

EXHIBIT A

Stipulation

**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)

**STIPULATION BY AND AMONG THE DEBTORS AND LAKESHORE
ENTERTAINMENT REGARDING REJECTION AND TERMINATION OF
EXECUTORY CONTRACTS AND TRANSFER OF ATTENDANT RIGHTS**

WHEREAS, Lakeshore Entertainment Productions LLC (“LEP”) and Lakeshore Entertainment Group LLC (“LEG”; and collectively with LEP, “Lakeshore”), on the one hand, and Open Road Films, LLC (“ORF”) and Open Road International, LLC (“ORI”; and collectively with ORF, “Open Road”), on the other hand (collectively, the “Parties”) are parties to certain agreements relating to the production, financing and/or distribution of the motion picture presently entitled A.X.L. (the “Film”), including that certain Amended and Restated Lakeshore Entertainment/Open Road Production, Financing and Distribution Agreement dated as of April 6, 2016, which are collectively referred to herein as the “Lakeshore Agreements”;

WHEREAS, on or about September 6, 2018 (the “Petition Date”), Open Road and several affiliates (collectively, the “Debtors”) filed voluntary petitions under chapter 11 of title 11;

WHEREAS, on or about October 23, 2018, the Debtors entered into an asset purchase agreement with OR Acquisition Co, LLC (the “Stalking Horse Bidder”) to purchase substantially all of the assets of the Debtors (as amended, the “Stalking Horse Agreement”);

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 1800 Century Park East, Suite 600, Los Angeles, California 90067.

WHEREAS, the Stalking Horse Bidder confirmed that it did not wish to acquire any of the Lakeshore Agreements pursuant to the Stalking Horse Agreement, and none of the Lakeshore Agreements were identified as agreements to be assumed;

WHEREAS, until the Debtors assume or reject the Executory Agreements (as defined below), Lakeshore cannot take certain steps to mitigate its damages under those agreements (by, among other things, relicensing the rights in the Film previously conveyed to the Debtors), and Lakeshore contends that Lakeshore's inability to fully mitigate its damages is causing a substantial hardship to Lakeshore and others; and

WHEREAS, the Debtors have agreed to reject all of the Lakeshore Agreements except for the August 21, 2018, Marketing Services Agreement, as more specifically identified in Exhibit 1 (the "Executory Agreements") in exchange for the consideration set forth herein.

NOW THEREFORE, the Parties, subject to the entry of an order by the Bankruptcy Court (the "Rejection Order"), hereby stipulate as follows (the "Stipulation"):

1. The Executory Agreements are those agreements identified in Exhibit 1. The Executory Agreements are executory contracts within the meaning of 11 U.S.C. § 365.
2. Upon the entry of the Rejection Order, the Executory Agreements shall be deemed rejected, *nunc pro tunc* as of the Petition Date, in accordance with 11 U.S.C. § 365(a).
3. Upon the entry of the Rejection Order, the Executory Agreements shall be deemed terminated as of the Petition Date in respect of the Debtors, and any and all rights, interests, and privileges granted to the Debtors by and through or on account of the Executory Agreements, including but not limited to all rights (including distribution rights) under Copyright (whether arising under the U.S. Copyright Act or any other copyright law), all home video rights (in any and all media) throughout the world, all pay and free television rights throughout the

world, and all internet and streaming rights (including, without limitation, SVOD rights) throughout the world, shall revert to Lakeshore effective as of the Petition Date free and clear of any claim, right, title or interest of or lien in favor of, or obligation to, any of the Debtors, the Debtors' bankruptcy estates, and Bank of America, N.A., as "Open Road Agent" (as such term is defined in the Interparty Agreement referred to on Exhibit 1 hereto (the "Interparty Agreement")) (except for the liens of Bank of America, N.A., as Open Road Agent, in and to the rights of the Debtors to the Domestic Distribution Fees set forth in paragraph 4 below). Except as otherwise expressly provided herein, (a) Lakeshore shall have no further obligation to the Debtors and their bankruptcy estates, (b) the Debtors and their bankruptcy estates shall have no further obligation to Lakeshore and (c) Bank of America, N.A., as Open Road Agent, shall have no further obligations to any other party to the Executory Agreements, in each case of the preceding clauses (a)-(c), on account of the Executory Agreements following the rejection, termination, and reversion contemplated herein. For the avoidance of doubt, nothing about the rejection, termination, and reversion contemplated herein will modify or reduce Lakeshore's obligations under the August 21, 2018, Marketing Services Agreement, which obligations are hereby ratified and reaffirmed.

4. Up to and through the date of entry of the Rejection Order, the Debtors will use reasonable good faith efforts to collect any and all license fees due and owing the Debtors on account of the Film, including amounts due from domestic theatrical distributors. The Debtors shall remit any and all such collections to Lakeshore in accordance with paragraph 27 of the Final Cash Collateral Order entered in these cases [Docket No. 135], *provided* that (as specified in such Order) the Domestic Distribution Fees allocable to the Domestic Theatrical Proceeds (each as defined in the Interparty Agreement)

are to be retained by the Debtors. For the avoidance of doubt, irrespective of the occurrence of the rejection, termination, and reversion contemplated herein, the Debtors shall be permitted to retain all Domestic Distribution Fees allocable to the Domestic Theatrical Proceeds (or any portion thereof) that have been received by the Debtors at any time on or before the date of entry of the Rejection Order, subject to the liens of Bank of America, N.A., as Open Road Agent, and Lakeshore expressly waives any right or claim it may have to recover any such funds from the Debtors or any other person, including, without limitation, Bank of America, N.A. Nothing in this paragraph 4 or elsewhere in this Stipulation will obligate the Debtors to retain, employ, or otherwise utilize any employees or other personnel for any collection purposes.

5. Except as otherwise provided herein, including, without limitation, paragraph 4 above, upon the entry of the Rejection Order:

a. The Debtors shall transfer to Lakeshore any and all payment(s) received or to be received on account of the Film, whether directly or indirectly and from whatever source, as soon as is reasonably practicable, as well as any and all rights to collect and receive such payment(s).

b. All rights of the Debtors relating to the distribution, exhibition, or other exploitation of the Film in any territory and any media arising under any third-party agreement between the Debtors, on the one hand, and any distributor or exhibitor, on the other hand, with respect to the Film shall be assigned to Lakeshore to the extent that such rights are capable of assignment.

c. All accounts receivable and any right to obtain, collect, and/or receive payment (including the right to bring legal action) on account of the distribution,

exhibition or other exploitation of the Film in any territory and any media (whether or not arising under a third-party agreement between the Debtors and any distributor or exhibitor), or otherwise, shall be assigned to Lakeshore. The Debtors shall reasonably cooperate with Lakeshore at Lakeshore's sole expense to effectuate the collection of such accounts receivable; without limiting the generality of the foregoing, Lakeshore is authorized, at Lakeshore's own cost and expense, to commence legal actions to collect such sums, whether in Lakeshore's own name or, to the extent required, in the name of the Debtors. The Debtors shall provide Lakeshore with copies of any documentation relating to such accounts receivable (including any agreements, draft agreements, correspondence, or communications with third parties relating to the distribution of the Film, but excluding any email correspondence), but only if and to the extent such documentation is in the Debtors' possession and can be identified with reasonable effort, on or before the earlier of (i) the entry of the Rejection Order or (ii) the date on which the Debtors voluntarily cease operations in a manner that would otherwise result in such records being discarded or unavailable.

6. Pursuant to 11 U.S.C. § 502(g)(1) and the Lakeshore Agreements, Lakeshore asserts that Lakeshore's claim for rejection damages would include the \$11,008,227 Production Payment due on December 14, 2018, as well as other payments due between the parties under the Lakeshore Agreements. As consideration for the agreements reflected herein, including the assignment and transfer of accounts receivable related to the Film, it is stipulated that Lakeshore shall have an allowed general unsecured claim not entitled to any priority under 11 U.S.C. § 507(a) in the amount of \$3,250,000 (the "Lakeshore Claim"). Except as expressly set forth in this Stipulation, the Lakeshore Claim

will be Lakeshore's sole and exclusive right to receive any payment, distribution, or other recovery from the Debtors' bankruptcy estates. Lakeshore represents and warrants that it has not sold, assigned, pledged, or otherwise transferred any claims it may have against the Debtors or their bankruptcy estates.

7. As soon as is reasonably practicable after entry of the Rejection Order, the Debtors shall deliver to Lakeshore any and all physical and documentary film materials and marketing materials relating to the Film, but only if and to the extent such materials are in the Debtors' possession.

8. Upon the entry of the Rejection Order, the automatic stay provided in 11 U.S.C. § 362(a) and any stays of the effectiveness of the Rejection Order shall be terminated or not applicable to the extent that they prohibit Lakeshore from exercising its rights in, to and associated with the Film.

9. Except as otherwise expressly set forth herein, including, without limitation, paragraph 4 above, upon the entry of the Rejection Order, any and all rights of the Debtors and their bankruptcy estates in the Executory Agreements and any and all assets, rights, and/or properties which are the subject thereof shall forever cease to exist in every respect, and neither the Debtors nor their bankruptcy estates shall have any right or authority to exploit, use, or otherwise take advantage of the Executory Agreements or the assets, rights or property which are the subject thereof.

10. The terms of this Stipulation and the Rejection Order shall be binding on any trustee, creditor seeking derivative standing, creditors committee, and any other representative of the Debtors' bankruptcy estates.

11. Other than the paragraph 4 of the Stipulation, which shall be effective immediately upon the Execution Date (as defined below), this Stipulation shall become effective upon the date on which each of the following conditions has been satisfied: (a) this Stipulation has been fully executed by the Parties (such date, the “Execution Date”); and (b) the Bankruptcy Court has entered the Rejection Order, in substantially the form attached hereto as Exhibit 2. The Parties shall use their commercially reasonable efforts to obtain entry of the Rejection Order after such notice and hearing as the Bankruptcy Court may require.

12. Lakeshore acknowledges and understands that the Directors Guild of America, Inc., Screen Actors Guild—American Federation of Television and Radio Artists, and Writers Guild of America West, Inc., for themselves and their respective pension and health plans (collectively, the “Guilds”) and the Motion Picture Industry Pension and Health Plans (the “MPIPHP”) have certain rights, claims, and interests with respect to the Film, including, without limitation, the right to receive certain residual payments (collectively, the “Guild Interests”). Nothing in this Stipulation will reduce, enhance, impair, or otherwise alter any Guild Interests that would exist with respect to the Film absent this Stipulation; the Guilds and the MPIPHP will retain any and all rights, claims, and remedies that any of them would already have as against Lakeshore or otherwise with respect to the Guilds Interests or the Film in the absence of this Stipulation.

13. During the pendency of the Debtors’ bankruptcy cases, the Parties expressly consent and submit to the exclusive jurisdiction of the Bankruptcy Court regarding any actions or proceedings relating to the enforcement or interpretation of this Stipulation and the Rejection Order and any Party bringing any such action or proceeding must bring such action or proceeding in the Bankruptcy Court. The Parties further expressly consent to the

Bankruptcy Court entering a final judgment determining any such action or proceeding.

14. The Parties have participated in and jointly consented to the drafting of this Stipulation, and any claimed ambiguity shall not be construed for or against either of the Parties on account of such drafting. Any amendment to this Stipulation must be in a writing signed by all the Parties. This Stipulation may be executed in counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of both of the Parties need not appear on the same counterpart.

15. Each Party shall each bear its own attorneys' fees, costs, and expenses in connection with the matters set forth in this Stipulation, including, but not limited to, the negotiation and preparation of this Stipulation and obtaining the entry of the Rejection Order.


16. This Stipulation amends and supersedes in all respects a prior stipulation regarding the Film dated as of February 14, 2019.

[remainder of page intentionally left blank; signature page follows]

The foregoing terms are agreed to and stipulated as of February 28, 2019.

OPEN ROAD FILMS, LLC


LAKESHORE ENTERTAINMENT GROUP LLC

By: 
Name: Amir Agam
Title: Chief Restructuring Officer

By: _____
Name:
Title:

OPEN ROAD INTERNATIONAL,
LLC


LAKESHORE ENTERTAINMENT
PRODUCTIONS LLC
by Lakeshore Entertainment Group LLC, sole
Manager and sole Member of Lakeshore
Entertainment Productions LLC

By: 
Name: Amir Agam
Title: Chief Restructuring Officer

By: _____
Name:
Title:

ACKNOWLEDGED AND AGREED

BANK OF AMERICA, N.A., as Open
Road Agent

By: 
Name: G. Christopher Miller
Title: Senior Vice President

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____
Name:
Title:

The foregoing terms are agreed to and stipulated as of February 28, 2019.

OPEN ROAD FILMS, LLC

LAKESHORE ENTERTAINMENT GROUP LLC

By: _____
Name:
Title:

By: 
Name: **Eric Reid**
Title: **Chief Operating Officer**

OPEN ROAD INTERNATIONAL,
LLC

LAKESHORE ENTERTAINMENT
PRODUCTIONS LLC
by Lakeshore Entertainment Group LLC, sole
Manager and sole Member of Lakeshore
Entertainment Productions LLC

By: _____
Name:
Title:

By: 
Name: **Eric Reid**
Title: **Chief Operating Officer**

ACKNOWLEDGED AND AGREED

BANK OF AMERICA, N.A., as Open
Road Agent

By: _____
Name:
Title:

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____
Name:
Title:

The foregoing terms are agreed to and stipulated as of February 28, 2019.

OPEN ROAD FILMS, LLC

LAKESHORE ENTERTAINMENT GROUP LLC

By: _____

Name:

Title:

By: _____

Name:

Title:

OPEN ROAD INTERNATIONAL,
LLC

LAKESHORE ENTERTAINMENT
PRODUCTIONS LLC
by Lakeshore Entertainment Group LLC, sole
Manager and sole Member of Lakeshore
Entertainment Productions LLC

By: _____

Name:

Title:

By: _____

Name:

Title:

ACKNOWLEDGED AND AGREED

BANK OF AMERICA, N.A., as Open
Road Agent

By: _____

Name:

Title:

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____

Name:

Title:

JEFFREY DULBERG
PACHULSKI STANG-ZIEHL & JONES
COUNSEL FOR THE OCUC

Exhibit 1

EXECUTORY AGREEMENTS

1. April 6, 2016 Amended and Restated Lakeshore Entertainment/Open Road Production, Financing and Distribution Agreement (as amended, restated, supplemented or otherwise modified from time to time, including, without limitation, those amendments noted below, the “AXL PFD”), together with the “Open Road Security Agreement” and the “Lakeshore Security Agreement” (as each such term is defined therein) and any other security documentation executed or delivered in connection with each such security agreement. (For the avoidance of doubt, all prior Production, Financing and Distribution Agreements relating to the Film, are deemed to be subsumed in and superseded by the AXL PFD, and no rights in or under such prior Agreements shall exist or survive the termination of the AXL PFD.)

2. December 15, 2016 Interparty Agreement among Lakeshore, Open Road, Film Finances, Inc., JPMorgan Chase Bank, N.A., Vine Investment Advisors, LP, and Bank of America, N.A. (as amended, restated, supplemented or otherwise modified from time to time, the “Interparty Agreement”).

3. August 9, 2018 Amendment No. 1 to The Amended and Restated Lakeshore Entertainment/Open Road Production, Financing and Distribution Agreement (the “First Amendment”), which amended the AXL PFD in certain specified respects.

4. September 28, 2018 Amendment No. 2 to The Amended and Restated Lakeshore Entertainment/Open Road Production, Financing and Distribution Agreement (the “Second Amendment”), which amended the AXL PFD in certain specified respects.

Exhibit 2

[Form of Rejection Order follows]

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 APPROVING STIPULATION BY AND AMONG THE DEBTORS AND
LAKESHORE ENTERTAINMENT REGARDING REJECTION AND TERMINATION
OF EXECUTORY CONTRACTS AND TRANSFER OF ATTENDANT RIGHTS**

Upon consideration of the stipulation among Open Road Films, LLC and its affiliated debtors and debtors in possession (the “Debtors”) and Lakeshore Entertainment Productions LLC and Lakeshore Entertainment Group LLC (collectively, “Lakeshore”) regarding rejection and termination of executory contracts and transfer of attendant rights attached hereto as **Exhibit A** (the “Stipulation”); and it appearing that the Court has jurisdiction regarding this matter pursuant to 28 U.S.C. §§ 1334 & 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 this matter is core pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Stipulation and the relief provided for herein has been given under the circumstances, and that no other or further notice need be given; and after due deliberation and good and sufficient cause appearing therefor; it is hereby

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 1800 Century Park East, Suite 600, Los Angeles, California 90067.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Stipulation is APPROVED as set forth herein and therein.
2. The Debtors are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.
3. Notwithstanding anything to the contrary in the Federal Rules of Bankruptcy Procedure, this Order shall be effective immediately and enforceable upon its entry, and shall not be subject to any stay in its implementation.
4. Nothing in this Order or the Stipulation will extinguish claims, if any, that the Directors Guild of America, Inc., Screen Actors Guild—American Federation of Television and Radio Artists, and Writers Guild of America West, Inc., for themselves and their respective pension and health plans (collectively, the “Guilds”) and the Motion Picture Industry Pension and Health Plans (the “MPIPHP”) may heretofore have against the Debtors, or otherwise alter or diminish the rights of the Guilds or the MPIPHP, if any, against any other persons or entities, in each case in relation to the motion picture *AXL*. Any such asserted claims of the Guilds and the MPIPHP will be resolved or determined separately.
5. The Court shall retain jurisdiction and power with respect to all matters arising from or related to the implementation of this Order and the Stipulation.

Dated: _____
Wilmington, Delaware

LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE