

Hearing Date: May 23, 2017, at 10:00 A.M. (prevailing Eastern Time)
Objection Deadline: May 16, 2017, at 4:00 P.M. (prevailing Eastern Time)

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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> , ¹)	Case No. 17-10466 (SCC)
)	
Debtors.)	(Jointly Administered)
)	

**NOTICE OF DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) EXTENDING
THE DEBTORS’ EXCLUSIVE PERIODS TO FILE A CHAPTER 11 PLAN
AND SOLICIT ACCEPTANCES THEREOF PURSUANT TO SECTION 1121
OF THE BANKRUPTCY CODE AND (II) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on May 9, 2017, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion for Entry of an Order (I) Extending the Debtors’ Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code and (II) Granting Related Relief* (the “Motion”). 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

¹ 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.

of New York (the “Court”), in Room 623, One Bowling Green, New York, New York 10004-1408, on **May 23, 2017, at 10:00 a.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 Rule 9070-1 and served so as to be actually received no later than **May 16, 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), 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), attorneys for the Official Committee of Unsecured Creditors;
- d. Morgan, Lewis & Bockius LLP, One Federal Street, Boston, Massachusetts 02110 (Attn: Julia Frost-Davies, Christopher L. Carter), 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 facility.

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 <https://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.

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Dated: May 9, 2017

/s/ Joshua A. Sussberg

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**UNITED STATES BANKRUPTCY COURT
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BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹)	Case No. 17-10466 (SCC)
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**DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) EXTENDING
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AND SOLICIT ACCEPTANCES THEREOF PURSUANT TO SECTION 1121
OF THE BANKRUPTCY CODE 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”), respectfully state the following in support of this motion:

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”): (a) extending the Debtors’ exclusive right to file a chapter 11 plan by 105 days through and including October 11, 2017 (the “Filing Exclusivity Period”), and to solicit

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votes thereon by 105 days through and including December 11, 2017 (the “Soliciting Exclusivity Period,” and together with the Filing Exclusivity Period, the “Exclusivity Periods”), without prejudice to the Debtors’ right to seek further extensions to the Exclusivity Periods; and (b) granting related relief. The Debtors have discussed the relief requested herein with its key stakeholders, including the official committee of unsecured creditors appointed in these chapter 11 cases (the “Committee”), the lenders under the Debtors’ prepetition asset-based revolving credit facility (the “ABL Lenders”), and the tranche B lenders under the Debtors’ prepetition term loan credit facility (the “Tranche B Lenders”)—all of whom do not object to the Debtors’ requested relief.

Jurisdiction and Venue

2. 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.

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

4. The bases for the relief requested herein are section 1121(d) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and Bankruptcy Rule 9006.

Background

5. The Debtors have made substantial progress towards achieving their restructuring goals in a short period of time. Significant work, however, remains to be done. The Debtors therefore seek a 105-day extension of the Exclusivity Periods to permit the Debtors to continue working toward their goal of confirming a consensual, value-maximizing chapter 11 plan.

6. In a short amount of time, the Debtors have taken many necessary steps toward a successful restructuring. Among other things, the Debtors have:

- stabilized operations and ensured a smooth transition into chapter 11 through the approval of a number of first day motions, including securing authority to pay certain lienholders, continue important customer programs, honor wages, and maintain their cash management system;
- coordinated critical efforts in connection with the Debtors' valuable customer and vendor relationships, requiring review and analysis of numerous contracts, including executory contracts;
- negotiated and obtained final approval for the Debtors' two debtor-in-possession financing facilities (the "DIP Facilities") and use of cash collateral (the "DIP Order") [Docket No. 228], which was achieved on a fully-consensual basis;
- completed their schedules of assets and liabilities and statements of financial affairs, which required review and analysis of over a thousand claims, in addition to the assets and contracts of each of the Debtors, culminating in the filing of those documents on April 13, 2017 [Docket Nos. 297-306];
- prepared a business plan and related materials, which together lay the groundwork for ongoing operations;
- contacted more than 130 potentially interested parties in marketing the Debtors' business, which resulted in over 120 parties executing non-disclosure agreements and multiple parties submitting non-binding indications of interest;
- filed a plan of reorganization on March 1, 2017 [Docket No. 39] and a related disclosure statement on April 25, 2017 [Docket No. 345];
- rationalized the Debtors' store footprint by winding down store operations and rejecting the leases at 120 store locations; and

- engaged with all key stakeholders and their advisors, including the Committee, with the ultimate goal of achieving consensus and reducing administrative costs.

7. The Debtors' progress to date has been achieved in no small part due to the breathing room provided by chapter 11. In the midst of the marketing process, the Debtors believe that maintaining their exclusive right to file and solicit votes on a chapter 11 plan is critical to their ability to complete a value-maximizing process and achieve their remaining goals as efficiently and expeditiously as possible without the risk of the substantial additional costs and disruption that could follow an expiration of the Exclusivity Periods. Accordingly, the Debtors request an extension of the Exclusivity Periods to allow the Debtors to continue to focus on finalizing the progress to date and to preclude the costly disruption that would occur if competing plans were to be proposed. Notably, the Committee, the ABL Lenders, and the Tranche B Lenders do not object to the Debtors' request for an extension of the Exclusivity Periods.

Basis for Relief

8. A debtor has the exclusive right to propose a chapter 11 plan for the first 120 days of a chapter 11 case pursuant to section 1121(b) of the Bankruptcy Code. Section 1121(c)(3) of the Bankruptcy Code extends the period of exclusivity for an additional 60 days, to an initial maximum of 180 days, where the debtor has filed a chapter 11 plan and is soliciting votes on such plan. "[T]he point of exclusivity is to promote an environment in which the debtor's business may be rehabilitated and a consensual plan may be negotiated." *See In re Burns and Roe Enters., Inc.*, No. 00-41610 RG, 2005 WL 6289213, at *4 (D.N.J. Nov. 2, 2005). In these chapter 11 cases, the Exclusivity Periods set forth in sections 1121(b) and 1121(c) of the Bankruptcy Code will expire on June 28, 2017, and August 27, 2017, respectively, absent further order of the Court.

9. Section 1121(d)(1) permits a court to extend a debtor's exclusivity "for cause," subject to certain limitations not relevant here. More specifically, section 1121(d) provides that "on request of a party in interest made within the respective periods . . . of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section." 11 U.S.C. § 1121(d). Although the term "cause" is not defined by the Bankruptcy Code, it is viewed flexibly in this context "in order to allow the debtor to reach an agreement." H.R. Rep. No. 95, 95th Cong., 1st Sess. 232 (1997); *see also In re Public Serv. Co. of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988) ("legislative intent . . . [is] to promote maximum flexibility"). A debtor should be given a reasonable opportunity to negotiate an acceptable plan with creditors and to prepare adequate financial and nonfinancial information concerning the ramifications of any proposed plan for disclosure to creditors. *See In re Texaco Inc.*, 76 B.R. 322, 327 (Bankr. S.D.N.Y. 1987).

10. Courts within the Second Circuit and in other jurisdictions have held that the decision to extend the Exclusivity Periods is left to the sound discretion of a bankruptcy court and should be based on the totality of circumstances in each case. *See, e.g., First Am. Bank of N.Y. v. Sw. Gloves & Safety Equip., Inc.*, 64 B.R. 963, 965 (D. Del. 1986); *In re Dow Corning Corp.*, 208 B.R. 661, 664 (Bankr. E.D. Mich. 1997); *In re Express One Int'l, Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996); *In re McLean Indus., Inc.*, 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987). In general, as long as debtors give the court "no reason to believe that they are abusing their exclusivity rights . . . [a] requested extension of exclusivity . . . should be granted." *In re Global Crossing Ltd.*, 295 B.R. 726, 730 (Bankr. S.D.N.Y. 2003); *see also In re Borders Grp., Inc.*, 460 B.R. 818, 822 (noting the debtors' "substantial efforts . . . to stabilize their business and develop a viable exit strategy"). In particular, courts examine a number of

factors to determine whether a debtor has had an adequate opportunity to develop, negotiate, and propose a chapter 11 plan and thus whether there is “cause” for extension of the Exclusivity Periods. These factors include the following:

- (a) the size and complexity of the case;
- (b) the existence of good faith progress toward reorganization;
- (c) the necessity of sufficient time to negotiate a plan of reorganization and prepare adequate information to allow a creditor to determine whether to accept such plan;
- (d) whether the debtor is paying its debts as they become due;
- (e) whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- (f) whether the debtor has made progress negotiating with creditors;
- (g) the amount of time which has elapsed in the case;
- (h) whether the debtor is seeking an extension to pressure creditors;
and
- (i) whether an unresolved contingency exists.

See In re Adelpia Commc'ns Corp., 336 B.R. 610, 674 (Bankr. S.D.N.Y. 2006); *In re Cent. Jersey Airport Servs., LLC*, 282 B.R. 176, 183 (Bankr. D.N.J. 2002); *McLean Indus.*, 87 B.R. at 834; *see also Dow Corning*, 208 B.R. at 664 (identifying the above factors and noting that courts generally rely on the same factors to determine whether exclusivity should be extended); *In re Friedman's Inc.*, 336 B.R. 884, 888 (Bankr. D. Ga. 2005) (same).

11. Not all of these factors are relevant to every case and courts use only the relevant subset of the above factors to determine whether cause exists to grant an exclusivity extension in a particular chapter 11 case. *See, e.g., Express One*, 194 B.R. at 100 (identifying four of the factors as relevant in determining whether “cause” exists to extend exclusivity); *In re United Press Int'l, Inc.*, 60 B.R. 265, 269 (Bankr. D.D.C. 1986) (finding that the debtor showed “cause”

to extend exclusivity based upon three of the factors); *In re Texaco, Inc.*, 76 B.R. at 327 (holding that size and complexity of the chapter 11 case provided sufficient cause to extend exclusivity). For example, both Congress and courts have recognized that the size and complexity of a debtor's case alone may constitute cause for extension of a debtor's exclusive periods to file a plan and solicit acceptances. H.R. No. 95-595, at 231-232, 406 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787, 6191 (“[I]f an unusually large company were to seek reorganization under chapter 11, the court would probably need to extend the time in order to allow the debtor to reach an agreement.”); *see also Texaco*, 76 B.R. at 326 (“The large size of a debtor and the consequent difficulty in formulating a plan of reorganization for a huge debtor with a complex financial structure are important factors which generally constitute cause for extending the exclusivity periods.”).

12. Since filing voluntary petitions for relief under chapter 11 of Bankruptcy Code on February 28, 2017 (the “Petition Date”), the Debtors have engaged with their stakeholders and their advisors, including the Committee, in an effort to reach consensus on the terms of the Debtors’ restructuring and ultimate emergence from bankruptcy. Over this time, the Debtors have secured the DIP Facilities, obtained approval of bidding procedures, completed their business plan, and substantially advanced a comprehensive marketing process for their business. An extension of the Exclusivity Periods will provide the Debtors with the necessary time to complete their restructuring initiatives while these cases are administered as efficiently as possible for the benefit of the Debtors’ stakeholders and other parties in interest.

13. The Debtors submit that sufficient “cause” exists pursuant to section 1121(d) of the Bankruptcy Code to extend the Exclusivity Periods as provided herein. Each of the relevant factors weighs in favor of an extension of the Exclusivity Periods:

- *The Debtors’ Chapter 11 Cases Are Large and Complex.* These chapter 11 cases involve five Debtor entities, which have thousands of employees and approximately \$460 million in funded debt. Since commencing the cases, the Debtors have undertaken significant operational initiatives to right-size the business, including reducing headcount and closing 120 stores, which has demanded substantial attention from the Debtors’ management and advisors.
- *The Debtors Have Made Good-Faith Progress Towards Exiting Chapter 11.* The Debtors have made significant progress in reorganizing their business through various operational initiatives. The Debtors have satisfied all key milestones to date, including the negotiation and implementation of the DIP Facilities, the completion and filing of their schedules and statements, and the extensive marketing of their business. By this motion, the Debtors are not seeking to modify or amend any Milestones (as defined in the DIP Order) or any other provision of the DIP Order or the DIP Facilities. The Debtors will continue to negotiate in good faith with key stakeholders around the terms of any chapter 11 plan.
- *An Extension of the Exclusivity Periods Will Not Prejudice Creditors.* The Debtors are requesting an extension of the Exclusivity Periods to maintain focus on completing their restructuring initiatives and to allow the restructuring process to continue unhindered by competing plans. Continued exclusivity will permit the Debtors to maintain flexibility so competing plans do not derail the Debtors’ restructuring process. Moreover, throughout these chapter 11 cases, the Debtors have had ongoing and transparent communications with their major creditor groups. Extending the Exclusivity Periods will benefit the Debtors’ estates, their creditors, and all other key parties in interest.
- *The Debtors Are Paying Their Bills as They Come Due.* Since the Petition Date, the Debtors have paid their vendors and third-party partners in the ordinary course of business or as otherwise provided by orders of the Court. Importantly, the Debtors maintain their ability to continue to pay their bills throughout these chapter 11 cases in light of the liquidity provided by the DIP Facilities and through the use of cash collateral.
- *The Debtors Have Demonstrated Reasonable Prospects for Filing a Viable Plan.* As discussed above, during their short time in chapter 11, the Debtors have already taken significant steps toward confirmation of a plan, including the preparation and filing of their schedules of assets and

liabilities and statements of financial affairs, the timely development of a comprehensive business plan, and ongoing dialogue and communication with the advisors for the Committee. Indeed, the Debtors have already filed a plan of reorganization and disclosure statement, and a hearing to consider approval of the disclosure statement is scheduled for May 30, 2017.

- *These Cases Are Less Than Three Months Old.* This is the Debtors' first request for an extension of the Exclusivity Periods. As discussed above, in just three months, the Debtors have accomplished a great deal and continue to work diligently towards their emergence from chapter 11.
- *An Extension Will Not Pressure Creditors.* The Debtors are not seeking an extension of the Exclusivity Periods to pressure or prejudice any of their stakeholders. All creditor groups or their advisors have had an opportunity to actively participate in substantive discussions with the Debtors throughout these chapter 11 cases. Notably, the Committee has not objected to the Debtors' proposed extension of the Exclusivity Periods. The Debtors are seeking an extension of the Exclusivity Periods to preserve and capitalize on the progress made to date in their restructuring negotiations.

14. An objective analysis of the relevant factors demonstrates that the Debtors are doing everything that they should be doing as chapter 11 debtors to facilitate a successful conclusion to these chapter 11 cases. Accordingly, the Debtors respectfully submit that sufficient cause exists to extend the Exclusivity Periods as provided herein.

Motion Practice

15. 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

16. 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

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

[Remainder of page intentionally left blank]

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: May 9, 2017

/s/ Joshua A. Sussberg

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EXHIBIT A

Proposed Order

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

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

**ORDER (I) EXTENDING THE DEBTORS' EXCLUSIVE
PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT
ACCEPTANCES THEREOF PURSUANT TO SECTION 1121 OF
THE BANKRUPTCY CODE AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"): (i) extending the Debtors' Filing Exclusivity Period through and including October 11, 2017, and the Debtors' Soliciting Exclusivity Period through and including December 11, 2017, without prejudice to the Debtors' right to seek further extensions to the Exclusivity Periods; and (ii) 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 this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), 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

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

pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate 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 any 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 section 1121(d) of the Bankruptcy Code, the Debtors' Filing Exclusivity Period pursuant to section 1121(b) of the Bankruptcy Code is hereby extended through and including October 11, 2017.
3. Pursuant to section 1121(d) of the Bankruptcy Code, the Debtors' Soliciting Exclusivity Period pursuant to section 1121(c) of the Bankruptcy Code is hereby extended through and including December 11, 2017.
4. Nothing herein shall prejudice (a) the Debtors' rights to seek further extensions of the Exclusivity Periods consistent with section 1121(d) of the Bankruptcy Code, or (b) the rights of any party in interest to object to any further extension requests.
5. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

6. Notwithstanding anything to the contrary herein, nothing in this Order shall be deemed to modify or amend any Milestones (as defined in the DIP Order) or any other provision of the DIP Order or the DIP Facilities.

7. 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

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE