

**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 PURSUANT TO FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019 AND SECTION 365 APPROVING LEASE  
TERMINATION AGREEMENT WITH 113 E. OAK STREET, LLC**

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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) approving the certain lease termination agreement dated March 14, 2017 by and between 113 E. Oak Street, LLC (the “Landlord”) and the Debtors attached hereto as **Exhibit 1** (the “Termination Agreement”), and (b) authorizing the Debtors to take any and all actions reasonably necessary to consummate the Termination Agreement and perform any and all obligations contemplated therein including rejecting the Lease Agreement, all as more fully set forth in the Motion; and the Court having found that it 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; and that this Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found

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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.

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 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 as set forth herein.
2. Pursuant to Bankruptcy Rule 9019 and section 365 of the Bankruptcy Code, the Debtors are authorized to enter into and perform under the Termination Agreement and the Termination Agreement is hereby approved in its entirety.
3. The Debtors are authorized to implement the Termination Agreement and take any and all actions reasonably necessary or appropriate to consummate the Termination Agreement.
4. Upon occurrence of the Termination Date, the Lease Agreement between BCBG Max Azria Group, LLC and 113 E. Oak Street, LLC shall be deemed rejected.
5. Notwithstanding anything to the contrary in this Order or the Termination Agreement, the Landlord shall return any portion of any security deposit previously paid by the Debtors to the Landlord in connection with the Debtors' lease of the Leased Premises to the extent that Landlord received such security deposit, did not previously return such security deposit to the Debtors, and/or did not, to the extent permitted by the Lease, apply the security

deposit to unpaid amounts under the Lease prior to commencement of the Debtors' chapter 11 cases.

6. The Debtors are authorized, in their sole discretion, to abandon their personal property located within the Leased Premises.

7. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

8. 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: March 28, 2017

/S/ Shelley C. Chapman  
THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**Lease Termination Agreement**

## LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (this “**Agreement**”) is made as of March 13, 2017, by and between 113 E. Oak Street, LLC, as landlord, and BCBG Max Azria Group, LLC, formerly known as BCBG Max Azria Group, Inc., as tenant and as debtor and debtor-in-possession (“**Tenant**”).

WHEREAS, that certain Retail Store Lease was entered into by and between Aaron Israel Declaration of Trust dated October 26, 1999, as landlord (the “**Original Landlord**”) and Max Mara Retail, Ltd., as original tenant, on October 26, 1999 (the “**Original Lease Agreement**”), covering certain premises commonly known as 113 East Oak Street, Chicago, Illinois (the “**Premises**”) and a certain related Guaranty of Lease was entered into on December 29, 2000 by and between Original Landlord and Max Mara USA, Inc., as guarantor (the “**Guaranty**”); and

WHEREAS, the Original Lease Agreement was assigned pursuant to that certain Assignment, Assumption and Amendment of Lease, dated August \_\_, 2006 by and between Max Mara Retail, Ltd., as assignor, the Tenant, as assignee, and the Original Landlord (the “**Assignment Agreement**”); and

WHEREAS, the Original Lease Agreement was amended pursuant to that certain First Amendment to Retail Store Lease, dated June 1, 2009, by and between the Original Landlord and Tenant (the “**First Amendment**”); and

WHEREAS, on January 19, 2015, the Original Landlord and Tenant entered into a certain letter agreement to further amend the Original Lease Agreement, including to facilitate a series of equity and financing transaction relating to the Tenant (the “**Letter Agreement**,” and together with the Original Lease Agreement, the Guaranty, the Assignment Agreement, and the First Amendment, collectively, the “**Lease**”); and

WHEREAS, Tenant acknowledges that the Original Landlord has assigned all of its rights under the Lease to 113 E. Oak Street, LLC (the “**New Landlord**,” and together with the Original Landlord, the “**Landlord**”); and

WHEREAS, Tenant, along with its affiliated debtors and debtors-in-possession (collectively, the “**Debtors**”), has filed a voluntary petition for relief pursuant to chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”); and

WHEREAS, subject to the conditions set forth herein, the parties desire to terminate the Lease effective as of March 31, 2017.

NOW, THEREFORE, in consideration of the covenants and the mutual agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby covenant and agree as follows, subject only to Bankruptcy Court approval:

1. Termination Date. The “**Termination Date**” shall occur on March 31, 2017; provided that the Tenant has (a) surrendered the Leased Premises to Landlord in good order, repair and condition, ordinary wear excepted, and broom clean condition and (b) delivered all of the keys to the Premises to the Landlord and disabled the alarm system (or, alternatively, provided the Landlord with the codes for such alarm system). To the extent that Tenant fails to remove any property from the Leased Premises as of the Termination Date, such property shall be deemed abandoned to the Landlord and Landlord may sell or otherwise dispose of such property, in Landlord’s sole discretion.

2. Payment of Purchase Price. Upon occurrence of the Termination Date, the Landlord shall (a) deliver the purchase price for the Lease in the amount of \$120,000 in immediately available funds wired to the account specified by Tenant (the “**Termination Payment**”), and (b) as set forth below and except for the March Rent (as defined below), be deemed to have waived any and all claims held by the Landlord against the Tenant, the Debtors, and the Debtors’ bankruptcy estates.

3. March Rent. Tenant shall pay to Landlord the Rent (as such term is defined in the Lease) due for the month of March 2017 in the amount of \$64,503.67 (the “**March Rent**”). At Tenant’s option, (a) Tenant shall pay the March Rent to Landlord, in full, in cash, on or before March 31, 2017, or (b) Tenant shall instruct Landlord to deduct the March Rent from the Termination Payment.

4. Termination and Surrender.

(a) As of the Termination Date, the term of the Lease is terminated and the term thereby demised shall expire with the same force and effect as if the term of the Lease were in and by the provisions thereof fixed to expire on the Termination Date. In addition, as of the Termination Date, Tenant hereby remises, releases, quitclaims, and surrenders the Premises to Landlord and does hereby give, grant, and surrender unto Landlord all of Tenant’s right, title, and interest in and to the Premises, including, without limitation, all of Tenant’s right, title, and interest in, to, and under the Lease, free and clear of any and all liens, claims, interests, and encumbrances, and Landlord hereby accepts such surrender. Except as otherwise expressly provided herein, each of the parties hereto acknowledges performance of all obligations of the other party under the Lease or otherwise in connection with the Premises through and including the Termination Date. The Lease is hereby agreed to be null and void and of no further force and effect as of the Termination Date. In addition, any and all rights and obligations of the parties that may have arisen in connection with the Premises shall be deemed to have expired and terminated as of the Termination Date, except that nothing herein shall waive any rights of indemnification owed by Tenant to Landlord under the Lease, each of which shall be preserved to the full extent of applicable insurance coverage; provided, however, that Landlord’s recourse for any indemnification arising under the Lease shall be strictly limited to applicable insurance proceeds and coverage benefits and in no event shall Landlord have recourse against Tenant or its estate.

(b) As of the Termination Date, except as to the obligations of Tenant and Landlord expressly set forth in this Agreement, Tenant and Landlord hereby mutually and forever release each other and their respective successors and assigns of and from any and all

claims, damages, obligations, liabilities, actions, and causes of action of every kind and nature whatsoever that may arise under or in connection with the Lease before, on or after the Termination Date, including, without limitation, any claims under section 502(b)(6) of the Bankruptcy Code. Such release shall and hereby does extend to all claims, demands, damages, liabilities, obligations, or actions, either in law or in equity, of any kind or nature whatsoever, whether known or unknown, direct or indirect, matured or hereafter existing, including claims asserted in Tenant's bankruptcy, arising out of or relating to the Lease, the Premises, or Tenant's occupancy of the Premises, or Tenant's initiation of its bankruptcy cases. Landlord and Tenant further hereby acknowledge that they may hereafter discover facts different from or in addition to those it knows or believes to be true with respect to claims that are subject of this release and the parties each hereby agree that the release shall be and remain effective in all respects, regardless of such additional or different facts.

(c) Except with respect to the March Rent, Landlord shall have no claim against Tenant or its estate in Tenant's pending bankruptcy proceeding or otherwise.

5. Bankruptcy Court Approval. (a) This Agreement shall be immediately effective and binding upon Landlord upon execution hereof, provided that if this Agreement is not approved by the Bankruptcy Court by March 31, 2017, this Agreement shall be null and void ab initio and of no force or effect with respect to Landlord. (b) This Agreement shall be binding and effective upon Tenant upon approval by the Bankruptcy Court, provided that if this Agreement is not approved by the Bankruptcy Court by March 31, 2017, this Agreement shall be null and void ab initio and of no force or effect with respect to Tenant.

6. Further Assurances. At any time and from time to time after the date hereof, without further consideration, (a) at the request of Landlord, Tenant shall execute and deliver such other instruments of sale, transfer, conveyance and termination or consents and take such other action as Landlord may reasonably request as necessary or desirable in order to more effectively transfer, convey and surrender to Landlord all of Tenant's rights to the Premises and under the Lease, and (b) at the request of Tenant, Landlord shall execute and deliver such other instruments of assumption and confirmation and take such other action as Tenant may reasonably request as necessary or desirable in order to more effectively evidence Landlord's acceptance of Tenant's surrender of the Lease.

7. "As Is, Where Is" Transaction. Landlord hereby acknowledges and agrees that Tenant makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the Premises or the Lease. Accordingly, Landlord accepts the Premises "AS IS" and "WHERE IS."

8. Miscellaneous.

(a) This Agreement is binding upon and shall inure to the benefit of Tenant's successors and assigns, including, without limitation, a trustee, if any, subsequently appointed under chapter 7 or chapter 11 of the Bankruptcy Code, and is binding upon and shall inure to the benefit of Landlord's successors and assigns.

(b) Each of Tenant and Landlord warrants and represents that it has the power

and authority to enter into this Agreement.

(c) This Agreement and any additional agreements delivered in connection herewith together contain the entire agreement between the parties hereto, and except as otherwise specifically set forth herein, supersede all prior agreements and undertakings between the parties hereto relating to the subject matter hereof.

(d) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument, and presentation of any copy of this Agreement, whether original or facsimile (including in portable document format (pdf)), signed by Tenant and Landlord shall constitute sufficient proof of this Agreement.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law, and any disputes shall be resolved by the Bankruptcy Court, which shall have exclusive jurisdiction at all times during which Tenant's bankruptcy case is pending.

(f) Any and all sales, transfer and recording taxes, stamp taxes, or similar taxes or fees, if any, relating to the termination of the Lease shall be the sole responsibility of Landlord and shall be paid, if applicable, to the proper governing body on the Termination Date.

(g) This Agreement may not be amended orally but rather may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.


(h) The prevailing party in any suit for violation of or to enforce any of the covenants or conditions of this Agreement shall be entitled to all of its costs, expenses and reasonable fees of its attorney(s) in connection therewith.

*[Signatures are on the following page.]*



IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of  
the date first written above.

TENANT: BCBG Max Azria Group, LLC, formerly  
known as BCBG Max Azria Group, Inc.

By:   
Name: Erica Meierhans  
Title: General Counsel

LANDLORD: 113 E. Oak Street, LLC

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of  
the date first written above.

TENANT: BCBG Max Azria Group, LLC, formerly  
known as BCBG Max Azria Group, Inc.

By: \_\_\_\_\_

Name:

Title:

LANDLORD: 113 E. Oak Street, LLC

By:  \_\_\_\_\_

Name: DAVID S ISRAEL

Title: MANAGER