

Hearing Date: March 28, 2017, at 3:00 p.m. (prevailing Eastern Time)  
Objection Deadline: March 21, 2017, at 4:00 p.m. (prevailing Eastern Time)

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*Proposed Counsel to the Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

	)		
In re:	)	Chapter 11	
	)		
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 17-10466 (SCC)	
	)		
Debtors.	)	(Jointly Administered)	
	)		

**NOTICE OF DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING  
AND APPROVING PROCEDURES TO REJECT OR ASSUME EXECUTORY  
CONTRACTS AND UNEXPIRED LEASES AND (II) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that on March 14, 2017, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the *Debtors' Motion for Entry of an Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and (II) Granting Related Relief* (the "Motion," a copy of which is attached hereto). A hearing (the "Hearing") on the Motion will be held before the Honorable Shelley C. Chapman of the United States Bankruptcy Court for the Southern District of New York

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors' service address is: 2761 Fruitland Avenue, Vernon, California 90058.

(the “Court”), in Room 623, One Bowling Green, New York, New York 10004-1408, on **March 28, 2017, at 3:00 p.m. (prevailing Eastern Time)**.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections (each, an “Objection”) to the Motion and the relief requested therein shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the “Case Management Order”), shall set forth the basis for the Objection and the specific grounds therefore, and shall be filed with the Court electronically in accordance with General Order M-399 by registered users of the Court’s case filing system (the User’s Manual for the Electronic Case Filing System can be found at <http://www.nysb.uscourts.gov>, the official website for the Court), with a hard copy delivered directly to chambers pursuant to Local Bankruptcy Rule 9070-1 and served so as to be actually received no later than **March 21, 2017, at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”), upon the parties on the Master Service List (as defined in the Case Management Order), including, without limitation:

- a. Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654 (Attn: Benjamin M. Rhode and John R. Luze), the proposed attorneys for the Debtors;
- b. The Office of The United States Trustee for Region 2, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Brian Masumoto, Esq.);
- c. Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue, 34th Floor, New York, New York 10017-2024 (Attn: Bradford Sandler and Robert Feinstein), the proposed attorneys for the Official Committee of Unsecured Creditors;
- d. Morgan, Lewis & Bockius LLP, One Federal Street, Boston, Massachusetts 02110 (Attn: Marc R. Leduc and Matthew F. Furlong), attorneys to the administrative agent under the Debtors’ prepetition and postpetition asset-based revolving credit facilities; and

- e. Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Matt Barr), attorneys to the administrative agent under the Debtors' prepetition and postpetition term loan credit facilities.

**PLEASE TAKE FURTHER NOTICE** that if no Objections are timely filed and served with respect to the Motion, the Debtors shall, on or after the Objection Deadline, submit to the Court an order substantially in the form annexed as **Exhibit A** to the Motion, which order the Court may enter with no further notice or opportunity to be heard.

**PLEASE TAKE FURTHER NOTICE** that the Hearing may be continued or adjourned thereafter from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing. The Debtors will file an agenda before the Hearing, which may modify or supplement the Motion to be heard at the Hearing.

**PLEASE TAKE FURTHER NOTICE** that a copy of the Motion may be obtained free of charge by visiting the website of Donlin, Recano & Company, Inc. at <http://www.donlinrecano.com/bcbg>. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

*[Remainder of page intentionally left blank]*

Dated: March 14, 2017

*/s/ Joshua A. Sussberg*

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**UNITED STATES BANKRUPTCY COURT  
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In re:	)	Chapter 11	
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BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 17-10466 (SCC)	
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Debtors.	)	(Jointly Administered)	
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**DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING  
AND APPROVING PROCEDURES TO REJECT OR ASSUME EXECUTORY  
CONTRACTS AND UNEXPIRED LEASES AND (II) GRANTING RELATED RELIEF**

BCBG Max Azria Global Holdings, LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”),<sup>2</sup> respectfully state the following in support of this motion:

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

<sup>2</sup> A detailed description of the Debtors and their businesses, and the facts and circumstances supporting the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Holly Felder Etlin, Chief Restructuring Officer of BCBG Max Azria Global Holdings, LLC, (I) in Support of Chapter 11 Petitions and First Day Motions and (II) Pursuant to Local Bankruptcy Rule 1007-2* [Docket No. 3] (the “First Day Declaration”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), on February 28, 2017 (the “Petition Date”).

**Relief Requested**

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), (a) authorizing and approving procedures (as described herein, the “Contract Procedures”) for rejecting or assuming executory contracts and unexpired leases (collectively, the “Contracts”) and (b) granting related relief.

2. The Debtors also request authority, but not direction, to remove or abandon personal property of the Debtors, including, without limitation, equipment, fixtures, furniture, and other personal property that may be located on, or have been installed in, leased premises that are subject to a rejected Contract after the effective date of any proposed rejection.

**Jurisdiction and Venue**

3. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The bases for the relief requested herein are sections 105(a), 363, 365, and 554 of the Bankruptcy Code, Bankruptcy Rule 6006, and Rules 6006–1 and 9013–1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

**The Debtors' Executory Contracts and Unexpired Leases**

6. The Debtors are party to more than 1000 Contracts, which include agreements with vendors for the supply of goods and services, licensing agreements, insurance and employee benefits agreements, equipment and vehicle leases, the Debtors' "partner shop" agreements, other contracts related to the Debtors' businesses, and leases with respect to real and personal property, including the Debtors' standalone retail store and factory outlet locations, approximately 200 of which may be considered nonresidential real property leases.

7. The Debtors are in the process of evaluating all of their Contracts to determine whether such Contracts should be (a) rejected as unfavorable to the Debtors, or (b) assumed or assumed and assigned, including those Contracts to be assumed as amended through consensual negotiations with the relevant counterparties. Indeed, on the Petition Date, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Assume the Agency Agreement, (II) Approving Procedures for Store Closing Sales and, (III) Granting Related Relief* [Docket No. 15] seeking authority to, among other things, liquidate the inventory contained in and wind down approximately 120 of the Debtors' retail store locations (the "Store Closings"). Consummation of the Store Closings may result in the Debtors' seeking to reject or assume and assign the applicable non-residential lease agreements.

8. Absent the relief requested in this Motion, the Debtors would be required to file separate motions to reject or assume the Contracts, resulting in substantial costs to, and administrative burdens on, the Debtors' estates—in addition to burdening the Court's docket. To that end, the Debtors hereby request approval of the Contract Procedures to minimize such costs and burdens.

### **The Proposed Rejection Procedures**

9. The Debtors seek entry of the Order authorizing and approving the following Contract Procedures with respect to rejection of the Contracts (the “Rejection Procedures”):

- a. **Rejection Notice.** The Debtors shall file a notice in the form attached hereto as **Exhibit B** (the “Rejection Notice”) to reject a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract or Contracts to be rejected; (ii) the names and addresses of the counterparties to such Contracts; (iii) the effective date of the rejection for each such Contract (the “Rejection Date”); (iv) if any such Contract is a lease, the personal property to be abandoned, if any, and if practicable an estimate of the book value of such property; and (v) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided* that the number of counterparties to Contracts listed on the Rejection Notice shall be limited to no more than 100.
- b. **Service of Rejection Notice.** The Debtors will cause the Rejection Notice to be served by overnight delivery service upon the Contract counterparties affected by the Rejection Notice, and by first class mail, email, or fax upon: (i) the Master Service List and (ii) the 2002 List (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the “Case Management Order”)).
- c. **Objection Procedures.** Parties objecting to a proposed rejection must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtors’ chapter 11 cases and **actually received** by the following parties (collectively, the “Objection Service Parties”) no later than 7 days after the date the Debtors serve the relevant Rejection Notice (the “Rejection Objection Deadline”): (i) the Master Service List and (ii) the 2002 List (each as defined in the Case Management Order).
- d. **No Objection.** If no objection to the rejection of any Contract is timely filed, each Contract listed in the applicable Rejection Notice shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty or counterparties to such Contracts agree.
- e. **Unresolved Objections.** If an objection to the rejection of any Contracts listed in the applicable Rejection Notice is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If



such objection is overruled or withdrawn, such Contract or Contracts shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty or counterparties to such Contract agree.

- f. ***No Application of Security Deposits.*** If the Debtors have deposited monies with a Contract counterparty as a security deposit or other arrangement, such Contract counterparty may not setoff, recoup, or otherwise use such monies without further order of the Court, unless the Debtors and the counterparty or counterparties to such Contract otherwise agree.
- g. ***Abandoned Property.*** The Debtors are authorized, but not directed, at any time on or after the applicable Rejection Date, to remove or abandon any of the Debtors' personal property that may be located on the Debtors' leased premises that are subject to a rejected Contract. The Debtors shall generally describe the abandoned personal property in the Rejection Notice. Absent a timely objection, the property will be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.<sup>3</sup>
- h. ***Rejection Damages.*** Claims arising out of the rejection of Contracts, if any, must be filed on or before the later of (i) the deadline for filing proofs of claim established in these chapter 11 cases, and (ii) 30 days after the Rejection Date. If no proof of claim is timely filed, such claimant shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on such a claim that may be made in connection with these chapter 11 cases.

### **The Proposed Assumption Procedures**

10. The Debtors seek entry of the Order authorizing and approving the following Contract Procedures with respect to assumption of the Contracts (the "Assumption Procedures"):

- a. ***Assumption Notice.*** The Debtors shall file a notice in the form attached hereto as **Exhibit C** (the "Assumption Notice") to assume a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which shall set forth, among other things: (i) the Contract or Contracts to be assumed; (ii) the names and addresses of the counterparties to such Contracts; (iii) the identity of the proposed assignee of such Contracts

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<sup>3</sup> If the Rejection Date specified in the Rejection Notice with respect to any Contract that is a lease of nonresidential real property predates the removal of any property not otherwise generally described in the Rejection Notice, the Rejection Date will not become effective until such date the property is removed from the leased premises.

(the “Assignee”), if applicable; (iv) the effective date of the assumption for each such Contract (the “Assumption Date”); (v) the proposed cure amount, if any for each such Contract; (vi) a description of any material amendments to the Contract made outside of the ordinary course of business; and (vii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided that* the number of counterparties to Contracts listed on the Assumption Notice shall be limited to no more than 100.

- b. ***Service of Assumption Notice.*** The Debtors will cause the Assumption Notice to be served by overnight delivery service upon the Contract counterparties affected by the Assumption Notice and by first class mail, email, or fax upon: (i) the Master Service List and (ii) the 2002 List (each as defined in the Case Management Order).<sup>4</sup>
- c. ***Objection Procedures.*** Parties objecting to a proposed assumption must file and serve a written objection so that such objection is filed with the Court and ***actually received*** by the Objection Service Parties no later than 7 days after the date the Debtors serve the applicable Assumption Notice (the “Assumption Objection Deadline”).
- d. ***No Objection.*** If no objection to the assumption of any Contract is timely filed, each Contract shall be assumed as of the Assumption Date set forth in the applicable Assumption Notice or such other date as the Debtors and the counterparty or counterparties to such Contract agree and the proposed cure amount shall be binding on all counterparties to such Contract and no amount in excess thereof shall be paid for cure purposes.
- e. ***Unresolved Objections.*** If an objection to the assumption of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If such objection is overruled or withdrawn, such Contract shall be assumed as of the Assumption Date set forth in the Assumption Notice or such other date as the Debtors and the counterparty or counterparties to such Contract agree.

11. In addition, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtors request that the assignment of any Contract pursuant to the Assumption Procedures:

(a) be free and clear of (i) all liens (and any liens shall attach to the proceeds in the same order

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<sup>4</sup> The Debtors shall serve a counterparty to a Contract to be assumed under the Contract Procedures with evidence of adequate assurance upon such counterparty’s written request to the Debtors’ counsel.

and priority subject to all existing defenses, claims, setoffs, and rights), and (ii) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guarantees of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity, or otherwise (including, without limitation, claims and encumbrances (A) that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contracts, or (B) in respect of any taxes); and (b) constitutes a legal, valid, and effective transfer of such Contract and vests the applicable Assignee with all rights, titles, and interests to the applicable Contract.<sup>5</sup>

### **Basis for Relief**

#### **I. The Contract Procedures Are in the Best Interests of the Debtors' Estates.**

12. The Debtors may reject or assume a number of Contracts, including the leases that are the subject of the Store Closings, prior to the consummation of any plan of reorganization. Establishing the Contract Procedures will streamline the administration of these chapter 11 cases and enhance the efficiency of the reorganization process by eliminating substantial legal expenses that would otherwise be incurred if multiple hearings were held on separate motions with respect to every Contract that the Debtors seek to assume or reject. The Contract Procedures are reasonable and fair to Contract counterparties because they afford parties in interest the opportunity to be heard with respect to the rejection, assumption, or assumption and

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<sup>5</sup> Certain of the Contracts may contain provisions that restrict, prohibit, condition, or limit the assumption and/or assignment of such Contract. The Debtors reserve the right to argue that such clauses are unenforceable as anti-assignment or *ipso facto* clauses under section 365 of the Bankruptcy Code.

assignment of the Contracts (and any amendments to Contracts or abandonment of property related thereto).

13. Courts in this district often enter orders granting similar relief as requested in this motion. *See, e.g., In re Sabine Oil & Gas Corp.*, No. 15-11835 (SCC) (Bankr. S.D.N.Y. Aug. 10, 2015) (approving procedures to assume or reject executory contracts and unexpired leases); *In re Borders Grp., Inc.*, No. 11-10614 (MG) (Bankr. S.D.N.Y. Mar. 16, 2011) (approving procedures to reject unexpired leases); *In re Great Atl. & Pac. Tea Co.*, No. 10-24549 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2011) (approving procedures to assume or reject executory contracts); *In re NR Liquidation III Co. f/k/a Neff Corp.*, No. 10-12610 (SCC) (Bankr. S.D.N.Y. June 9, 2010) (approving procedures to assume or reject executory contracts and unexpired leases); *In re Lear Corp.*, No. 09-14326 (ALG) (Bankr. S.D.N.Y. July 31, 2009) (same).<sup>6</sup>

## **II. Rejection, Assumption, and Assignment of the Contracts is an Exercise of the Debtors' Business Judgment.**

14. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). The decision to assume or reject an executory contract or unexpired lease is a matter within the “business judgment” of the debtor. *See In re Orion Pictures Corp.*, 4 F.3d 1095, 1099 (2d Cir. 1993); *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009) (“The business judgment standard is employed by courts in determining whether to permit a debtor to assume or reject a contract.”); *see also NLRB v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) (“The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the ‘business judgment’

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<sup>6</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

test.” (citation omitted)), *aff’d*, 465 U.S. 513 (1984). The business judgment standard mandates that a court approve a debtor’s business decision unless the decision is the product of bad faith, whim, or caprice. *See Lubrizol Enters., Inc. v. Richmond Metal Finishes, Inc. (In re Richmond Metal Finishes, Inc.)*, 756 F.2d 1043, 1047 (4th Cir. 1985). Accordingly, courts generally will not second-guess a debtor’s business judgment concerning the assumption or rejection of an executory contract or unexpired lease.

15. Further, the business judgment standard is satisfied when a debtor determines that assumption or rejection will benefit the estate. *See, e.g., In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 673 (Bankr. S.D.N.Y. 1989); *see also In re TS Indus., Inc.*, 117 B.R. 682, 685 (Bankr. D. Utah 1990); *In re Del Grosso*, 115 B.R. 136, 138 (Bankr. N.D. Ill. 1990). As with the assumption or rejection of an executory contract or an unexpired lease under section 365, any amendment to an executory contract or unexpired lease that may be deemed outside the ordinary course of business is authorized under section 363 of the Bankruptcy Code when there is a “sound business purpose” that justifies such action. *See Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *see also In re Borders Grp. Inc.*, 453 B.R. 477, 482 (Bankr. S.D.N.Y. 2011).

16. In addition, the Court may authorize the Contract Procedures based on section 105(a) of the Bankruptcy Code. Section 105(a) codifies the Court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Under section 105(a), courts may authorize actions that are essential to the continued operation of a debtor’s business. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. New Network Inc.*, 134 B.R. 732, 735–36 (Bankr.

S.D.N.Y. 1991) (holding that the “doctrine of necessity” stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor’s organization). A bankruptcy court’s exercise of its authority under section 105(a) of the Bankruptcy Code is appropriate under the circumstances described herein to carry out one of the central policies underlying chapter 11—*i.e.*, to preserve value and maximize property available to satisfy the Debtor’s stakeholders.

17. The Debtors have determined, in their sound business judgment, that the rejection, assumption, or assumption and assignment (and any amendments thereto) of Contracts in accordance with the Contract Procedures proposed herein, including the potential rejection or assumption and assignment of the leases subject to the Store Closings, is and will be in the best interest of the Debtors’ estates. Further, the Contract Procedures will avoid substantial legal expense and the use of Court time that would result if a motion were filed and a hearing held for every Contract that the Debtors reject, assume, or assume and assign. The Debtors submit that the information provided on the Rejection Notices and Assumption Notices will provide the Court and interested parties with sufficient information to establish that the Debtors are entitled to make such a rejection, assumption, or assumption and assignment (and any amendments thereto) in their sound business judgment. Accordingly, the Court should approve the Contract Procedures.

### **III. Assignment of Contracts Free and Clear of Interests.**

18. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party’s interest in such property if: (a) applicable nonbankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is in bona

fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. 11 U.S.C. § 363(f).

19. Executory contracts and unexpired leases are property of a debtor's estate. To the extent the Debtors assume and assign a Contract pursuant to the Assumption Procedures, such assignment is tantamount to a sale of estate property, and may be transferred free and clear of the interests in such property held by an entity other than the estate, so long as one of the criteria under section 363(f) of the Bankruptcy Code is satisfied. The Debtors propose that if a party in interest fails to timely object to an assumption and assignment consistent with the Assumption Procedures, such party shall be deemed to "consent" to such assumption and assignment within the meaning of section 363(f)(2) of the Bankruptcy Code. If a party in interest timely objects to an assumption and assignment consistent with the Assumption Procedures, and such objection is not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection; if such objection is overruled or withdraw, the Contract(s) in question shall be assumed. The requirements of section 363(f) of the Bankruptcy Code would thus be satisfied for any proposed "transfer" of a Contract free and clear of liens, claims, encumbrances and other interests.

20. Courts in this district and others have granted similar authority. *See, e.g., In re Sabine Oil & Gas Corp.*, No. 15-11835 (SCC) (Bankr. S.D.N.Y. Aug. 10, 2015) (authorizing the assignment of contracts and leases free and clear of liens and claims); *In re Linens Holding Co.*, No. 08-10832 (CSS) (Bankr. D. Del. July 10, 2008) (same).

#### **IV. Abandonment of Personal Property.**

21. The Debtors submit that the standard set forth in section 554(a) of the Bankruptcy Code is or will be satisfied in the event the Debtors seek to abandon property located at the premises subject to a rejected lease of real property. Section 554(a) provides that a debtor in possession may abandon, subject to court approval, "property of the estate that . . . is of

inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a). Before authorizing abandonment of property, a Bankruptcy Court must find that either (i) the property is burdensome to the estate or (ii) the property is both of inconsequential value and inconsequential benefit to the estate. *See, e.g., Midlantic Nat’l Bank v. N.J. Dep’t of Env’tl. Prot.*, 474 U.S. 494, 497 (1986); *In re Texaco, Inc.*, 92 B.R. 38, 44 (S.D.N.Y. 1988); *In re Crowthers McCall Pattern, Inc.*, 114 B.R. 877, 882 n.7 (Bankr. S.D.N.Y. 1990). The personal property proposed to be abandoned in connection with any future rejections of real property leases would primarily consist of fixtures, furniture, advertising displays, and other office and store equipment that is (a) of minimal or no material value or benefit to the Debtors’ estates and/or (b) burdensome insofar as the costs and expenses of removal and storage of such property are likely to exceed the net proceeds realizable from their sale.

#### **V. The Contract Procedures Satisfy Due Process.**

22. The counterparties to the Contracts will not be prejudiced by the Rejection Procedures because, upon receipt of an Assumption Notice or a Rejection Notice, such counterparties will have received advance notice of the Debtors’ intent to reject, assume, or assume and assign their respective Contract as of the effective date of such assumption or rejection. *See, e.g., In re Mid Region Petroleum, Inc.*, 111 B.R. 968, 970 (Bankr. N.D. Okla. 1990) (holding effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject), *aff’d*, 1 F.3d 1130 (10th Cir. 1993); *In re Carlisle Homes, Inc.*, 103 B.R. 524, 535 (Bankr. D.N.J. 1988) (finding debtor may reject executory contract by clearly communicating intention to reject). Additionally, in the case of unexpired leases of nonresidential real property, the Debtors will likely vacate the premises before or upon serving the Rejection Notice, thereby allowing the counterparties to take possession of the property. *See, e.g., Adelpia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 608–09 (2d Cir. 2007) (holding



bankruptcy court did not abuse its discretion in finding balance of equities favored making rejection of a nonresidential lease of real property retroactive to date tenant vacated premises, as tenant's action provided landlord with opportunity to relet premises); *In re New Valley Corp*, No. 98-982, 2000 U.S. Dist. LEXIS 12663, at \*44–46 (D.N.J. Aug. 31, 2000) (holding that bankruptcy court properly exercised its discretion in adjusting the effective date of rejection from the date the court signed the order authorizing rejection to the date on which the debtor vacated and the landlord exercised control over the property); *In re Amber's Stores, Inc.*, 193 B.R. 819, 827 (Bankr. N.D. Tex. 1996) (holding that lease at issue should be deemed rejected as of the petition date due to equities of the case where debtor turned over keys and vacated premises and served motion to reject lease as soon as possible).

23. As a procedural matter, “[a] proceeding to assume, reject, or assign an executory contract or unexpired lease . . . is governed by Rule 9014.” Fed. R. Bankr. P. 6006(a). Bankruptcy Rule 9014 provides that “[i]n a contested matter not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought.” Fed. R. Bankr. P. 9014(a). The notice and hearing requirements for contested matters in Bankruptcy Rule 9014 are satisfied if appropriate notice and an opportunity for hearing are given *in light of the particular circumstances*. See 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing” or a similar phrase to mean such notice and an opportunity for hearing “as [are] appropriate in the particular circumstances”).

24. Under Bankruptcy Rule 6006(e), a debtor may join requests for authority to assume or reject multiple executory contracts or unexpired leases in one motion, subject to Bankruptcy Rule 6006(f). See Fed. R. Bankr. P. 6006(e). Bankruptcy Rule 6006(f) sets forth six requirements that motions to assume or reject multiple executory contracts or unexpired leases

must satisfy. These requirements are procedural in nature. A motion to assume or reject multiple executory contracts or unexpired leases that are not between the same parties shall:

- a. state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion;
- b. list parties alphabetically and identify the corresponding contract or lease;
- c. specify the terms, including the curing of defaults, for each requested assumption or assignment;
- d. specify the terms, including the identity of each assignee and the adequate assurance of future performance by each assignee, for each requested assignment;
- e. be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases; and
- f. be limited to no more than 100 executory contracts or unexpired leases.

Fed. R. Bankr. P. 6006(f).

25. The purpose of Bankruptcy Rule 6006(f) is to protect the due process rights of counterparties to the Contracts. Counterparties must be able to locate their Contracts and readily determine whether their Contracts are being assumed or rejected.

26. The Contract Procedures satisfy Bankruptcy Rule 6006(f), including the 100-Contract limit set forth therein. Given the substantial number of Contracts the Debtors will be seeking to assume or reject, obtaining Court approval of each assumption or rejection would impose unnecessary administrative burdens on the Debtors and the Court and result in costs to the Debtors' estates that may decrease the economic benefits of rejection or assumption.

27. In accordance with Bankruptcy Rule 6007(a), the Debtors will provide the United States Trustee and other parties in interest with the requisite notice and an opportunity to object to any proposed abandonment of property.

28. As a result, the Contract Procedures afford Contract counterparties and all other parties in interest their due process rights by providing notice and the opportunity to be heard. Moreover, the Court maintains authority and oversight in the event of an objection. For the foregoing reasons, the Contract Procedures should be approved, and the Debtors should be authorized to reject, assume, and assume and assign the Contracts consistent with the terms of such procedures.

29. In sum, the Contract Procedures will minimize costs to the Debtors' estates and reduce the burden on this Court's docket while protecting parties in interest by providing notice and the opportunity to object and obtain a hearing. Moreover, the Debtors have determined that the Contract Procedures are an appropriate means to protect and maximize the value of their estates.

#### **Motion Practice**

30. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

#### **Notice**

31. The Debtors will provide notice of this Motion to: (a) the Master Service List; (b) the 2002 List; and (c) any Affected Entity (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90]). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

#### **No Prior Request**

32. No prior request for the relief sought in this motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: March 14, 2017

*/s/ Joshua A. Sussberg*

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*Proposed Counsel to the Debtors and Debtors in Possession*

**EXHIBIT A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Chapter 11
	)	
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 17-10466 (SCC)
	)	
Debtors.	)	(Jointly Administered)

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**ORDER (I) AUTHORIZING AND APPROVING PROCEDURES  
TO REJECT OR ASSUME EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES AND (II) GRANTING RELATED RELIEF**

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Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing and approving procedures for rejecting or assuming executory contracts and unexpired leases, and (b) granting related relief, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The following procedures (the “Rejection Procedures”) are approved in connection with rejecting Contracts:
  - a. **Rejection Notice.** The Debtors shall file a notice in the form attached as **Exhibit B** to the Motion (the “Rejection Notice”) to reject a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract or Contracts to be rejected; (ii) the names and addresses of the counterparties to such Contracts; (iii) the effective date of the rejection for each such Contract (the “Rejection Date”); (iv) if any such Contract is a lease, the personal property to be abandoned, if any, and if practicable an estimate of the book value of such property; and (v) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided* that the number of counterparties to Contracts listed on the Rejection Notice shall be limited to no more than 100.
  - b. **Service of Rejection Notice.** The Debtors will cause the Rejection Notice to be served by overnight delivery service upon the Contract counterparties affected by the Rejection Notice and by first class mail, email, or fax upon: (i) the Master Service List and (ii) the 2002 List (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the “Case Management Order”)).
  - c. **Objection Procedures.** Parties objecting to a proposed rejection must file and serve a written objection so that such objection is filed with this Court on the docket of the Debtors’ chapter 11 cases and **actually received** by the following parties (collectively, the “Objection Service Parties”) no later than 7 days after the date the Debtors serve the relevant Rejection Notice (the “Rejection Objection Deadline”): (i) the Master Service List and (ii) the 2002 List (each as defined in the Case Management Order).

- d. **No Objection.** If no objection to the rejection of any Contract is timely filed, each Contract listed in the applicable Rejection Notice shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree.
- e. **Unresolved Objections.** If an objection to the rejection of any Contracts listed in the applicable Rejection Notice is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty to such Contract agree.
- f. **No Application of Security Deposits.** If the Debtors have deposited monies with a Contract counterparty as a security deposit or other arrangement, such Contract counterparty may not setoff, recoup, or otherwise use such monies without further order of this Court, unless the Debtors and the counterparty or counterparties to such Contract otherwise agree.
- g. **Abandoned Property.** The Debtors are authorized but not directed, at any time on or after the applicable Rejection Date, to remove or abandon any of the Debtors' personal property that may be located on the Debtors' leased premises that are subject to a rejected Contract. The Debtors shall generally describe the abandoned personal property in the Rejection Notice. Absent a timely objection, the property will be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.<sup>3</sup>
- h. **Rejection Damages.** Claims arising out of the rejection of Contracts, if any, must be filed on or before the later of (i) the deadline for filing proofs of claim established in these chapter 11 cases, if any, and (ii) 30 days after the Rejection Date. If no proof of claim is timely filed, such claimant shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on such a claim that may be made in connection with these chapter 11 cases.

3. The following procedures (the "Assumption Procedures") are approved in connection with assuming and assuming and assigning Contracts:

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<sup>3</sup> If the Rejection Date specified in the Rejection Notice with respect to any Contract that is a lease of nonresidential real property predates the removal of any property not otherwise generally described in the Rejection Notice, the Rejection Date will not become effective until such date the property is removed from the leased premises.



- a. **Assumption Notice.** The Debtors will file a notice in the form attached as **Exhibit C** to the Motion (the “Assumption Notice”) to assume a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which shall set forth, among other things: (i) the Contract or Contracts to be assumed; (ii) the names and addresses of the counterparties to such Contracts; (iii) the identity of the proposed assignee of such Contracts (the “Assignee”), if applicable; (iv) the effective date of the assumption for each such Contract (the “Assumption Date”); (v) the proposed cure amount, if any for each such Contract; (vi) a description of any material amendments to the Contract made outside of the ordinary course of business; and (vii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided* that the number of counterparties to Contracts listed on the Assumption Notice shall be limited to no more than 100.
- b. **Service of Assumption Notice.** The Debtors will cause the Assumption Notice to be served by overnight delivery service upon the Contract counterparties affected by the Assumption Notice and by first class mail, email, or fax upon: (i) the Master Service List and (ii) the 2002 List (each as defined in the Case Management Order).<sup>4</sup>
- c. **Objection Procedures.** Parties objecting to a proposed assumption must file and serve a written objection so that such objection is filed with this Court and **actually received** by the Objection Service Parties no later than 7 days after the date the Debtors serve the applicable Assumption Notice (the “Assumption Objection Deadline”).
- d. **No Objection.** If no objection to the assumption of any Contract is timely filed, each Contract shall be assumed as of the Assumption Date set forth in the applicable Assumption Notice or such other date as the Debtors and the counterparty or counterparties to such Contract agree and the proposed cure amount shall be binding on all counterparties to such Contract and no amount in excess thereof shall be paid for cure purposes.
- e. **Unresolved Objections.** If an objection to the assumption of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If such objection is overruled or withdrawn, such Contract shall be assumed as of the Assumption Date set forth in the Assumption Notice or such other date as the Debtors and the counterparty or counterparties to such Contract agree.

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<sup>4</sup> The Debtors shall serve a counterparty to a Contract to be assumed under the Contract Procedures with evidence of adequate assurance upon such counterparty’s written request to the Debtors’ counsel.

4. With regard to Contracts to be assigned, pursuant to section 363(f) of the Bankruptcy Code, the assignment of any Contract shall: (a) be free and clear of (i) all liens (and any liens shall attach to the proceeds in the same order and priority subject to all existing defenses, claims, setoffs, and rights) and (ii) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guarantees of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity, or otherwise (including, without limitation, claims, and encumbrances (A) that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contract(s), or (B) in respect of any taxes); and (b) constitutes a legal, valid, and effective transfer of such Contract(s) and vests the applicable Assignee with all rights, titles, and interests to the applicable Contract(s).

5. Subject to the other provisions of this Order (including the aforementioned Assumption Procedures), the Debtors are hereby authorized in accordance with sections 365(b) and (f) of the Bankruptcy Code to (a) assume and assign to any Assignees any applicable Contract, with any applicable Assignee being responsible only for the post-assignment liabilities or defaults under the applicable Contract except as otherwise provided for in this Order and (b) execute and deliver to any applicable Assignee such assignment documents as may be reasonably necessary to sell, assign, and transfer any such Contract.

6. The Debtors' right to assert that any provisions in the Contract that expressly or effectively restrict, prohibit, condition, or limit the assignment of or the effectiveness of the Contract are unenforceable anti-assignment or *ipso facto* clauses is fully reserved.

7. Approval of the Contract Procedures and this Order will not prevent the Debtors from seeking to reject or assume a Contract by separate motion.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. Notwithstanding anything to the contrary contained herein, any assumption, assumption and assignment, or rejection by the Debtors pursuant to the authority granted in this Order must be in compliance with, and shall be subject to, the requirements imposed on the Debtors under the Debtor-in-Possession Term Loan Credit and Guaranty Agreement (the “DIP Agreement”), including section 6.15 thereof, and the terms and conditions of the interim and final orders, as applicable, approving the DIP Agreement and governing the Debtors’ use of cash collateral.

10. The 14-day stay required of any assignment of any Contract pursuant to Bankruptcy Rule 6006(d) is hereby waived.

11. All rights and defenses of the Debtors are preserved, including all rights and defenses of the Debtors with respect to a claim for damages arising as a result of a Contract rejection, including any right to assert an offset, recoupment, counterclaim, or deduction. In addition, nothing in this Order or the Motion shall limit the Debtors’ ability to subsequently assert that any particular Contract is terminated and is no longer an executory contract or unexpired lease, respectively.

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Local Rules are satisfied by such notice.

13. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

15. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York

Dated: \_\_\_\_\_, 2017

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THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT B**

**Rejection Notice**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: )

) Chapter 11

BCBG MAX AZRIA GLOBAL HOLDINGS,  
LLC, *et al.*,<sup>1</sup> )

) Case No. 17-10466 (SCC)

) Debtors. )

) (Jointly Administered)

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**NOTICE OF REJECTION OF [A]  
CERTAIN EXECUTORY CONTRACT[S] [AND/OR UNEXPIRED LEASES]**

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**PLEASE TAKE NOTICE** that on [\_\_\_\_\_], 2017, the United States Bankruptcy Court for the Southern District of New York (the “Court”) entered an order on the motion (the “Motion”) <sup>2</sup> of debtors and debtors in possession (the “Debtors”), approving procedures for the rejection, assumption, or assumption and assignment of executory contracts and unexpired leases and granting related relief [Docket No. \_\_\_\_] (the “Procedures Order”) attached hereto as **Exhibit 1**.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Procedures Order and by this written notice (this “Rejection Notice”), the Debtors hereby notify you that they have determined, in the exercise of their business judgment, that each Contract set forth on **Exhibit 2** attached hereto is hereby rejected effective as of the date (the “Rejection Date”) set forth in

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

**Exhibit 2**, or such other date as the Debtors and the counterparty or counterparties to any such Contract agree.

**PLEASE TAKE FURTHER NOTICE** that parties seeking to object to the proposed rejection of any of the Contracts must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtors' chapter 11 cases and is *actually received* by the following parties no later than 7 days after the date that the Debtors served this Notice: (i) the Master Service List and (ii) the 2002 List (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the "Case Management Order")). Only those responses that are timely filed, served, and received will be considered at any hearing.

**PLEASE TAKE FURTHER NOTICE** that, absent an objection being timely filed, the rejection of each Contract shall become effective on the Rejection Date set forth in **Exhibit 2**, or such other date as the Debtors and the counterparty or counterparties to such Contract agree.<sup>3</sup>

**PLEASE TAKE FURTHER NOTICE** that, if an objection to the rejection of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be rejected as of the Rejection Date set forth in **Exhibit 2** or such other date as the Debtors and the counterparty or counterparties to any such Contract agree.

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<sup>3</sup> An objection to the rejection of any particular Contract listed in this Rejection Notice shall not constitute an objection to the rejection of any other contract or lease listed in this Rejection Notice. Any objection to the rejection of any particular Contract listed in this Rejection must state with specificity the Contract to which it is directed. For each particular Contract whose rejection is not timely or properly objected to, such rejection will be effective in accordance with this Rejection Notice and the Order.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the terms of the Procedures Order, if the Debtors have deposited monies with a Contract counterparty as a security deposit or other arrangement, the Contract counterparty may not set off or recoup or otherwise use such monies without further order of the Court, unless the Debtors and the counterparty or counterparties to such Contracts otherwise agree.

**PLEASE TAKE FURTHER NOTICE** that, absent timely objection, any personal property of the Debtors that is listed and described in **Exhibit 2** shall be deemed abandoned as of the Rejection Date.

**PLEASE TAKE FURTHER NOTICE** that, to the extent you wish to assert a claim with respect to rejection of your Contract or Contracts, you must do so by the later of (a) the claims bar date established in these chapter 11 cases, if any, and (b) 30 days after the Rejection Date. **IF YOU FAIL TO TIMELY SUBMIT A PROOF OF CLAIM IN THE APPROPRIATE FORM BY THE DEADLINE SET FORTH HEREIN, YOU WILL BE, FOREVER BARRED, ESTOPPED, AND ENJOINED FROM (1) ASSERTING SUCH CLAIM AGAINST ANY OF THE DEBTORS AND THEIR CHAPTER 11 ESTATES, (2) VOTING ON ANY CHAPTER 11 PLAN OF REORGANIZATION FILED IN THESE CASES ON ACCOUNT OF SUCH CLAIM, AND (3) PARTICIPATING IN ANY DISTRIBUTION IN THE DEBTORS' CHAPTER 11 CASES ON ACCOUNT OF SUCH CLAIM.**



Dated: \_\_\_\_\_, 2017

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*Proposed Counsel to the Debtors and Debtors in Possession*

**EXHIBIT 1**

**Procedures Order**

**EXHIBIT 2**

**Rejected Contracts**

<b>Counterparty</b>	<b>Debtor Counterparty</b>	<b>Description of Contract<sup>1</sup></b>	<b>Abandoned Personal Property</b>	<b>Rejection Date</b>

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<sup>1</sup> The inclusion of a Contract on this list does not constitute an admission as to the executory or non-executory nature of the Contract, or as to the existence or validity of any claims held by the counterparty or counterparties to such Contract.

**EXHIBIT C**

**Assumption Notice**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Chapter 11
	)	
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 17-10466 (SCC)
	)	
Debtors.	)	(Jointly Administered)

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**NOTICE OF ASSUMPTION OF [A]  
CERTAIN EXECUTORY CONTRACT[S] [AND/OR UNEXPIRED LEASES]**

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**PLEASE TAKE NOTICE** that on [\_\_\_\_\_], 2017, the United States Bankruptcy Court for the Southern District of New York (the “Court”) entered an order on the motion (the “Motion”)² of debtors and debtors in possession (the “Debtors”), approving procedures for the rejection, assumption, or assumption and assignment of executory contracts and unexpired leases and granting related relief [Docket No. \_\_\_\_] (the “Procedures Order”) attached hereto as **Exhibit 1**.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Procedures Order and by this written notice (this “Assumption Notice”), the Debtors hereby notify you that they have determined, in the exercise of their business judgment, that each Contract set forth on **Exhibit 2** attached hereto is hereby assumed or assumed and assigned effective as of the date (the “Assumption Date”) set forth in **Exhibit 2**, or such other date as the Debtors and the counterparty or counterparties to any such Contract agree.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

**PLEASE TAKE FURTHER NOTICE** that the [Debtor/Assignee] has the financial wherewithal to meet all future obligations under the Contract, which may be evidenced upon written request by the counterparty to the Contract, thereby demonstrating that the [Debtor/Assignee] has the ability to comply with the requirements of adequate assurance of future performance.<sup>3</sup>

**PLEASE TAKE FURTHER NOTICE** that parties seeking to object to the proposed assumption or assumption and assignment of any of the Contracts must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtors' chapter 11 cases and is *actually received* by the following parties no later than 7 days after the date that the Debtors served this Notice: (i) the Master Service List and (ii) the 2002 List (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the "Case Management Order")). Only those responses that are timely filed, served, and received will be considered at any hearing.

**PLEASE TAKE FURTHER NOTICE** that, absent an objection being timely filed, the assumption of each Contract shall become effective on the Assumption Date set forth in **Exhibit 2**, or such other date as the Debtors and the counterparty or counterparties to such Contract agree.<sup>4</sup>

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<sup>3</sup> The Debtors shall serve the counterparty to the Contract with evidence of adequate assurance upon such counterparty's written request to Debtors' counsel.

<sup>4</sup> An objection to the assumption of any particular Contract listed in this Assumption Notice shall not constitute an objection to the assumption of any other contract or lease listed in this Assumption Notice. Any objection to the assumption of any particular Contract listed in this Assumption Notice must state with specificity the Contract to which it is directed. For each particular Contract whose assumption is not timely or properly objected to, such assumption will be effective in accordance with this Assumption Notice and the Procedures Order.

**PLEASE TAKE FURTHER NOTICE** that, the proposed cure amount under the Contract is set forth in **Exhibit 2**. If a written objection to the proposed cure amount is not timely filed, then the cure amount shall be binding on all parties and no amount in excess thereof shall be paid for cure purposes.

**PLEASE TAKE FURTHER NOTICE** that, if an objection to the assumption of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be assumed as of the Assumption Date set forth in **Exhibit 2** or such other date as the Debtors and the counterparty or counterparties to such Contract agree.

Dated: \_\_\_\_\_, 2017

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**EXHIBIT 1**

**Procedures Order**



**EXHIBIT 2**

**Assumed Contracts**

<b>Counterparty</b>	<b>Debtor Counterparty</b>	<b>Description of Contract<sup>1</sup></b>	<b>Cure Amount</b>	<b>Assumption Date</b>

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<sup>1</sup> The inclusion of a Contract on this list does not constitute an admission as to the executory or non-executory nature of the Contract, or as to the existence or validity of any claims held by the counterparty or counterparties to such Contract.