

**EXHIBIT A**

**Agam Declaration**

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

In re

OPEN ROAD FILMS, LLC, a Delaware  
limited liability company, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No.: 18-12012 (LSS)

(Jointly Administered)

**DECLARATION OF AMIR AGAM IN SUPPORT OF DEBTORS' MOTION FOR  
ENTRY OF AN ORDER, PURSUANT TO BANKRUPTCY CODE SECTION 105(a) AND  
BANKRUPTCY RULE 9019, APPROVING SETTLEMENT WITH BANK LEUMI, USA**

I, Amir Agam, hereby declare, under penalty of perjury, as follows:

1. I am a Senior Managing Director at FTI Consulting, Inc. and I have been appointed to serve and am currently serving as the Chief Restructuring Officer ("CRO") for Open Road Films, LLC ("Open Road") and its affiliated debtors and debtors in possession (the "Debtors") in the above-captioned jointly administered chapter 11 cases (the "Cases"). I submit this declaration in support of the *Debtors' Motion for Entry of an Order, Pursuant to Bankruptcy Code Section 105(a) and Bankruptcy Rule 9019, Approving Settlement with Bank Leumi, USA* (the "Motion").<sup>2</sup> I have reviewed and am generally familiar with the Motion and the Settlement Agreement.

2. I am familiar with the day-to-day operations and business and financial affairs of the Debtors, having served in my current capacity as CRO for the Debtors since August 3, 2018. All facts set forth in this Declaration are based on my personal knowledge, my communications

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<sup>1</sup> 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 1800 Century Park East, 600, Los Angeles, CA 90067.

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

with other members of the Debtors' senior management, discussions with my colleagues who are also working on this matter, my review of relevant documents, or my opinion, based on my overall professional experience, in light of my personal knowledge of the Debtors' operations, business affairs, and financial condition. If called as a witness, I could and would competently testify to the matters set forth herein based on the foregoing.

3. Good Films, Miramax, and Open Road are party to a Production Financing and Distribution Agreement, dated as of November 4, 2016 (the "Distribution Agreement"), pursuant to which Miramax and Open Road agreed to distribute a feature-length theatrical motion picture entitled *City of Lies* (the "Picture") being produced by Good Films. As part of the financing for the production of the Picture, Bank Leumi has indicated that Good Films obtained a loan from Bank Leumi pursuant to a Loan and Security Agreement, dated as of December 16, 2016 (the "Loan Agreement"). In connection with the Loan Agreement, Bank Leumi, Good Films, Miramax, and Open Road (among other parties) entered into a Distributor Interparty Agreement, dated as of December 16, 2016 (the "IPA"). Pursuant to the IPA, I understand that Miramax and Open Road agreed to make certain minimum guarantee payments provided for under the Distribution Agreement directly to Bank Leumi if and when such payments came due under the terms of the Distribution Agreement.

4. Ultimately, a dispute developed among Bank Leumi, Miramax, and Open Road with respect to whether delivery of the "Mandatory Delivery Materials" and the "Complete Delivery Materials" (as those terms are defined under the IPA) had been effected in accordance with the IPA. As a result of this dispute, the parties also disagreed about whether the minimum guarantee payment obligations of Miramax and Open Road had in fact come due under the IPA and the Distribution Agreement and whether Open Road was required to theatrically release the

Picture. In particular, I understand that Bank Leumi asserts in the District Court Action that Open Road was required to pay Bank Leumi a total minimum guarantee of \$5,400,000 and was required to theatrically release the Picture with an expenditure of no less than \$10,000,000 for marketing and distribution expenses. It is my understanding that the Picture was never theatrically released.

5. On August 29, 2018, Bank Leumi filed the District Court Action against Open Road, Global Road Entertainment, LLC, Tang Media Partners, LLC,<sup>3</sup> and Does 1–10 in the District Court.<sup>4</sup> I understand that the District Court Action asserts five causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, intentional interference with contract, trade libel, and declaratory relief. On September 14, 2018, the District Court stayed the District Court Action as to Open Road only (not the non-debtor defendants).

6. On or about January 25, 2019, Bank Leumi filed a proof of claim against Debtor Open Road, which proof of claim has been identified by the Debtors' claims agent as Claim Number 319, in the amount of \$18,537,089.80, plus further interest, legal fees and costs and other expenses allegedly due under the IPA (the "Bank Leumi Filed Claim"). The Debtors dispute the amounts asserted in the Bank Leumi Filed Claim.

7. In order to resolve the foregoing disputes as among Bank Leumi and the Debtors, the Parties have agreed that (i) the Debtors forever and finally release and relinquish any and all right, title, and interest in and to the Picture, (ii) the Bank Leumi Filed Claim is deemed allowed as a general unsecured claim against Debtor Open Road in the amount of \$2,500,000.00,

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<sup>3</sup> Global Road Entertainment, LLC and Tang Media Partners, LLC are non-debtor affiliates of the Debtors and are not parties to the Settlement Agreement.

<sup>4</sup> I understand that Bank Leumi filed a separate lawsuit against Miramax in the District Court. Miramax is not a party to the Settlement Agreement.

(iii) Bank Leumi shall dismiss all pending claims against Open Road in the District Court Action with prejudice and without an award of costs to either party, and (iv) the Parties exchange mutual releases.

8. The Debtors have determined, in an exercise of their sound business judgment, that the terms of the Settlement Agreement are fair and reasonable and that the best interests of the Debtors' estates and creditors will be served by entry of the Proposed Order. The Debtors and Bank Leumi, with the assistance of the Committee, negotiated the Settlement Agreement in good faith and at arm's length. The Settlement Agreement resolves the disputes among the Debtors and Bank Leumi arising with respect to the Distribution Agreement, the IPA, the District Court Action, and the Bank Leumi Filed Claim in an efficient and consensual manner that will avoid litigation costs to the estates and the inherent risk and uncertainty related to such litigation. Moreover, the Settlement Agreement fixes the amount of the Bank Leumi Filed Claim as an allowed general unsecured claim in the amount of \$2,500,000.00, which is significantly less than the amount Bank Leumi initially sought. The Debtors have reasonably determined that allowing Bank Leumi a general unsecured claim in this amount is in the best interests of the estates and, together with dismissal of Open Road from the District Court Action and the exchange of mutual releases, reflects a fair and reasonable compromise of the rights to the Picture that the Debtors are disclaiming. Furthermore, the Committee was actively involved in the negotiation of the Settlement Agreement and I understand that the Committee supports the Debtors' entry into the Settlement Agreement on these terms. Accordingly, based on the foregoing considerations, I believe the Settlement Agreement should be approved.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 7, 2019

/s/ Amir Agam

Amir Agam  
Chief Restructuring Officer