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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

GUMP’S HOLDINGS, LLC

Affects this Debtor.

Affects all Debtors.

Affects Gump’s Corp.

Affects Gump’s By Mail, Inc.

Case No.: BK-S-18-14683-leb
Chapter 11

Jointly administered with:

No. BK-S-14684 (In re Gump’s Corp.)
No. BK-S-14685 (In re Gump’s By Mail, Inc.)

Auction and Sale Hearing:

Date: **October 17, 2018**
Time: **10:00 a.m.**
Location: 300 Las Vegas Blvd. South
Las Vegas, NV 89101
Courtroom 3

BID PROCEDURES FOR SALE OF DEBTORS’ IP ASSETS

On September 25, 2018, the United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”) entered an order (the “Bid Procedures Order”) granting certain relief requested in the *Amended Motion for Order Pursuant to Sections 105, 363, and 365 of the Bankruptcy Code: (I) Approving Bid Procedures with Respect to Sale of IP Assets, Setting Sale Hearing Date, and Approving Form and Manner of Notices, and (II) Approving the Sale of IP Assets Free and Clear of Liens, Interests, Claims, and Encumbrances, the Assumption and Assignment of Certain Related Executory Contracts, Waiving the Requirements of Bankruptcy Rules 6004(h) and 6006(d), and Granting Related Relief* (the “Motion”) filed by Gump’s Holdings, LLC, Gump’s Corp., and Gump’s By Mail, Inc. (collectively, “Debtors”), and authorized the Debtors to auction their intellectual property assets (the “IP Assets”) in accordance with the procedures set forth below.

I. FORMS OF SALES

Pursuant to these Bid Procedures, the Debtors are soliciting bids for the purchase of their IP Assets under the terms and conditions set forth in the IP Sale Motion (the “Sale”).

The Debtors will consider offers for a sale, in one or a series of related transactions, of a material portion of the IP Assets. The Sale shall be pursuant to the terms and conditions of the Asset Purchase Agreement (the “Purchase Agreement”) attached hereto as Exhibit 2 (as may be modified pursuant to the procedures below), the form of which will be subject to approval by the Bankruptcy Court at the Sale Hearing.

The sale of the IP will be on an “as is, where is” basis and without representations or warranties of any kind, nature, or description by the Debtors or their estates, except to the extent expressly set forth in the Motion, the Purchase Agreement, or as specifically accepted or agreed to by the Debtors. Except as otherwise provided in the Purchase Agreement or, with respect to other Qualified Bids (as defined herein), as specifically accepted or agreed to by the Debtors, all of the Debtors’ right, title, and interest in and to the IP will be transferred free and clear of all liens (statutory or otherwise), encumbrances, liabilities, security interests, interests, restrictions, charges, security agreements, options, rights of recovery and taxes of every kind and nature in accordance with section 363(f) of the Bankruptcy Code.

II. BID PROCEDURES

A. Notice of Sale

The Debtors will provide notice of the proposed Sale, the Bid Procedures, the Sale Objection Deadline, the Assumption Objection Deadline, and the date and time of the Sale Hearing to (i) the Office of the United States Trustee, (ii) counsel to Sterling Business Credit, LLC (“Sterling”), (iii) counsel to the Committee, (iv) all parties who are known to assert a security interest, lien, or claim in any of the IP Assets, (v) the Agent, (vi) all non-Debtor counterparties to the IP Agreements implicated in the Sale, (vii) all other applicable parties in interest, including all entities on the Limited Service Lists as of the date of entry of the Bid Procedures Order (the “Notice Parties”), along with every party that has previously expressed any interest in the potential purchase of the Debtors’ IP Assets and any other party that the Debtors believe might be interested in a possible purchase of the IP Assets. At Sterling’s expense, the Debtors will also advertise the Auction and Sale by published advertisement before September 26, 2018 in (a) the San Francisco Chronicle and (b) such other national newspapers and other national publications acceptable to and/or requested by Sterling.

B. Diligence Room

The Debtors will make available until the conclusion of the Auction information concerning the Debtors’ IP Assets to prospective bidders (each, a “Potential Bidder”). Debtors may require that Potential Bidders execute a confidentiality agreement acceptable to the Debtors in their sole and absolute discretion; provided, however, the Debtors may decline to provide due diligence information to any Potential Bidder who, in the Debtors’ reasonable business judgment, has not established, or who Debtors have reason to believe does not intend in good faith to consummate a transaction or does not have the capacity to consummate a transaction. The form

of confidentiality agreement, if a confidentiality agreement is required, is set forth in the attached Exhibit 1.

By submitting a Bid, each bidder shall be deemed to acknowledge and represent that it has had a reasonable opportunity to conduct due diligence on the Debtors' IP Assets before submitting its Bid, that in making its Bid, it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the IP Assets in making its Bid, and that in making its Bid, it did not rely upon any written or oral statement, representation, promise, warranty or guaranty whatsoever, whether express or implied, by operation of law, or otherwise, regarding the IP, the Debtors, or the completeness of any information provided in connection therewith.

C. Bid Deadline and Submission of Bids

The deadline (the "Bid Deadline") for submission of a final and binding written proposal for a purchase of the IP Assets (each, a "Bid") is **5:00 p.m.** (prevailing Pacific Time) on **October 10, 2018**. Bids must be emailed to:

Lincoln International LLC
500 West Madison Street, Suite 3900
Chicago, Illinois 60661
Attn: Brendan J. Murphy (bmurphy@lincolninternational.com)

With a copy to:

Garman Turner Gordon LLP
650 White Drive, Suite 100
Las Vegas, NV 89119
Attn: William M. Noall, Esq. (wnoall@gtg.legal)
Gabrielle A. Hamm, Esq. (ghamm@gtg.legal)

The Debtors will promptly provide all Bids received to counsel to Sterling.¹

D. Requirements for Submission of a Qualified Bid

A bidder (each, a "Bidder") submitting a Bid on or before the Bid Deadline for all or any material part of the IP Assets which contains the following information will be a "Qualified Bidder" (and such Bid, a "Qualified Bid")²:

1. On request, an executed confidentiality agreement acceptable to the Debtors;
2. A bid summary describing the purchase price and structure of the Bid; and

¹ Sterling shall be bound by the confidentiality clause set forth in § 14.14(b) of the Loan and Security Agreement dated December 29, 2015 with respect to the Bids.

² The Debtors will be authorized to approve joint Bids meeting the requirements set forth above on a case-by-case basis.

3. A complete Bid fulfilling all the following requirements and the requisite deposit as defined in Section E, below:
- (a) The identity of the IP Assets that Bidder is seeking to purchase;
 - (b) The total proposed purchase price (the “Purchase Price”) in U.S. dollars for the IP Assets that the Bidder seeks to purchase, including any cash to be paid and any liabilities to be assumed. Bidders must break down the Purchase Price by category or type of IP Assets to be purchased in the Bid, if applicable;
 - (c) The identity of each executory contract and unexpired lease to be assumed by the Debtors and assigned to the Bidder, if any;
 - (d) A copy of the Purchase Agreement, marked electronically to show any changes, a clean, executed version of the Purchase Agreement (the “Modified Purchase Agreement”), and a representation that the Qualified Bidder can execute a further modified version of the Modified Purchase Agreement reflecting any changes made during the Auction and/or any other changes that may be agreed upon by such Qualified Bidder and the Debtors promptly upon being notified of its selection as the Winning Bidder without need for further approval(s);
 - (e) Disclosure of the regulatory, shareholder or other approvals, consents, or filings required to consummate and close the Sale;
 - (f) Details of any agreements or understandings between the Bidder and any third-party with respect to the Sale, the Bid, the Debtors’ business or with respect to any possible or contemplated transaction involving any of the IP Assets;
 - (g) The identity of any outside advisors, if any, including financial and legal advisors, engaged or planned to be engaged to assist the Bidder in the Sale, including the names of individuals at such advisors contemplated to be working on the Sale, and their contact information;
 - (h) Information, including, without limitation, current audited financial statements or such other form of financial disclosure acceptable to the Debtors, sufficient to demonstrate to the Debtors’ satisfaction that the Bidder has the necessary financial capacity to consummate the Sale, as proposed in its Bid, and, if applicable, to provide parties to executory contracts with adequate assurance of future performance under the leases and contracts the Bidder intends to assume as provided in section 365 of the Bankruptcy Code;
 - (i) The identity of the beneficial owners of the Bidder, if the Bidder is not a publicly held company;
 - (j) A statement acknowledging that the Sale is subject to the limited license granted to the joint venture between Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC (the “Agent”) under the agreement (the “Agency Agreement”) approved by the *Order (A) Approving Agency Agreement, (B) Authorizing and Approving Store Closing Sale Free and Clear of All Liens,*

Claims, and Encumbrances, (C) Granting Liens, and (D) Granting Related Relief [ECF No. 58] (the “Agency Order”), pursuant to which (i) the Agent shall have the right to use the trade names, logos, e-mail lists, customer lists, catalogs, e-commerce sites (including (without limitation) websites and social media sites such as Facebook, and Twitter) relating to and used in connection with the conduct of the store closing sale, solely for the purpose of advertising the store closing sale in accordance with the terms of the Agency Agreement and through the Sale Termination Date (as defined in the Agency Agreement), and (ii) Debtors shall continue to issue such advertisements regarding the store closing to its email or customer lists as the Agent may direct; and

- (k) A statement acknowledging that the Debtors must close the Sale on or before October 19, 2018 (with time being of the essence), with a representation and warranty that the Bidder knows of no reason why it cannot close the Sale on or before that date.

The Debtors will notify each bidder whether it is a Qualified Bidder promptly upon receipt of the information listed above.

E. Deposit

All Bids must include a deposit of ten percent (10%) of the Purchase Price in cash, to be paid into escrow at Nevada Construction Services or such other escrow agent as is mutually agreeable to the Debtors and Sterling. Such deposit shall not be subject to the liens or claims of any creditors of the Debtors and shall not be property of the Debtors’ estates.

In the event that a Bid is determined by the Debtors not to be a Qualified Bid, the Debtors shall cause the return of such bidder’s deposit within five (5) business days after the Bid Deadline. Other than with respect to the Winning Bidder (or the Back-Up Bid(s), if applicable), all other Deposits not already returned to the respective Qualified Bidder shall be returned no later than five (5) business days after the Auction.

If the Winning Bidder (or the Back-Up Bidder, if necessary) timely closes the transactions contemplated in the Winning Bid (or the Back-Up Bid, if necessary), such bidder’s deposit shall be credited towards its cash payment due on Closing. In the event that the Winning Bidder (or the Back-Up Bidder, if necessary) fails to consummate the Sale because of a breach or failure to perform on the part of such Winning Bidder (or the Back-Up Bidder, if necessary), the Debtors will not have any obligation to return such bidder or bidders’ deposit. Retention of such deposit(s), shall constitute liquidated damages, shall be one of the Debtors’ remedies at law and in equity against the Winning Bidder (or the Back-Up Bidder, if necessary), and, upon failure to close by the Winning Bidder, the Debtors shall be free to consummate the Sale proposed by the Back-Up Bidder (to the extent applicable) without the need for an additional hearing or order of the Bankruptcy Court.

F. Closing Conditions

All conditions to closing required by a Qualified Bidder must be set forth in the Modified Purchase Agreement, provided, however, that no Bid may be subject to any financing, due diligence or other material conditions.

If a Bid relies on one or more third-party financing sources, the Bid must include a signed, binding and irrevocable commitment letter from such third-party financing source(s) or equity source. If a Bid relies on financing sources of affiliates of the Bidder, the Bid must include sufficient evidence of financial capacity to consummate the Sale and satisfy all obligations and potential obligations pursuant to the Modified Purchase Agreement. Other than those conditions set forth in the Modified Purchase Agreement, each Bid shall be irrevocable until and unless the Debtors select a higher or otherwise better Qualified Bid and such Bidder is not selected as the Back-Up Bidder.

G. Evaluation of Bids

Each Bid will be evaluated by the Debtors and their advisors, to determine if it is a Qualified Bid. The Debtors may accept a single Qualified Bid or multiple Qualified Bids for non-overlapping material portions of the IP Assets.

In evaluating the Bids, the Debtors will take into consideration, among other factors, the form and amount of the consideration, the extent to which the Bid involves some or all of the IP Assets, the presence of any closing conditions, the need and availability of financing, the extent of financial wherewithal to meet all commitments under the bid, the required approvals (if any), and the transaction structure and execution risk.

If the Debtors determine that a Bid is not a Qualified Bid, the Debtors will inform such bidder as soon as practicable after such determination is made. To the extent a Bid does not satisfy the applicable requirements, the Debtors will provide such bidder with one opportunity to provide any necessary further information, documentation, deposit or other modification of such bidder's proposed Bid package that would allow the Bid to be a Qualified Bid. Without the written consent (by letter, email or facsimile) of the Debtors, which consent may be granted or denied in the Debtors' discretion, a bidder that the Debtors determine to be a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except as such Bid may be increased or improved at the Auction.

H. Designation of Stalking Horse Bidder

Within two (2) business days of the Bid Deadline, the Debtors may designate one or more Qualified Bidders a "stalking horse" (the "Stalking Horse Bidder") setting a floor for subsequent Bids. In the event a Qualified Bidder is designated as a Stalking Horse Bidder, the Debtors may provide bid protections to the Stalking Horse Bidder in the form of an initial Bid Increment (defined below) in the amount of \$150,000, and if the Stalking Horse Bidder is not the Winning Bidder, the Stalking Horse Bidder's reasonable, documented out-of-pocket expenses incurred in connection with submission of its Qualified Bid in an amount up to \$75,000.

III. AUCTION AND SALE HEARING

A. Selection of Opening Bid and Conduct of Auction

An auction will be conducted in-court (the “Auction”) immediately prior to the Sale Hearing (as defined below) to determine the Winning Bidder (as defined below). No later than **October 11, 2018, at 5:00 p.m.** (prevailing Pacific Time), the Debtors will notify all Qualified Bidders of the highest or otherwise best Qualified Bid, as determined in the Debtors’ reasonable business judgment (the “Opening Bid”) and provide a summary of the Opening Bid to all Qualified Bidders.

The minimum interval for bidding at the auction (the “Bid Increment”) shall be determined by the Debtors and communicated to Qualified Bidders in advance of the Auction; provided, however, the Debtors may increase or decrease the Bid Increment at, before or during the Auction, in which case the Debtors will so inform each of the Qualified Bidders.

Only Qualified Bidders and their legal and financial advisors shall be entitled to participate at the Auction.

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the bidding with the Debtors, Lincoln, Sterling, other bidders, or any known insiders or affiliates of the foregoing, and (ii) its Qualified Bid is a good-faith bona fide offer and it intends to consummate the proposed transaction if selected as the Winning Bidder. All Qualified Bidders at the Auction will be deemed to have consented to the jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction, the construction and enforcement of these Bid Procedures, and/or the Bid, as applicable.

B. Selection of Winning Bid(s) and Back-Up Bid(s)

The Auction shall continue until there is no further bidding in response to the Qualified Bid(s) (as may be increased at the Auction) that the Debtors determine, is/are the highest or otherwise best Qualified Bid(s) (the “Winning Bid”), at which point the Auction will be closed. The Debtors may choose one Bid as the Winning Bid and/or Back-Up Bid or several Qualified Bids, each for different IP Assets, as the Winning Bids and/or Back-Up Bids. Acceptance of the Winning Bid (or the Back-Up Bid, if necessary) by the Debtors is conditioned on approval of the Bankruptcy Court.

The Bidder with the Bid that is the next-highest or best Bid (the “Back-Up Bid”), as determined by the Debtors and subject to Bankruptcy Court approval, shall be required to be the back-up bidder (the “Back-Up Bidder”) for the relevant IP Assets. Use of the singular “Back-Up Bid” or “Back-Up Bidder” herein includes the possibility of multiple Back-Up Bids and Back-Up Bidders.

The Winning Bidder and the Back-Up Bidder shall be required to keep their respective Bids open and irrevocable until and including October 24, 2018; provided, however, if the Sale closes with the Winning Bidder, the Back-Up Bidder’s Back-Up Bid may be revoked after such closing.

If, at any time prior to or on October 19, 2018, the Winning Bidder cannot consummate the Sale as proposed in the Winning Bid, the Debtors may choose to close the Sale with the Back-Up Bidder by accepting the Back-Up Bid. Notwithstanding anything else herein to the contrary, the deposit of the Back-Up Bidder may be held by the Debtors until the later of (i) October 24, 2018 and (ii) the closing of the Sale with the Winning Bidder, at which time the deposit must be refunded.

C. Date and Time of Auction and Sale Hearing

The Auction shall take place immediately preceding the Sale Hearing on **October 17, 2018**, at **10:00 a.m.** (prevailing Pacific Time), or as soon thereafter as counsel may be heard, before a United States Bankruptcy Judge in the United States Courthouse and Federal Building, 300 Las Vegas Blvd. South, Las Vegas, Nevada 89101.

A hearing to approve the Sale to the Winning Bidder(s) and, if applicable, the Back-Up Bidder(s) (the "Sale Hearing") shall take place immediately following the Auction on **October 17, 2018**, at **10:00 a.m.** (prevailing Pacific Time), or as soon thereafter as counsel may be heard, before a United States Bankruptcy Judge in the United States Courthouse and Federal Building, 300 Las Vegas Blvd. South, Las Vegas, Nevada 89101.

The Sale Hearing may be continued from time to time by the Debtors by serving notice of the continuance prior to the Sale Hearing or by making an announcement at the Sale Hearing. No further notice of any such continuance will be required.

D. Reservation of Rights

Notwithstanding anything herein to the contrary, the Debtors reserve the right to modify these Bid Procedures in a manner which is reasonable under the circumstances at any time, with notice to the Qualified Bidders, to facilitate the submission of value-maximizing Bids, to adjourn the Auction one or more times for any reason, and/or to terminate these Bid Procedures at any time to seek approval of a different sale transaction or pursue an alternative strategy that maximizes value for the Debtors' estates.

EXHIBIT 1

EXHIBIT 1

PROJECT FOREST
CONFIDENTIALITY AGREEMENT

This CONFIDENTIALITY AGREEMENT (this “Agreement”) shall govern the conditions under which we (“Recipient” or “we” or “us” or “our”) have agreed to discuss a possible transaction known as Project Forest (the “Potential Transaction”) with Gump’s Holdings LLC, a multi-channel home furnishings retailer (the “Company”). Company and Recipient may be referred to herein individually as a “Party” or collectively as the “Parties.”

1. As a condition to such discussions, we agree to keep strictly confidential all information conveyed by the Company or the Company’s “Representatives” (as defined below), including Lincoln International LLC and its affiliates (“Lincoln”), to us or by us or on our behalf to our “Representatives” (as defined below) in connection with the Potential Transaction, in whatever form, whether written or oral, hereinafter referred to as the “Confidential Information,” and to refrain from using the same except as provided below. A Party’s “Representatives” shall mean all of the Party’s affiliates and its and their respective officers, directors, employees, members, debt financing sources, attorneys, accountants, consultants, agents and financial advisors. Recipient’s “Representatives” shall be further defined to mean only those of its Representatives to whom the Confidential Information has been or hereafter is provided.
2. This Agreement will confirm our agreement to retain in strict confidence all Confidential Information, unless such information (i) is, was or becomes available to us or our Representatives from a source other than the Company or the Company’s Representatives, provided that such other source is not known by us to be in violation of any other obligation of confidentiality or nonuse, (ii) was or becomes available to the public from a source other than us or our Representatives, or (iii) is independently developed by us or our Representatives without the use of or reference to any Confidential Information. We will use such Confidential Information only in connection with our consideration of whether to enter into the Potential Transaction with the Company and, except as otherwise expressly permitted herein, will not otherwise use it in our business or disclose it to others. We shall have the right to communicate the Confidential Information to our Representatives assisting with the Potential Transaction, provided that each such person shall be directed to abide by the terms of this Agreement. We hereby agree that we will be responsible for any breach of any provision of this Agreement by our Representatives. We agree to direct all requests for information to Lincoln. We agree not to initiate, contact, or engage in discussions with any employee, customer, or supplier of the Company regarding the Potential Transaction without the prior written consent of the Company, the Company’s legal counsel, or Lincoln. We agree that, without prior written consent of the Company and except in accordance with the provisions set forth in this Agreement with respect to a “Required Disclosure” (as defined herein), we will not disclose to any other person that we have received Confidential Information, that we are in discussions or negotiations with the Company as to the Potential Transaction, or that the Company is considering the Potential Transaction.
3. For a period of two (2) years from the date of this Agreement, we and our Representatives (excluding Representatives who are debt financing sources, attorneys, accountants, consultants, agents and financial advisors so long as such Representatives are not acting on our behalf with respect to employee solicitation or hiring) agree not to directly or indirectly solicit for employment or employ any Employees of the Company, other than through a public general advertisement or through the use of search firms (in each case not directed at, or targeted to, the Company or any of the Company’s Employees). “Employees” shall be defined as any employees of the Company with whom we or any of our Representatives have direct contact or who becomes known to us or any of our Representatives in connection with the Potential Transaction.

4. We acknowledge that neither the Company nor any of the Company's Representatives makes any representation as to the accuracy or completeness of such Confidential Information and that neither the Company nor any of the Company's Representatives shall have any liability to us as a result of our reliance on or use of such Confidential Information. We agree that, until a definitive acquisition agreement is executed between us and the Company, the Company has no legal obligation of any kind whatsoever with respect to any transaction (including the Potential Transaction) by virtue of this Agreement or otherwise. Notwithstanding the preceding sentence, nothing in this Agreement shall prohibit the enforcement of any binding terms of an executed letter of intent or any other definitive written agreement between us and the Company.
5. We acknowledge that (i) the Company and Lincoln will conduct the process for the Potential Transaction in their sole discretion (including, without limitation, negotiating with any prospective party and entering into definitive agreements without prior notice to us or any other person), (ii) any procedures relating to the Potential Transaction may be changed at any time without notice to us or any other person, (iii) the Company shall have the right, in its sole discretion, to reject or accept any potential party, proposal, or offer, and to terminate any discussions and negotiations, at any time and for any or no reason, and (iv) we shall have no claims whatsoever against the Company or the Company's Representatives (including Lincoln) arising out of or relating to such actions.
6. Promptly upon a written request by or on behalf of the Company, we agree to destroy (and we shall confirm all such destruction in writing by an authorized signatory) all Confidential Information in our or our Representatives' possession or to which either we or our Representatives have access. Notwithstanding the foregoing, we and our Representatives shall (i) be permitted to retain a copy of the Confidential Information to the extent required to comply with applicable law or regulatory authority or written and established internal document retention policies and (ii) not be required to destroy, delete, or modify any backup tapes or other media pursuant to automated archival processes in our ordinary course of business, provided in each case (i) and (ii) herein, any such Confidential Information retained shall remain subject to the confidentiality obligations of this Agreement for so long as such Confidential Information is retained.
7. We may disclose Confidential Information to the extent requested or required by any law, regulation, or legal, regulatory, or judicial process or proceeding or by the rules of any recognized stock exchange, but we will provide prompt advance written notice (to the extent legally permissible and if circumstances permit) to the Company prior to disclosing any Confidential Information and cooperate with any attempt by the Company (at the Company's sole cost and expense) to obtain confidential treatment thereof. A disclosure pursuant to this paragraph is herein referred to as a "Required Disclosure."
8. We acknowledge and agree that money damages would not be a sufficient remedy for any breach of this Agreement and that, as a remedy for any such breach, the Company shall be entitled to specific performance, injunctive, and/or other equitable relief. Such remedies shall not be deemed to be the exclusive remedies for any breach of this Agreement, but shall be in addition all other remedies available at law or equity. In addition to the Company's other rights hereunder, the Company retains all rights and remedies the Company may have under applicable law. In the event of litigation in relation to this Agreement, the non-prevailing Party shall reimburse the prevailing Party for all reasonable costs and expenses (including reasonable attorneys' fees) associated with the litigation upon receipt of a final judgment from a court of competent jurisdiction. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. This Agreement and all matters arising from or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflict of law principles thereof.
10. We agree and acknowledge that this Agreement cannot be amended or terminated, and no provision may be waived or modified, without the written consent of both Recipient and the Company.
11. This Agreement will continue for a period of three (3) years from the date hereof.

The undersigned is duly authorized to bind us to this Agreement.

Name of company (Recipient): _____

Name: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT 2

EXHIBIT 2

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), is entered into this ____ day of October, 2018, by and among (a) Gump’s Holdings, LLC, a Nevada limited liability company (“Holdings”), Gump’s Corp., a corporation formed under the laws of the State of California (“Corp.”), and Gump’s By Mail, Inc., a corporation formed under the laws of the State of Delaware (“By Mail,” and together with Holdings and Corp., the “Sellers,” and each, individually, a “Seller”), and (b) _____, a _____ formed under the laws of the State of _____ (the “Buyer”). The Sellers and the Buyer are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Sellers filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) on August 3, 2018 in the United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), and such bankruptcy cases are being jointly administered under Case No. 18-14683-LEB and are hereinafter referred to collectively as the “Cases”; and

WHEREAS, each of the Sellers wishes to sell, transfer, convey, assign and deliver to the Buyer, and the Buyer wishes to purchase, assume and acquire, in accordance with Sections 363 and 365 and the other applicable provisions of the Bankruptcy Code, the Assets (as hereinafter defined), together with the Assumed Liabilities (as hereinafter defined), upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, subject to the Bankruptcy Court’s entry of the Sale Order (as hereinafter defined), the Buyer shall purchase from the Sellers, and the Sellers shall sell, transfer, convey, assign and deliver to the Buyer, the Assets together with the Assumed Liabilities, upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. Purchase and Sale of Assets.

1.1 *Defined Terms.* All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth for such terms in Article 13.

1.2 *Purchase and Sale.* Subject to the terms and conditions set forth in this Agreement and subject to the Agent’s License, the Sellers hereby agree that at the Closing, they shall sell, transfer, convey and assign to the Buyer, free and clear of all Liens (except for Permitted Liens), and the Buyer shall purchase, assume and acquire from the Sellers, all right, title and interest of the Sellers in, to and under the following (collectively, the “Assets”):

(a) All of the interest of the Sellers in the items set forth on Schedule 1.2(a) (the “Transferred Intellectual Property”);

(b) [All of the interest of the Sellers in and to the Contracts set forth on Schedule 1.2(b) (the “Assumed Contracts”)];

(c) [All security and other deposits and advances and all pre-paid expenses maintained by the Sellers in respect of any Assumed Contracts;] and

(d) All claims (including any litigation or arbitration claims and any refunds and deposits), rights, rights of offset or causes of action that the Sellers or their Affiliates may have against or from any Person relating to the Assets or the Assumed Liabilities (the “Transferred Claims”).

1.3 *Excluded Assets.* Notwithstanding anything to the contrary contained herein, expressly excluded from the Assets are all of the right, title and interest of the Sellers in and to all items not expressly enumerated in Section 1.2, including but not limited to the following (collectively, the “Excluded Assets”):

(a) All claims (including any litigation or arbitration claims and any refunds and deposits), rights, rights of offset or causes of action of the Sellers or their Affiliates other than Transferred Claims;

(b) All causes of action and claims that may be asserted against the Buyer and all rights of the Sellers under this Agreement or any Ancillary Agreement or any other agreements or instruments otherwise delivered in connection with this Agreement or any Ancillary Agreement;

(c) All of the interest of the Sellers in and to all Contracts [other than the Assumed Contracts]; and

(d) All Avoidance Actions.

2. Purchase Price and Payment.

2.1 *Purchase Price.* The consideration to be paid by the Buyer for the sale of the Assets shall consist of (a) \$_____ (the “Purchase Price”) and (b) the assumption by the Buyer of the Assumed Liabilities. At the Closing, the Purchase Price shall be paid by wire transfer of immediately available funds into a third-party escrow account in Nevada designated by the Sellers, in consultation with Sterling Business Credit, LLC (the “Escrow Account”), with the net proceeds of the Purchase Price after satisfaction of closing costs, to be held on reserve in accordance with terms of the Sale Order.

2.2 *Assumed Liabilities and Excluded Liabilities.*

(a) Subject to the terms and conditions set forth in this Agreement, the Buyer hereby agrees that at the Closing, it shall assume and become responsible for all liabilities and obligations relating to the Assets[, including under the Assumed Contracts and all

related Cure Costs existing as of such time and arising prior to the Closing] (collectively, the “Assumed Liabilities”).

(b) Except for (a) the Agent’s License[and (b) the Assumed Liabilities,] the Buyer shall not be subject to and shall not assume nor be liable for any liabilities of any kind or nature, whether absolute, contingent, accrued, known or unknown, of the Sellers (collectively, the “Excluded Liabilities”).

2.3 *Non-Assignable Assets.* If any Asset is by its terms or by Applicable Law nonassignable or non-transferable, to the extent such terms are not superseded by the terms of the Sale Order, the Sellers shall use their reasonable best efforts to obtain, or cause to be obtained, on or prior to the Closing, any approvals or consents necessary to convey to the Buyer the benefit thereof. The Buyer shall cooperate with the Sellers in such manner as may be reasonably requested in connection therewith. In the event any consent or approval to an assignment contemplated hereby is not obtained on or prior to the Closing Date, the Sellers shall continue to use reasonable best efforts to obtain any such approval or consent after the Closing Date and the Sellers agree to enter into any appropriate and commercially reasonable arrangement to provide that the Buyer shall receive the Sellers’ interest in the benefits under any such Asset; *provided* that the Buyer shall undertake to pay or satisfy the corresponding liabilities for the enjoyment of such benefit to the extent the Buyer would have been responsible therefor if such consent or approval had been obtained.

2.4 *Transfer Taxes.* To the extent the transactions contemplated hereby are not exempt under Section 1146 of the Bankruptcy Code, the Buyer shall be liable for and pay any sales and transfer Taxes, filing fees, documentary fees or other Taxes payable in connection with the purchase, sale or transfer of the Assets to, and the assumption of the Assumed Liabilities by, the Buyer pursuant to this Agreement. The Buyer and the Sellers shall use reasonable best efforts to minimize the amount of all the foregoing Taxes and shall cooperate in providing each other with any appropriate resale exemption certifications, Tax clearance certificates and other similar documentation. The Party that is required by Applicable Law to make the filings, reports, or returns and to handle any audits or controversies with respect to any of the foregoing Taxes shall do so, and the other Party shall cooperate with respect thereto as necessary.

2.5 *Allocation of Purchase Price.* No later than ninety (90) days after the Closing Date, the Buyer and the Sellers shall mutually agree upon a Tax allocation of the Purchase Price, applicable Assumed Liabilities and other relevant items among the Assets in accordance with Section 1060 of the Tax Code and the regulations thereunder and any comparable provision of state or local law. Each of the Parties agrees that it or they shall file a statement (on IRS Form 8594 or other applicable form) setting forth such allocation with its or their federal and applicable state income Tax returns and shall also file such further information or take such further actions as may be necessary to comply with the Treasury Regulations that have been promulgated pursuant to Section 1060 of the Tax Code and similar applicable state laws and regulations.

2.6 *Deposit.* The Buyer shall, upon the execution of this Agreement, deposit into the Escrow Account an amount equal to 10% of the Purchase Price (*i.e.*, \$_____) (the “Deposit”). If the Closing takes place as provided herein, then the Deposit shall be credited against the Purchase Price pursuant to Section 2.1 and paid to the Sellers at the Closing. If this Agreement

is terminated under Article 10 pursuant to Section 10.1(b), the Sellers shall promptly return the Deposit to the Buyer. If this Agreement is terminated pursuant to any provision of Section 10.1 other than Section 10.1(b), the Deposit shall be retained by the Sellers. The Parties acknowledge and agree that if this Agreement is terminated other than under Section 10.1(b), the damages that Sellers would sustain as a result of such termination would be difficult if not impossible to ascertain. Accordingly, the Parties agree that Sellers shall retain the Deposit as liquidated damages (and not as a penalty) for such termination.

