estate Liquidation Stores, Inc. *et al.*
c/o META Advisors LLC
101 Park Avenue, 30th Floor
New York, NY 10178
Attn: James S. Carr, Managing Director
Email: jcarr@kelleydrye.com

with a copy to:

Frost Brown Todd LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, OH 45202
Attn: Douglas L. Lutz, Esq.
Email: dlutz@fbtlaw.com

or to such other address(es) as a Party hereto may indicate to the other Party in the manner provided for herein. Notices given by mail shall be deemed effective and complete forty-eight (48) hours following the time of posting and mailing, and notices delivered personally shall be deemed effective and complete at the time of delivery and the obtaining of a signed receipt.

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IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the date and year provided above.

SELLER:

G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

PURCHASER: OPTIUM FUND 2 LLC

By: _____
Name: Neil B. Kornswiet
Its: Chief Executive Officer

EXHIBIT A

NOTICE OF ASSIGNMENT

To: Claims Administrator for Any Recovery Arising from IN RE: PAYMENT CARD INTERCHANGE FEE AND MERCHANT-DISCOUNT ANTITRUST LITIGATION (Case No. 05-MD-1720 [JG][JO])

This Notice of Assignment transfers and assigns to Optium Fund 2, LLC ("Purchaser") all of G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.), G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.), G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.), G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.) and G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.) (collectively, "Seller") right, title and interest in and to or associated with, or connected in any manner to, any settlement arising from, judgment with respect to, and/or any other distributions or recoveries of any kind in connection with the class action litigation captioned *In Re: Payment Card Interchange and Merchant-Discount Antitrust Litigat*ion (Case No 1:05-md-01720-JG-JO) (the "Recoveries") whether recovered in the above-captioned litigation or in any other action or forum.

The rights assigned by the Seller to Purchaser include, but are not limited to, Seller's right to (1) file, modify, compromise or amend a claim in connection with a the Litigation; (2) communicate and receive communications from the Court, claims administrator, class counsel or other interested parties with respect to the Litigation; (3) receive any settlement in connection with the Litigation; and (4) to challenge and negotiate the amount of funds to be paid to Purchaser in connection with the Litigation.

Purchaser is now the legal and equitable owner of all rights associated with the Recoveries. You should deal directly with Purchaser, its assignees and/or its duly appointed agents on all matters pertaining to Seller's rights in the Recoveries. Further, in accordance with the assignment of the Recoveries to Purchaser, any and all payments relating to the Recoveries should be made payable to Purchaser and sent to the following address:

Optium Fund 2 LLC
610 Newport Center Drive, Suite 610
Newport Beach CA 92660
Attn: Neil B. Kornswiet, Chief Executive Officer

Moreover, any and all correspondence, documents or any other communications pertaining to the Recoveries should be directed to Purchaser at the above address.

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SELLER:

G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

EXHIBIT B

LIMITED AUTHORIZATION TO OBTAIN TRANSACTIONAL DATA

This Limited Authorization to Obtain Transaction Data ("Authorization") is made on October 26, 2018 by and among G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.), G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.), G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.), G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.) and G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.) (collectively, "Company"); and Optium Fund 2 LLC ("Purchaser").

On behalf of the Company, Seller has assigned to Purchaser all rights to any settlement or judgment arising from *In re: Payment Card Interchange Fee and Merchant-Discount Antitrust Litigation* (Case Number 1:05-md-01720-JG-JO) and any related claims and causes of action asserted or assertable against the Defendants in such litigation raised in any forum whatsoever.

As used in this Authorization, (a) the term "Transactional Data" means data from or related to credit card or debit card transactions in which Company received payment for goods sold or services provided, and (b) the term "Processors" means Company's acquiring banks, credit card processors, any other entity involved in processing or recording credit card or debit card transactions, and any third party holding or possessing any or all of Company's Transactional Data.

The Trustee hereby directs and authorizes all Processors to release and provide to Purchaser and its assignees any and all Transactional Data. The Trustee hereby authorizes Purchaser and its assignees to request, demand, obtain and receive from any source all of Company's Transactional Data, including, but not limited to, merchant identification information.

The undersigned has executed this Authorization as of the date set forth above.

COMPANY:

G-Estate Liquidation Stores, Inc. (f/k/a Gordmans Stores, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation, Inc. (f/k/a Gordmans, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/_____
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Management Company, Inc. (f/k/a Gordmans Management Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Distribution Company, Inc. (f/k/a Gordmans Distribution Company, Inc.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*
By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

G-Estate Liquidation Intermediate Holding Corp. (f/k/a Gordmans Intermediate Holdings Corp.)

By: META Advisors LLC, not individually, but solely in its capacity as Plan Administrator under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*

By: /s/
Name: James D. Hunt
Its: Chief Operating Officer

Purchaser acknowledges receipt of this Authorization.

OPTIUM FUND 2 LLC

By: _____
Name: Neil B. Kornswiet
Its: Chief Executive Officer

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA

In re:	**Chapter 11**
GORDMANS STORES, INC., *et al.*,[1]	**Case No. 17-80304 (TLS)**
	(Jointly Administered)
Post-Effective Date Debtors.	

DECLARATION OF JAMES D. HUNT IN SUPPORT OF MOTION OF THE POST-EFFECTIVE DATE DEBTORS FOR AN ORDER APPROVING THE SALE OF THEIR RIGHT, TITLE, AND INTEREST IN A CLASS ACTION LITIGATION TO OPTIUM FUND 2 LLC FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES

I, James D. Hunt, declare that the following is true to the best of my knowledge, information and belief:

1. I am the Chief Operating Officer of META Advisors LLC, Plan Administrator in connection with the chapter 11 cases of G-Estate Liquidation Stores, Inc., formerly known as Gordmans Stores, Inc., and its debtor affiliates (collectively, the "Post-Effective Date Debtors"), under the *Debtors' Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, as modified by the Confirmation Order [Docket No. 912] (the "Plan"). This declaration (the "Declaration") is submitted in support of the *Motion of the Post-Effective Date Debtors for an Order Approving the Sale of Their Right, Title, and Interest in a Class Action Litigation to Optium Fund 2 LLC Free and Clear of all Liens, Claims, and Encumbrances* (the "Motion")[2] filed contemporaneously herewith.

[1] The debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: G-Estate Liquidation Stores, Inc., formerly known as Gordmans Stores, Inc. (1987); G-Estate Liquidation, Inc., formerly known as Gordmans, Inc. (1211); G-Estate Management Company, Inc., formerly known as Gordmans Management Company, Inc. (5281); G-Estate Distribution Company, Inc., formerly known as Gordmans Distribution Company, Inc. (5421); G-Estate Intermediate Holdings Corp., formerly known as Gordmans Intermediate Holdings Corp. (9938); and G-Estate Liquidation, LLC, formerly known as Gordmans LLC (1987).

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2. The Plan Administrator, in its capacity as the sole manager and officer of the Post-Effective Date Debtors, has directed the Post-Effective Date Debtors to file this Motion.

3. Except as otherwise indicated, all statements in this Declaration are based upon (i) my personal knowledge, and/or (ii) my review (or the review of persons under my supervision) of the relevant documents, including the Plan and the APA, as well as relevant documents and other information prepared or collected by the Post-Effective Date Debtors' consultants or professionals. In making my statements based on my review of the relevant documents and other information prepared or collected by the Post-Effective Date Debtors' professionals and consultants, I have relied upon these professionals and consultants accurately recording, preparing, or collecting such documentation and other information.

4. I am authorized to submit this Declaration and, if called to testify as a witness in this matter, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge, and on my review of the documents referenced above.

5. To the best of my knowledge, the Post-Effective Date Debtors have good, valid and marketable title to the Interchange Claim and can sell the Interchange Claim free and clear of any mortgage, pledge, lien, security interest, claim or encumbrance pursuant to the sale order. The Interchange Claim has not been previously sold or transferred.

6. The Post-Effective Date Debtors solicited from certain parties that specialize in the purchase and sale of claims in the Interchange Litigation (the "Potential Purchasers"). Nine Potential Purchasers were given access to an electronic data room and provided identical information concerning the interchange fees charged to the Debtors.

7. The Post-Effective Date Debtors sent the bid procedures (the "Bid Procedures") and proposed asset purchase agreement ("Proposed APA") to the Potential Purchasers. The Bid

Procedures set forth the procedures for the auction whereby the Potential Purchases were instructed to submit their proposals (the "Qualified Proposals") by October 26, 2018 at 5:00 p.m. prevailing Eastern Time. The Post-Effective Date Debtors also required that all Qualified Proposals be accompanied by a good faith deposit in an amount equal to ten percent (10%) of the value of the Potential Purchaser's Qualified Proposal (the "Deposit") in immediately available funds by confirmed wire transfer to the attorney trust account of Frost Brown Todd LLC, counsel for the Post-Effective Date Debtors.

8. On November 1, 2018 at 10:00 a.m. prevailing Eastern Time, the Post-Effective Date Debtors conducted the auction (the "Auction"). Four potential purchasers participated in the Auction. At the end of the Auction, the Post-Effective Date Debtors determined the bid of Optium to be the highest and best offer.

9. The APA provides for the sale of the Interchange Claim by the Post-Effective Date Debtors to Optium for the purchase price of $392,000.

10. The terms and conditions of the sale of the Interchange Claim to Optium were negotiated at arms'-length and in good faith. Accordingly, I respectfully submit that Optium is entitled to the protections afforded to good faith purchasers under section 363(m) of the Bankruptcy Code.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of November, 2018.

James D. Hunt
Chief Operating Officer
META Advisors LLC, not individually, but solely in its capacity as Plan Administrator for the Post-Effective Date Debtors