

EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re

OPEN ROAD FILMS, LLC, a Delaware
limited liability company, *et al.*,¹

Debtors.

Chapter 11

Case No.: 18-12012 (LSS)

(Jointly Administered)

Ref. Docket No. _____

**ORDER AUTHORIZING THE IMPLEMENTATION OF A KEY
EMPLOYEE RETENTION PROGRAM, APPROVING THE
TERMS THEREOF, AND GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of Open Road Films, LLC and its affiliated debtors and debtors in possession (the “Debtors”) in the above-captioned chapter 11 cases (the “Cases”) for entry of an order, pursuant to sections 105(a), 363(b) and, to the extent applicable, 503(c) of the Bankruptcy Code, and Bankruptcy Rule 6004, authorizing the implementation of the key employee retention program attached hereto as Exhibit 1 (the “KERP”), approving the terms thereof, and granting related relief; and upon consideration of the Agam Declaration and the record of these 11 Cases; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and it appearing that the Motion is a core matter 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 it appearing that venue of these Cases and of the Motion is proper

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: Open Road Films, LLC (4435-Del.); Open Road Releasing, LLC (4736-Del.); OR Productions LLC (5873-Del.); Briarcliff LLC (7304-Del.); Open Road International LLC (4109-Del.); and Empire Productions LLC (9375-Del.). The Debtors’ address is 2049 Century Park East, 4th Floor, Los Angeles, CA 90067.

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

pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given under the circumstances, and that no other or further notice need be given; and it appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and appropriate exercise of the Debtors' business judgment; and after due deliberation, and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED, as set forth herein.
2. The Debtors are authorized to implement the KERP, including to make the payments provided for therein, and the terms of the KERP are approved.
3. In the event that any KERP Participant forfeits or otherwise becomes ineligible to receive the KERP Participant's KERP Payment under the terms set forth in the KERP, after providing prior written notice to counsel for the Agent, counsel for the Committee and the U.S. Trustee, the Debtors are authorized, in their discretion, without the need for further notice to or approval of this Court, to reallocate any KERP amounts associated with such participant to other valuable non-insider members of the Debtors' workforce.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted herein.
5. Nothing contained in the Motion, the KERP or this Order is intended or shall be construed as: (i) an admission that a KERP Participant is an employee of the Debtors, as opposed to one of the Debtors' non-debtor affiliates; or (ii) a guarantee of employment for any KERP participant for any time period.
6. The requirements of Bankruptcy Rule 6004(a) are waived.

7. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (i) this Order shall be effective immediately and enforceable upon its entry; (ii) the Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this order; and (iii) the Debtors are authorized and empowered, and may in their discretion and without further delay, take any action necessary or appropriate to implement this Order.

8. The Court retains jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: October ____, 2018
Wilmington, Delaware

Laurie Selber Silverstein
United States Bankruptcy Judge

EXHIBIT 1

KERP

OPEN ROAD FILMS, LLC, ET AL.
KEY EMPLOYEE RETENTION PLAN

KERP OBJECTIVES

The Key Employee Retention Plan (the “KERP”) of Open Road Films, LLC (“Open Road Films”) and its affiliated debtors and debtors in possession, Open Road Releasing, LLC, OR Productions LLC, Briarcliff LLC, Open Road International LLC, and Empire Productions (collectively, the “Debtors”), described herein is designed to encourage the retention of certain valuable non-insider members of the Debtors’ workforce¹ (collectively, the “KERP Participants”), as identified herein, to maximize the recovery to the Debtors’ stakeholders through the sale of substantially all of the Debtors’ assets (the “Sale”) during their pending chapter 11 cases (the “Cases”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). A list of the KERP Participants and their respective KERP Payments (defined below) is attached hereto as **Schedule 1**.

THE KERP

The KERP is designed to help ensure that valuable non-insider members of the Debtors’ workforce, who are essential to the continuing operation of the Debtors’ business, the Sale process, and the Cases generally, are properly motivated to maximize the value of the Debtors and their estates for the benefit of their stakeholders. The marketing and Sale process that the Debtors have undertaken to preserve and maximize value, in addition to the chapter 11 process in general, has a necessary byproduct of creating a great deal of uncertainty for the Debtors’

¹ Consistent with the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing Payment of Limited Prepetition Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (II) Authorizing Payment of Reimbursement for Prepetition Expenses, (III) Authorizing Payment of Withholding and Payroll-Related Taxes, (IV) Authorizing Banks to Honor Prepetition Checks and Fund Transfers for Authorized Payments, and (V) Scheduling Final Hearing* [Docket No. 4] and the final order approving the same [Docket No. 108], nothing contained herein is intended or shall be construed as an admission that a KERP Participant is in fact an employee of the Debtors, as opposed to one of the Debtors’ non-debtor affiliates.

workforce. As a result, the Debtors believe that it is appropriate to provide certain benefits to essential workforce members to counterbalance the distraction that such uncertainty necessarily engenders. The KERP will incentivize certain members of the Debtors' non-insider workforce, whom the Debtors have identified as critical to the success of their marketing and Sale efforts, to remain with the Debtors throughout the process, so as to help manage the Debtors' ongoing operations and the administration of the Debtors' estates during the Cases.

KERP PARTICIPANTS AND KERP PAYMENTS

The KERP Participants are fourteen (14) important, hard to replace, non-insider members of the Debtors' workforce. Under the KERP, if earned, the cash payments (the "KERP Payments") to the KERP Participants range from approximately 6% to 17% of the respective KERP Participant's base salary, and the aggregate amount of KERP Payments is approximately \$206,000 (or approximately \$222,000 after accounting for the Debtors' portion of the anticipated associated payroll taxes).

CONDITIONS TO PAYMENT OF KERP PAYMENTS

The KERP is subject to Bankruptcy Court approval. The KERP Payments are earned if the KERP Participants remain a member of the Debtors' workforce through and including the date that is thirty (30) days after the closing of the Sale (such date, the "Effective Date").

TIMING OF KERP PAYMENTS

If earned, the KERP Payments will be paid in cash in the Debtors' first regularly scheduled payroll that is not less than seven (7) days after the Effective Date (such date, the "KERP Payment Date").

REALLOCATION OF KERP AMOUNT

In the event that any KERP Participant forfeits or otherwise becomes ineligible to receive the KERP Participant's KERP Payment under the terms set forth herein, the Debtors reserve the right to reallocate any KERP amounts associated with such participant to other valuable non-insider members of the Debtors' workforce, to the extent and in the manner authorized by the Bankruptcy Court in any order approving the KERP.

TERMINATION OF EMPLOYMENT

Awards under the KERP are offered as discretionary incentive amounts. If any KERP Participant voluntarily leaves or is terminated for cause prior to the Effective Date, such KERP Participant shall forfeit his or her KERP Payment. If a KERP Participant is terminated without cause prior to the Effective Date, such KERP Participant shall receive his or her KERP Payment on the KERP Payment Date.

“CAUSE” DEFINED

For purposes of the KERP, the term “for cause” means, either before or after adoption of the KERP:

- Refusal to follow the lawful instructions of a direct supervisor;
- A finding by a legal or administrative court or tribunal that the KERP Participant engaged in willful misconduct, or was grossly negligent, in the performance of his or her duties;
- A material and direct conflict of interest, not specifically waived in advance by the Debtors;
- Unauthorized use or disclosure of confidential information that belongs to the Debtors, their customers or workforce;
- Repeated absences from work that the Debtors reasonably determined, in the Debtors' discretion, to be adverse to the best interests of the Debtors;

- Repeated failure of a KERP Participant to perform the KERP Participant's job duties in a satisfactory manner, provided that such failure continues for more than fourteen (14) days after written notice from the Debtors thereof, which notice specifically identifies the manner in which the KERP Participant is believed to have materially failed to perform said duties;
- Refusal to follow the instructions of a direct supervisor or the Debtors' Chief Restructuring Officer or his additional personnel; or
- Other material misconduct including, but not limited to, falsification of the Debtors' records, theft, sexual harassment, or possession of firearms, controlled substances or illegal drugs on the Debtors' premises or while performing the Debtors' business.

FURTHER ACTIONS

As a condition to each KERP Participant's eligibility to participate in the KERP, such KERP Participant shall agree to take such further actions as are reasonably requested by the Debtors, including such actions as the Debtors may request subsequent to the termination of such KERP Participant's employment, as the case may be, to assist the Debtors in the conduct of the Cases.

CHANGE OF ADDRESS

The KERP Participants shall be responsible for notifying the Debtors of any change of address before payment is made by mail notification to the Debtors at 2049 Century Park East, 4th Floor, Los Angeles, CA 90067, Attn: Amir Agam.

NO PROMISE OF CONTINUED EMPLOYMENT

Neither the KERP, nor any individual's participation in the KERP: (i) is intended to constitute, or shall be interpreted as, a promise of employment for any period of time, or an admission that the KERP Participant is in fact an employee of the Debtors, as opposed to one of the Debtors' non-debtor affiliates; or (ii) is intended or shall be deemed to change a KERP

Participant's status, if applicable, as an at will employee of the Debtors (or any of the Debtors' non-debtor affiliates), subject to termination at any time for any reason.

TAXES

All KERP Payments shall be subject to standard withholding and deductions. Any KERP Payments withheld as a contribution to any KERP Participant's 401(k) shall not be entitled to a match from the Debtors, nor do the Debtors herein agree to match any such contributions. Neither the Debtors nor their officers or agents make or have made any representation about the tax consequences of any KERP Payments.

SEVERABILITY

If any provision of the KERP is determined to be invalid or unenforceable, in whole or in part, this determination shall not affect any other provision of the KERP, and the provision in question shall be modified as to be rendered enforceable in a manner consistent with the intent of the KERP insofar as possible. Any waiver of or breach of any of the terms of the KERP shall not operate or be construed as a waiver of any other breach of such terms or conditions or of any other terms and conditions, nor shall any failure to enforce any provision hereof operate or be construed as a waiver of such provision or of any other provision.

CHOICE OF LAW AND VENUE

The KERP shall both be governed by the laws of the State of Delaware, notwithstanding that State's conflict of law provisions. The Debtors and each of the KERP Participants shall irrevocably and unconditionally consent to the exclusive jurisdiction of the Bankruptcy Court. The Debtors and each of the KERP Participants shall irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of or related to the KERP in the Bankruptcy Court, and shall further irrevocably and unconditionally waive and

agree not to plead or claim that any such action, suit, or proceeding brought in the Bankruptcy Court has been brought in an inconvenient forum.

ENTIRE AGREEMENT AND AMENDMENT

This document constitutes the complete, final and exclusive embodiment of the terms and conditions of the KERP and may only be modified in a writing signed by an authorized officer of the Debtors or by an order of the Bankruptcy Court approving the KERP. Unless otherwise agreed by the parties in writing, any agreement between any KERP Participant and the Debtors with regard to the KERP and its subject matter is superseded in its entirety by this document.

NO ASSIGNMENT

The rights of a KERP Participant or any other person to any KERP Payment may not be assigned, transferred, pledged, or encumbered except by will or the laws of descent and distribution. For the avoidance of doubt, nothing in the preceding sentence shall impair the Debtors' right to reallocate any KERP amounts as provided for herein.

Schedule 1

KERP Participants

| | Last Name | First Name | Department | Title | KERP Payment |
|----|------------|------------|------------|------------|--------------|
| 1 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 2 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 3 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 4 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 5 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 6 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 7 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 8 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 9 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 10 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 11 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 12 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 13 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| 14 | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |

TOTAL \$206,000.00