2.7 Superior Offers. Buyer acknowledges and agrees that, notwithstanding anything herein to the contrary, Sellers may continue marketing the Assets and soliciting inquiries, proposals or offers for the Assets in connection with any alternative transaction or superior offer (each a "Superior Offer"). Until the Bankruptcy Court enters the Sale Order, the Sellers may enter into one or more Superior Offers to sell the Assets to a party other than Buyer.

3. Closing.

3.1 *Closing*. Consummation of the transactions contemplated hereby (the "Closing") shall occur as soon as practicable on such date as is specified by the Buyer, but in any event not later October 19, 2018, provided, that the conditions to Closing set forth in this Agreement are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing), at the offices of Garman Turner Gordon, LLP, 650 White Drive, Suite 100, Las Vegas, Nevada 89119, or at such time and place as the Buyer and the Sellers may otherwise agree. The date on which the Closing actually takes place is referred to in this Agreement as the "Closing Date."

3.2 *Deliveries by the Sellers at Closing*. At the Closing, the Sellers shall each execute, acknowledge and deliver to the Buyer the following (which events shall occur, each being deemed to have occurred simultaneously with the others):

(a) Trademark and domain name assignments in a form reasonably satisfactory to the Buyer and its counsel and the Sellers and their counsel, pursuant to which the Sellers shall assign the Transferred Intellectual Property to the Buyer (the "IP Assignments");

(b) A Bill of Sale in a form reasonably satisfactory to the Buyer and its counsel and the Sellers and their counsel;

(c) An Assignment and Assumption Agreement in a form reasonably satisfactory to the Buyer and its counsel and the Sellers and their counsel, pursuant to which the Buyer shall be assigned and shall assume the Assumed Contracts and Assumed Liabilities from the Sellers (the "Assignment and Assumption Agreement");

(d) A copy of the Sale Order; and

(e) All other documents, certificates, instruments or writings, including the Ancillary Agreements, reasonably requested by the Buyer in connection herewith.

3.3 *Deliveries by the Buyer at Closing.* At the Closing, the Buyer shall execute, acknowledge and deliver to the Sellers the following (which events shall occur, each being deemed to have occurred simultaneously with the others):

(a) The Bill of Sale and the IP Assignments, if any, that call for a signature by the Buyer;

(b) A duly executed Assignment and Assumption Agreement;

(c) The Purchase Price to the Sellers by wire transfer in immediately available funds to the Escrow Account, with the net proceeds of the Purchase Price after satisfaction of closing costs, to be held on reserve in accordance with terms of the Sale Order;

(d) A copy of the resolutions adopted by the Buyer's Board of Directors authorizing the transactions contemplated hereby and the consummation thereof, certified by a secretary or assistant secretary of the Buyer to be a true and correct copy;

(e) A certificate of incumbency as to those officers of the Buyer executing instruments in connection with this Agreement; and

(f) All other documents, certificates, instruments or writings, including the Ancillary Agreements, reasonably requested by the Sellers in connection herewith.

3.4 *Deemed Consents and Cures.* The Sellers shall be deemed to have obtained all required consents, as applicable, in respect of the assignment of any of the Assumed Contracts and all defaults thereunder shall be deemed to have been cured if, and to the extent that, pursuant to the Sale Order or another Order of the Bankruptcy Court, the Sellers are authorized to assume and assign any such Assumed Contracts to the Buyer pursuant to Section 365 of the Bankruptcy Code.

3.5 *Subsequent Documentation; Further Assurances.* The Buyer and the Sellers shall, at any time and from time to time after the Closing Date, upon the reasonable request of the other, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such further (a) assignments, transfers and conveyances as may be required for assigning, transferring, granting, conveying and confirming the transactions contemplated hereby, including aiding and assisting the Buyer in collecting and reducing to possession any or all of the Assets and (b) documents and instruments as may be reasonably necessary for the further completion of any of the transactions contemplated hereby.

4. Representations and Warranties of the Sellers.

The Sellers, jointly and severally, represent that the following are true and correct as of the date hereof and shall be true and correct at the date of the Closing after giving effect to the Sale Order:

4.1 *Organization and Power.* Each Seller (a) is a corporation duly organized, validly existing and in good standing under the laws of the State of its organization, (b) has all requisite corporate power and authority to carry on its business as currently conducted, and (c) has the requisite corporate power and authority to own, lease, operate or hold the applicable Assets.

4.2 *Authority; No Conflicts.* Subject to Bankruptcy Court approval pursuant to the Sale Order, each Seller has the authority to enter into and consummate this Agreement and the Ancillary Agreements, and to consummate the transactions contemplated hereby and thereby. Subject to the approval of the Bankruptcy Court pursuant to the Sale Order, the execution, delivery and performance by each Seller of this Agreement and of the Ancillary Agreements to which it is a party (a) do not and shall not violate or conflict with any provision of the certificate or articles of incorporation or bylaws of such Seller, (b) do not and shall not violate any provision of any Applicable Law or any order, judgment or decree of any Governmental Entity or any Governmental Authority and (c) shall not result in the creation or imposition of any material Lien (other than Permitted Liens) upon any of the Assets.

4.3 *Execution and Delivery.* Subject to the approval of the Bankruptcy Court pursuant to the Sale Order, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by the Sellers have been duly authorized by all necessary corporate action, and the execution and performance of the Ancillary Agreements by the Sellers have been or shall be authorized by all necessary corporate action prior to the Closing Date. Subject to Bankruptcy Court approval and entry of an Order of the Bankruptcy Court approving the terms of this Agreement, this Agreement constitutes, and upon execution of each of the Ancillary Agreements such agreements shall constitute, valid and binding obligations of the Sellers, enforceable against the Sellers in accordance with their respective terms.

4.4 *Sale Free and Clear of Liens.* On the Closing Date, after giving effect to the Sale Order, the Assets shall be transferred to the Buyer free and clear of all Liens other than Permitted Liens.

4.5 *Litigation.* Except as set forth on Schedule 4.5, and except for the Cases, there is no claim, litigation, action, arbitration or legal proceeding pending before a Governmental Entity or, to the Sellers' Knowledge, threatened against the Sellers, affecting the Sellers' ability to perform their obligations hereunder. Except with respect to claims filed in connection with the Cases, and subject to all of the provisions of the Bankruptcy Code, the Assets are not subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.6 *Third Party Approvals.* Except for (a) entry of the Sale Order and (b) approvals or consents set forth on Schedule 4.6, the execution, delivery and performance by the Sellers of this Agreement and the consummation of the transactions contemplated hereby do not require any material consent, waiver, authorization or approval of, or filings with, any Person (including any Governmental Authority) that has not been obtained or is not deemed to be superseded by applicable provisions of the Bankruptcy Code (the matters described in this Section 4.6, collectively referred to as the "Consents").

4.7 *Transferred Intellectual Property.* Except as set forth on Schedule 4.7, the Sellers have not been notified in writing prior to the date of this Agreement that any of the Transferred Intellectual Property is or may be infringing any patents, trade secrets, trademarks, trade names, service marks, service names, copyrights or other intellectual property rights of any third party and, to the Knowledge of the Sellers, there is no continuing infringement of the Transferred Intellectual Property by other Persons.

4.8 *Broker or Finder.* Except as set forth on Schedule 4.8, no Person assisted in or brought about the negotiation of this Agreement, or the subject matter of the transactions contemplated hereby, in the capacity of broker, agent, or finder or in any similar capacity on behalf of the Sellers or the Buyer.

4.9 **DISCLAIMER OF REPRESENTATIONS AND WARRANTIES.** THE ASSETS ARE BEING TRANSFERRED IN “AS IS”, “WHERE IS” CONDITION AND NEITHER THE SELLERS NOR ANY EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS OR REPRESENTATIVES OF THE SELLERS MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATING TO THE SELLERS OR THE ASSETS OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT.

4.10 *Termination of Representations and Warranties Upon Closing.* The representations and warranties of the Sellers in this Agreement and each Ancillary Agreement shall not survive the Closing Date and shall be null and void ab initio and of no further force or effect immediately after the Closing Date.

5. Representations and Warranties of the Buyers.

The Buyer represents and warrants to the Sellers that the following are true and correct as of the date hereof and shall be true and correct at the date of the Closing:

5.1 *Organization and Power.* The Buyer (a) is a duly organized, validly existing entity under the laws and in good standing in the state of its organization, (b) has all requisite power and authority to carry on the business in which it is now engaged, and (c) has taken all action required by Applicable Law, and by the Buyer’s organizational documents, to authorize the execution and delivery of this Agreement and the purchase of the Assets and assumption of the Assumed Liabilities in accordance with this Agreement.

5.2 *Authority; No Conflicts.* The Buyer has the requisite power and authority (including full limited liability company power and authority) to execute this Agreement and each Ancillary Agreement to which the Buyer is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Buyer of this Agreement and each Ancillary Agreement to which the Buyer is a party (a) do not and shall not violate or conflict with any provision of the certificate of formation or limited liability company agreement of the Buyer, and (b) do not and shall not violate any provision of any Applicable Law or any order, judgment or decree of any Governmental Entity or any Governmental Authority.

5.3 *Execution and Delivery.* The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby has been duly authorized by all necessary limited liability company or corporate action on the part of the Buyer, and the execution and performance of each Ancillary Agreement to which the Buyer is a party has been or shall be authorized by all necessary [corporate] [limited liability company] action on the part of the Buyer

prior to the Closing Date. This Agreement constitutes, and upon execution by the Buyer of each of the Ancillary Agreements to which it is a party, such agreements shall constitute, valid and binding obligations of the Buyer, enforceable against the Buyer in accordance with their respective terms.

5.4 *Litigation.* There is no claim, litigation, action or legal proceeding before a Governmental Entity or, to the Buyer's knowledge, threatened against the Buyer, adversely affecting the Buyer's ability to perform its obligations hereunder. There are no bankruptcy, reorganization or arrangement proceedings pending, being contemplated by or, to the Buyer's knowledge, threatened against the Buyer.

5.5 *Condition of Assets.*

(a) The Buyer (i) is purchasing the Assets in "as is", "where is" condition, and (ii) is relying solely on its own existing knowledge and inspection of the Assets and that it has completed its due diligence inspection in respect of the Assets.

(b) The Buyer expressly acknowledges that (i) the Sellers are not making any representations or warranties regarding the Assets (except as specifically provided for in Article 4 of this Agreement), (ii) pursuant to the Agency Order, the Agent shall retain the Agent's License through the Sale Termination Date.

5.6 *Sufficient Funds.* The Buyer has available, and will have available as of the Closing Date, funds sufficient to pay the Purchase Price and to perform its other obligations under this Agreement and the Ancillary Agreements.

5.7 *No Brokers.* The Buyer has not utilized the services of or contracted or dealt with a broker or finder in connection with any of the transactions contemplated by this Agreement, including the Buyer's purchase of the Assets or any portion thereof, and no commission or other compensation is or shall be due or owed from the Buyer to any Person with respect to the purchase and sale of the Assets.

5.8 *Termination of Representations and Warranties Upon Closing.* The representations and warranties of the Buyer in this Agreement and each Ancillary Agreement to which the Buyer is a party shall not survive the Closing Date and shall be null and void ab initio and of no further force or effect immediately after the Closing Date.

6. Covenants of the Sellers.

Each Seller covenants and agrees with the Buyer that:

6.1 *Reasonable Best Efforts.* Each Seller shall use its reasonable best efforts to cause, to the extent within such Sellers' control, the conditions set forth in Article 8 to be satisfied and to facilitate and cause the consummation of the transactions contemplated hereby.

6.2 *Notice to the Buyer.* Each Seller agrees to promptly notify the Buyer in writing of any information it obtains or becomes aware of that would indicate that a representation and

warranty of the Sellers made herein or in any Schedule hereto is not correct in all material respects or that any of the conditions to Closing shall not be satisfied.

6.3 *Consents and Approvals.* The Sellers shall use their reasonable best efforts to obtain all Consents required by the Bankruptcy Code or other Applicable Law to be obtained by the Sellers to effect the transactions contemplated hereby. Without limiting the foregoing, as soon as practicable after the date of this Agreement, the Sellers shall make or cause to be made all such further filings and submissions, and take or cause to be taken such further action, as may reasonably be required in connection therewith on a timely basis.

7. Covenants of the Buyer.

The Buyer covenants and agrees with the Sellers that:

7.1 *Reasonable Best Efforts.* The Buyer shall use its reasonable best efforts to cause, to the extent within the Buyer's control, the conditions set forth in Article 8 to be satisfied and to facilitate and cause the consummation of the transactions contemplated hereby.

7.2 *Notice to the Sellers.* The Buyer agrees to promptly notify the Sellers in writing of any information the Buyer obtains or becomes aware of that would indicate that a representation and warranty of the Buyer made herein or in any Schedule hereto is not correct in all material respects.

7.3 *Bankruptcy Court Approval and Related Matters.* The Buyer acknowledges and agrees to Article 11 and shall use reasonable best efforts to assist the Sellers in obtaining any orders necessary to consummate the transactions contemplated hereby and any orders ancillary hereto and agree to provide the Sellers with information necessary to obtain such orders.

7.4 *Confidentiality.* The Buyer shall maintain the Confidential Information in accordance with the terms of the Confidentiality Agreement. In the event the Closing does not occur for any reason, the Buyer shall immediately return to the Sellers or destroy all copies and recordings of the Confidential Information in their possession or under their control in accordance with the terms of that confidentiality letter between the Buyer and the Sellers, dated _____ (the "Confidentiality Agreement").

7.5 *Privacy.* On or prior to the Closing Date, the Buyer shall adopt a written policy with respect to protection of the confidentiality of personally identifiable information regarding the customers and employees of the Sellers and other Persons not affiliated with the Sellers substantially similar to those included in the written privacy policies of the Sellers in effect as of the date of this Agreement. From and after the Closing Date, the Buyer shall comply with such policy, or such successor policies adopted by Buyer from time to time, and Applicable Law with respect to the protection of such personally identifiable information.

8. Conditions to Closing.

8.1 *Sellers' Conditions to Closing.* The obligations of the Sellers at the Closing are subject, at the option of the Sellers, to the satisfaction at or prior to the Closing of the following conditions:

(a) All representations and warranties of the Buyer contained in this Agreement shall be true in all material respects at and as of the Closing and the Buyer shall have performed and satisfied all material obligations in all material respects required by this Agreement to be performed and satisfied by the Buyer at or prior to the Closing. The Buyer shall have provided the Sellers with certificates executed by a responsible officer of the Buyer to such effect;

(b) No stay or injunction shall have been obtained by a court of competent jurisdiction restraining, prohibiting or declaring illegal the purchase and sale contemplated by this Agreement;

(c) The Bankruptcy Court shall have entered the Sale Order;

(d) All material Consents legally required to be obtained by the Sellers for the Closing shall have been obtained; and

(e) The Buyer shall have executed and delivered the documents required to be executed and delivered pursuant to Section 3.3.

8.2 *Buyer's Conditions to Closing.* The obligations of the Buyer to consummate the transactions contemplated hereby at the Closing are subject, at the option of the Buyer, to the satisfaction at or prior to the Closing of the following conditions:

(a) All representations and warranties of the Sellers contained in this Agreement and the Ancillary Agreements shall be true in all material respects at and as of the Closing and the Sellers shall have performed and satisfied in all material respects all obligations required by this Agreement and the Ancillary Agreements to be performed and satisfied by the Sellers at or prior to the Closing. The Sellers shall have provided the Buyer with certificates executed by a responsible officer of the Sellers to such effect;

(b) No stay or injunction shall have been obtained by a court of competent jurisdiction restraining, prohibiting or declaring illegal the purchase and sale contemplated by this Agreement;

(c) The Bankruptcy Court shall have entered the Sale Order;

(d) All material Consents legally required to be obtained by the Sellers for the Closing shall have been obtained; and

(e) The Sellers shall have executed and delivered the documents required to be executed and delivered pursuant to Section 3.2.

9. Additional Obligations After Closing.

The Parties shall have the following additional obligations after the Closing:

9.1 *Execution; Delivery of Instruments and Assistance.* The Sellers and the Buyer shall each execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such

instruments and take such other actions as may be necessary or advisable to carry out their obligations under this Agreement and under any document, certificate or other instrument delivered pursuant hereto or thereto or required by Applicable Law.

9.2 *Name Change.* From and after the Closing Date, the Sellers shall cause each entity in the Sellers to change its names to a name that is not (and that is not confusingly similar to) “Gump’s,” subject to their obligations to operate and conclude the Cases, it being the intent of the Parties that from and after the Closing, the Buyer shall have the sole right to conduct business under such name, subject to the Agent’s License.

10. Termination.

10.1 *Termination.* This Agreement may be terminated as follows: (a) at any time by the mutual written agreement of the Sellers and the Buyer; (b) by the Buyer, at its sole election, in the event of a material breach of this Agreement by the Sellers that has not been cured, or if any representation or warranty of the Seller shall have become untrue in any material respect, in either case such that such breach or untruth is incapable of being cured, by October 19, 2018; (c) by the Sellers, at their sole election, in the event that the Closing shall not have occurred on or before October 19, 2018; (d) by the Sellers, at their sole election, in the event of a material breach of this Agreement by the Buyer that has not been cured, or if any representation or warranty of the Buyer shall have become untrue in any material respect, in either case such that such breach or untruth is incapable of being cured, by October 19, 2018.

10.2 *Effect of Termination.* Upon the termination of this Agreement in accordance with Section 10.1, the Parties shall be relieved of any further obligations or liability under this Agreement other than (a) confidentiality obligations contained in Section 7.4, (b) any obligations for breach of this Agreement occurring prior to such termination, and (c) obligations contained in Section 2.6.

11. Bankruptcy Court Approval.

The Buyer acknowledges that the obligations of the Sellers under this Agreement and the transactions contemplated hereby are contingent upon the approval and authorization of the Bankruptcy Court.

12. Miscellaneous Provisions.

12.1 *Notice.*

(a) All notices hereunder shall be in writing, dated and signed by the Party giving the same. Each notice shall be either (i) delivered in person to the address of the Party for whom it is intended at the address of such Party as shown below, (ii) delivered to the United States Postal Service in a secure and sealed envelope addressed to the Party for whom it is intended at the address of such Party as provided below, with sufficient postage affixed, certified or registered mail, return receipt requested, (iii) sent by facsimile with a confirmation sheet, or (iv) delivered to a nationally recognized overnight courier service that traces any such notice.

(b) The effective date of such notice shall be the date of delivery in the event of delivery if delivered in person or by facsimile in accordance with subsections (i) or (iii) above and five (5) days after deposit in the U.S. Mail in the event of delivery in accordance with subsection (ii) above.

(c) The address at which any Party hereto is to receive notice may be changed from time to time by such Party by giving notice of the new address to all other parties hereto. The addresses of the Parties, until changed in accordance with the foregoing, are:

The Sellers: Gump’s Holdings, LLC, et al.
135 Post Street
San Francisco, CA 94108
Attn: Tony Lopez
Telephone: (415) 984-9449
Facsimile: _____

with copies (which shall not constitute notice) to:

Garman Turner Gordon LLP
650 White Drive, Suite 100
Las Vegas, Nevada 89119
Attn: William M. Noall, Esq. and
Gabrielle A. Hamm, Esq.
Telephone: (725) 777-3000
Facsimile: (725) 777-3112

The Buyer: _____

Attn: _____
Telephone: _____
Facsimile: _____

12.2 *Amendment.* This Agreement may not be amended nor any rights hereunder waived except by an instrument in writing signed by the Parties.

12.3 *Payment of Costs.* Except as otherwise set forth herein, the Parties shall each pay their own costs incurred in negotiating this Agreement and in consummating the transactions contemplated hereby, including any fees or commission payable to any party representing them in connection with arranging or negotiating this Agreement and transactions contemplated hereby.

12.4 *Headings.* The headings of the sections of this Agreement are for convenience or reference only and shall not affect any of the provisions of this Agreement.

12.5 *References.* References made in this Agreement, including use of a pronoun, shall be deemed to include, where applicable, masculine, feminine, singular or plural, individuals, partnerships or corporations.

12.6 *Applicable Law.* This Agreement and the transactions contemplated hereby shall be construed in accordance with and governed by the laws of the State of Nevada. Each of the Parties agrees that any proceeding brought to enforce the rights and obligations of any Party under this Agreement (including the schedules attached hereto) or any Ancillary Agreement shall be commenced and maintained exclusively in the Bankruptcy Court and that the Bankruptcy Court shall have exclusive jurisdiction over any such proceeding.

12.7 *Entire Agreement.* This Agreement, the Schedules attached hereto, and the Ancillary Agreements (in each case incorporated herein by this reference) contain the entire agreement and understanding of the Parties hereto with respect to the transactions contemplated hereby, and supersede any and all prior agreement, arrangements, and understandings, whether oral or written, between the Parties.

12.8 *Binding Effect.* This Agreement shall be binding upon and shall inure to the benefit of the Parties and, except as otherwise prohibited, their respective successors and assigns. Nothing contained in this Agreement, or implied herefrom, is intended to confer upon any Person other than the Parties any benefits, rights, or remedies.

12.9 *Assignment.* No Party may assign all or any portion of its respective rights or delegate any portion of its duties hereunder without (a) the approval of the Bankruptcy Court and (b) the written consent of the other Parties; *provided* that the Buyer may assign this Agreement in whole or in part to any direct or indirect subsidiary of the Buyer so long as the Buyer retains its obligations under this Agreement, subject to the terms and conditions hereof, to effect the consummation of the transactions contemplated hereby. All of the terms, provisions and conditions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, assigns and legal representatives.

12.10 *Severability.* If a court of competent jurisdiction determines that any provision of this Agreement is void, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect and the provisions that are determined to be void, illegal or unenforceable shall be limited so that they shall remain in effect to the extent permissible by Applicable Law.

12.11 *Construction.*

(a) Each Party was advised by counsel in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

(b) Any reference to any federal, state, local or foreign statute shall be deemed to refer to such statute as amended and to all rules and regulations promulgated thereunder, unless the context requires otherwise.

(c) The word “include” or “including” means include or including, without limitation.

(d) All references in this Agreement to Sections and Schedules shall be deemed references to Sections of, and Schedules to, this Agreement unless the context shall otherwise require.

12.12 *Execution in Counterparts.* This Agreement may be executed in one or more counterparts. Each such counterpart shall be deemed an original but all such counterparts together shall constitute one and the same agreement. This Agreement, to the extent signed and delivered by means of a facsimile machine, electronic mail or other electronic transmission in which the actual signature is evident, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto, each other party hereto or thereto shall re-execute original forms hereof and deliver them to all other parties. No party hereto shall raise the use of a facsimile machine, electronic mail, or other electronic transmission in which the actual signature is evident to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine, electronic mail or other electronic transmission in which the actual signature is evident as a defense to the formation of a contract and each party forever waives such defense. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against which enforcement is sought

13. Definitions.

“Affiliate” shall mean, with respect to any Person, any direct or indirect subsidiary or such Person, and any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such first Person.

“Agent’s License” shall mean the limited license granted to the joint venture between Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC (the “Agent”) pursuant to the *Order (A) Approving Agency Agreement, (B) Authorizing and Approving Store Closing Sale Free and Clear of All Liens, Claims, and Encumbrances, (C) Granting Liens, and (D) Granting Related Relief* [ECF No. 58] (the “Agency Order”), authorizing an agreement (the “Agency Agreement”) for the conduct of an orderly liquidation sale of the Sellers’ merchandise and fixtures (the “Closing Sale”), pursuant to which (i) the Agent shall have the right to use the trade names, logos, e-mail lists, customer lists, catalogs, e-commerce sites (including (without limitation) websites and social media sites such as Facebook, and Twitter) relating to and used in connection with the conduct of the Closing Sale, solely for the purpose of advertising the Closing Sale in accordance with the terms of the Agency Agreement and through the Sale Termination Date (as defined in the Agency Agreement), and (ii) Sellers shall continue to issue such advertisements regarding the Closing Sale to its email or customer lists as the Agent may direct.

“Agreement” shall have the meaning set forth in the Preamble.

“Ancillary Agreements” shall mean any ancillary agreements hereto to which each Party is or may be a party.

“Applicable Law” shall mean, with respect to any Person, any federal, state or local law (including common law), statute, code, ordinance, rule, regulation, or other requirement enacted,

promulgated, issued or entered by a Governmental Authority, that is applicable to such Person or its business, properties or assets.

“Assets” shall have the meaning set forth in Section 1.2.

“Assignment and Assumption Agreement” shall have the meaning set forth in Section 3.2(c).

“Assumed Contracts” shall have the meaning set forth in Section 1.2(b).

“Assumed Liabilities” shall have the meaning set forth in Section 2.2(a).

“Avoidance Actions” shall mean any and all actions which a trustee, debtor-in-possession or other appropriate party in interest may assert on behalf of the Sellers or their estate under applicable state statute or Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 542, 543, 544, 545, 546, 547, 548, 549, 550, 551 and 553.

“Bankruptcy Code” shall have the meaning set forth in the Recitals.

“Bankruptcy Court” shall have the meaning set forth in the Recitals.

“Business Day” shall mean any day other than Saturday, Sunday or any day on which banking institutions in the United States are closed either under Applicable Law or action of any Governmental Authority.

“Buyer” shall have the meaning set forth in the Preamble.

“Cases” shall have the meaning set forth in the Recitals.

“Closing” shall have the meaning set forth in Section 3.1.

“Closing Date” shall have the meaning set forth in Section 3.1.

“Company” shall have the meaning set forth in the Preamble.

“Confidentiality Agreement” shall have the meaning set forth in Section 7.4.

“Confidential Information” shall have the meaning set forth in the Confidentiality Agreement.

“Consents” shall have the meaning set forth in Section 4.6.

“Contract” shall mean any agreement, arrangement, contract, lease, purchase order, sale order or commitment, or any series of related agreements, arrangements, contracts, leases, purchase orders, sale orders, or commitments.

“Cure Costs” shall mean, in the aggregate, any and all costs and expenses for any available cures (pursuant to Section 365 of the Bankruptcy Code and described in any Order of the Bankruptcy Court relating to such cure liability) of any Assumed Contacts.

“Deposit” shall have the meaning set forth in Section 2.6.

“Excluded Assets” shall have the meaning set forth in Section 1.3.

“Excluded Liabilities” shall have the meaning set forth in Section 2.2(b).

“Governmental Approvals” shall mean those approvals, authorizations, confirmations, consents, exemptions and orders from Governmental Authorities and the making of all necessary registrations and filings (including filings with Governmental Authorities) and the taking of all reasonable steps as may be necessary to consummate the transactions contemplated hereby under Applicable Law.

“Governmental Authority” shall mean any national, federal, state, provincial, local or foreign government, or any subdivision, agency, instrumentality, authority, department, commission, board or bureau thereof, or any federal, state, provincial, local or foreign court, tribunal, or arbitrator, including the Bankruptcy Court.

“Governmental Entity” shall mean any court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign.

“Holdings” shall have the meaning set forth in the Preamble.

“IP Assignments” shall have the meaning set forth in Section 3.2(a).

“Knowledge of the Sellers” (or “Sellers’ Knowledge”) shall mean the actual knowledge of the officers, directors, or managers of the Sellers, after reasonable inquiry.

“Liens” shall mean any liens (including any inchoate liens and any liens for Taxes, materialmen, laborer, or mechanics’ liens, judgment liens, liens imposed by operation of law, contractual liens, and liens arising out of or resulting from any employment agreements, employee benefits plans or laws, or collective bargaining agreements), encumbrances, burdens, claims, demands, judgments, orders, writs, injunctions, decrees, and arbitral awards, attachments, charges, security interests, mortgages, deeds of trust, pledges, hypothecations, adverse claims of title, preferential rights of purchase and/or first refusal rights, options, contracts for sale, transfer, or other disposition, and any claims or rights of any kind, description or nature whatsoever of or in favor of any creditors, Governmental Entities, or other Persons, whether or not any of the above arose, accrued, or relate to any time periods before or after the filing of the Cases, and whether or not a Chapter 11 or Chapter 7 trustee is hereafter appointed in the Cases for any reason.

“Material Adverse Effect” shall mean with respect to the Assets, any event or occurrence which shall materially and adversely affect the Assets, taken in each case as a whole; *provided that* any (a) change in general economic or industry-wide conditions, or (b) adverse effect that is solely the result of the execution or announcement of this Agreement or the transactions contemplated hereby or the consummation thereof, shall not be taken into account for purposes of determining a Material Adverse Effect hereunder.

“Order” shall mean any writ, judgment, decree, injunction or similar order, writ, ruling, directive or other requirement of any Governmental Entity (in each case whether preliminary or final).

“Party” and “Parties” shall have the meanings set forth in the Preamble.

“Permitted Liens” shall mean

(a) mechanics’, materialmen’s, warehousemen’s, carriers’, workers’, or repairmen’s Liens or other similar common law or statutory encumbrances arising or incurred in the ordinary course and that are for amounts (i) that are not material in amount or effect and (ii) that are either not yet due or delinquent or are otherwise being contested in good faith by appropriate proceedings;

(b) Liens for Taxes, assessments and other governmental charges for amounts (i) that are not material in amount or effect and (ii) that are either not due or payable or are being contested in good faith by appropriate proceedings;

(c) Liens incurred in the ordinary course of business for amounts (i) that are not material in amount or effect and (ii) that are either not yet due or delinquent or are otherwise being contested in good faith by appropriate proceedings; and

(d) Liens or encumbrances imposed by any contract or any Applicable Law governing a License for amounts (i) that are not material in amount or effect and (ii) that are either not yet due or delinquent or are otherwise being contested in good faith by appropriate proceedings.

“Person” shall mean any individual, corporation, partnership, joint venture, trust, limited liability company, business association, Governmental Entity or other entity.

“Purchase Price” shall have the meaning set forth in Section 2.1.

“Sale Order” shall mean the Order of the Bankruptcy Court entered pursuant to Bankruptcy Code Sections 363 and 365 that approves the sale of the Assets to the Buyer pursuant to the terms of this Agreement and the provisions of the Bankruptcy Code (including Bankruptcy Code Section 363), and approves the Sellers’ assignment of the Assumed Contracts to the Buyer pursuant to Section 365 of the Bankruptcy Code.

“Seller” or “Sellers” shall have the meaning set forth in the Preamble.

“Tax” or “Taxes” shall mean (a) all taxes, charges, fees, levies, penalties or other assessments of any kind whatsoever imposed by an federal, state, local or foreign taxing authority, including, but not limited to, income, excise, property, sales, transfer, franchise, payroll, withholding, social security or other taxes, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, including any interest, penalties or additions attributable thereto or (b) liability for the payment of any amounts of the type described in clause (a) above as a result of being a party to any agreement or any express or implied obligation to indemnify or otherwise succeed to the liability of any other Person.

“Tax Code” shall mean the Internal Revenue Code of 1986, as it has been and may be amended.

“Transferred Claims” shall have the meaning set forth in Section 1.2(d).

“Transferred Intellectual Property” shall mean have the meaning set forth in Section 1.2(a).

“Treasury Regulations” shall mean the federal income Tax regulations promulgated under the Tax Code, as amended, including any temporary and proposed regulations.

*Remainder of Page Intentionally Left Blank.
Signature Pages Follow.*

This Asset Purchase Agreement is executed by the Parties on the date set forth above.

GUMP'S CORP.

By: _____
Print Name and Title:

GUMP'S BY MAIL, INC.

By: _____
Print Name and Title:

GUMP'S HOLDINGS, LLC

By: _____
Print Name and Title:

[BUYER]

By: _____
Print Name and Title: