

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

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In re : **Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., et al., : **16-_____ (___)**
Debtors.¹ : **(Joint Administration Pending)**

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**DEBTORS' APPLICATION PURSUANT TO 11 U.S.C. § 327(a),
FED. R. BANKR. P. 2014(a) & 2016(a), AND LOCAL BANKRUPTCY RULES 2014-1 &
2016-1 FOR AUTHORITY TO EMPLOY AND RETAIN PRIME CLERK LLC AS
ADMINISTRATIVE ADVISOR NUNC PRO TUNC TO THE COMMENCEMENT DATE**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Republic Airways Holdings Inc. ("RAH"), and certain of its wholly-owned direct and indirect subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively with RAH, "Republic" or the "Debtors"), respectfully represent:

Background

1. On the date hereof (the "Commencement Date") each of the Debtors filed with this Court a voluntary petition for relief under chapter 11 of title 11, United States Code (the "Bankruptcy Code"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of unsecured creditors has been appointed in these cases.

1. The Debtors in these chapter 11 cases are the following entities: Republic Airways Services, Inc.; Shuttle America Corporation; Republic Airline Inc.; Republic Airways Holdings Inc.; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors' employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.

2. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases for procedural purposes only pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure.

Republic's Business

3. RAH is a holding company whose common stock is traded on the NASDAQ under the symbol "RJET." RAH provides scheduled regional passenger services through its wholly-owned operating air carrier subsidiaries, Shuttle America Corporation ("Shuttle America") and Republic Airline Inc. ("Republic Airline"). Republic offers approximately 1,000 flights daily to 105 cities in 38 states, Canada, the Caribbean, and the Bahamas through Republic's fixed-fee code-share agreements with United Continental Holdings, Inc. ("United"), Delta Air Lines, Inc. ("Delta"), and American Airlines Group, Inc. ("American," and collectively with United and Delta, the "Codeshare Partners"), operating under the designations of United Express, Delta Connection, and American Eagle, including service out of the Codeshare Partners' respective hubs and focus cities. Republic's operational fleet consists of approximately 230 aircraft.

4. As of January 31, 2016, on a consolidated basis, Republic had assets and liabilities of \$3,561,000,000 and \$2,971,000,000 (unaudited). For the year ended December 31, 2015, on a consolidated basis, Republic had operating revenue of \$1,343,900,000, operating expenses of \$1,259,200,000, and a net loss of \$27,117,000 (unaudited). In 2015, Republic carried 21,900,000 passengers an average of 479 miles per passenger, with a passenger load factor of 79.2%.

5. Detailed information regarding Republic's business, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the

Declaration of Bryan K. Bedford Pursuant to Local Bankruptcy Rule 1007-2, filed with the Court on the Commencement Date.

Jurisdiction

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

7. By this application, pursuant to section 327(a) of the Bankruptcy Code, Fed. R. Bankr. P. 2014(a) and 2016(a), and Local Bankruptcy Rules 2014-1 and 2016-1, Republic requests authority to employ and retain Prime Clerk LLC (“Prime Clerk”) as administrative advisor (“Administrative Advisor”) in Republic’s chapter 11 cases *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions of that certain engagement agreement dated as of September 3, 2015 (the “Engagement Agreement”). A proposed form of order granting the relief requested in this application is attached hereto. A copy of the Engagement Agreement is annexed as an exhibit to the proposed order. In support of this application, Republic submits the Declaration of Michael J. Frishberg, Co-President and Chief Operating Officer of Prime Clerk (the “Frishberg Declaration”), attached hereto as Exhibit A.

8. Contemporaneously herewith, Republic has filed an application (the “Section 156(c) Application”) to appoint Prime Clerk as claims and noticing agent pursuant to 28 U.S.C. § 156(c), section 105(a) of the Bankruptcy Code, and Local Bankruptcy Rule 5075-1. Republic believes that administration of these chapter 11 cases will require Prime Clerk to perform duties outside the scope requested in the Section 156(c) Application. Therefore, to enable Prime Clerk to provide services outside the scope of the order approving the Section

156(c) Application, Republic submits this application in accordance with the Engagement Agreement.

Prime Clerk's Qualifications

9. Prime Clerk is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. Prime Clerk's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Prime Clerk's professionals have acted as administrative advisor or official claims and noticing agent in many large bankruptcy cases in this District and in other districts nationwide. Recent engagements include: *In re Millennium Lab Holdings II, LLC*, No. 15-12284 (LSS) (Bankr. D. Del.); *In re East Orange Gen. Hosp., Inc.*, No. 15-31232 (VFP) (Bankr. D.N.J.); *In re Parallel Energy, LP*, No. 15-12263 (KG) (Bankr. D. Del.); *In re Cook Inlet Energy, LLC*, No. 15-00236 (GS) (Bankr. D. Alaska); *In re Hovensa L.L.C.*, No. 15-10003 (MFW) (D.V.I.); *In re NewZoom, Inc.*, No. 15-31141 (HLB) (Bankr. N.D. Cal.); *In re Buckingham Oil Interests, Inc.*, No. 15-13441 (JNF) (Bankr. D. Mass.); *In re Hercules Offshore, Inc.*, No. 15-11685 (KJC) (Bankr. D. Del.); *In re Saint Michael's Med. Ctr., Inc.*, No. 15-24999 (VFP) (Bankr. D.N.J.); *In re Filmed Entertainment Inc.*, No. 15-12244 (SCC) (Bankr. S.D.N.Y.); *In re Am. Standard Energy, Corp.*, No. 15-70104 (RBK) (Bankr. W.D. Tex.); *In re The Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y.); *In re Milagro Holdings, LLC*, No. 15-11520 (KG) (Bankr. D. Del.); *In re Sabine Oil & Gas Corp.*, No. 15-11835 (SCC) (Bankr. S.D.N.Y.); *In re Northshore Mainland Servs. Inc.*, No. 15-11402 (KJC) (Bankr. D. Del.); *In re Turnberry/MGM Grand Towers, LLC*, No. 15-13706 (ABL) (Bankr. D. Nev.); *In re Molycorp, Inc.*, No. 15-11357 (CSS) (Bankr. D. Del.); *In re Patriot Coal Corp.*, No. 15-32450 (KLP) (Bankr. E.D. Va.); *In re Adinath Corp. and Simply Fashion Stores*,

Ltd., No. 15-16885 (LMI) (Bankr. S.D. Fla.); *In re EveryWare Global, Inc.*, No. 15-10743 (LSS) (Bankr. D. Del.); *In re The Standard Register Co.*, No. 15-10541 (BLS) (Bankr. D. Del.); *In re Allied Nevada Gold Corp.*, No. 15-10503 (MFW) (Bankr. D. Del.); *In re Chassix Holdings, Inc.*, Case No. 15-10578 (MEW) (Bankr. S.D.N.Y.); *In re Dune Energy, Inc.*, No. 15-10336 (HCM) (Bankr. W.D. Tex.); *In re Altegrity, Inc.*, No. 15-10226 (LSS) (Bankr. D. Del.); *In re RadioShack Corp.*, No. 15-10197 (BLS) (Bankr. D. Del.); *In re C. Wonder LLC*, Case No. 15-11127 (MBK) (Bankr. D.N.J.); *In re Caesars Entm't Operating Co., Inc.*, No. 15-01145 (ABG) (Bankr. N.D. Ill.).

Services to be Provided

10. Pursuant to the Engagement Agreement, Republic seeks to retain Prime Clerk to provide, among other things, the following bankruptcy administration services, if and to the extent requested:

- (a) Assist with, among other things, solicitation, balloting, and tabulation of votes and prepare any related reports, as required in support of confirmation of a chapter 11 plan, and in connection with such services, process requests for documents from parties in interest, including, if applicable, brokerage firms, bank back-offices and institutional holders;
- (b) Prepare an official ballot certification and, if necessary, testify in support of the ballot tabulation results;
- (c) Assist with the preparation of the Debtors' schedules of assets and liabilities and statements of financial affairs and gather data in conjunction therewith;
- (d) Provide a confidential data room, if requested;
- (e) Manage and coordinate any distributions pursuant to a chapter 11 plan if requested; and
- (f) Provide such other processing, solicitation, balloting and other administrative services described in the Engagement Agreement, but not included in the Section 156(c) Application, as may be requested from time to time by the Debtors, the Court or the Office of the Clerk of the Bankruptcy Court (the "Clerk").

Professional Compensation

11. The fees Prime Clerk will charge in connection with providing services to Republic are set forth in the Engagement Agreement. Republic respectfully submits that Prime Clerk's rates are competitive and comparable to the rates its competitors charge for similar services. Indeed, Republic conducted a review and competitive comparison of other firms and reviewed the rates of other firms before selecting Prime Clerk as Administrative Advisor. Republic believes Prime Clerk's rates are reasonable given the quality of Prime Clerk's services and its professionals' bankruptcy expertise. Additionally, Prime Clerk will seek reimbursement from Republic for reasonable expenses in accordance with the terms of the Engagement Agreement.

12. Prime Clerk intends to apply to the Court for allowance of compensation and reimbursement of expenses incurred after the Commencement Date in connection with the services it provides as Administrative Advisor pursuant to the Engagement Agreement. Prime Clerk will comply with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules and any orders entered in these chapter 11 cases regarding professional compensation and reimbursement of expenses.

13. Additionally, under the terms of the Engagement Agreement, Republic has agreed to indemnify, defend and hold harmless Prime Clerk and its members, officers, employees, representatives and agents under certain circumstances specified in the Engagement Agreement, except in circumstances resulting solely from Prime Clerk's gross negligence or willful misconduct or as otherwise provided in the Engagement Agreement. Republic believes that such an indemnification obligation is customary, reasonable and necessary to retain the services of an Administrative Advisor in these chapter 11 cases.

Disinterestedness

14. Prime Clerk has reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by Republic, and, to the best of Republic's knowledge, information, and belief, and except as disclosed in the Frishberg Declaration, Prime Clerk is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as required by section 327(a) of the Bankruptcy Code, and does not hold or represent any interest materially adverse to Republic's estates in connection with any matter on which it would be employed.

15. Prime Clerk believes that it does not have any relationships with creditors or parties in interest that would present a disqualifying conflict of interest. Prime Clerk will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

Basis for Relief

16. Section 327(a) of the Bankruptcy Code provides that a debtor, subject to Court approval:

[M]ay employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the [debtor] in carrying out the [debtor]'s duties under this title.

17. Federal Rule of Bankruptcy Procedure 2014(a) requires that an application for retention include:

[S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, and proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee..

18. In light of the size and complexity of these chapter 11 cases, the Debtors respectfully submit that retaining and employing Prime Clerk pursuant to the terms of the Engagement Agreement is necessary and in the best interests of Republic's estates and all parties in interest to these chapter 11 cases. Republic also believes that the terms and conditions of the Engagement Agreement are reasonable in light of the anticipated high volume of creditors and other parties-in-interest that will be involved in these cases.

19. Accordingly, to help manage administrative tasks with respect to a significant number of creditors and other parties in interest that are expected to be involved in Republic's chapter 11 cases, and in view of the complexity of such cases, Republic respectfully requests the Court enter an order appointing Prime Clerk as the Administrative Advisor in these chapter 11 cases.

No Duplication of Services

20. Republic intends that the services of Prime Clerk will complement and not duplicate the services rendered by any other professional retained in these chapter 11 cases. Prime Clerk understands Republic has retained and may retain additional professionals during the term of its engagement, and agrees to work cooperatively with such professionals to seek to avoid duplicative work conducted by the professionals on behalf of Republic.

Notice

21. Notice of this application is being provided to (i) the Office of the United States Trustee for the Southern District of New York, (ii) the holders of the ten largest secured claims against Republic (on a consolidated basis), (iii) the holders of the forty largest unsecured claims against Republic (on a consolidated basis), (iv) the attorneys for the agents under Republic's prepetition revolving credit facilities, (v) the attorneys for Republic's Codeshare Partners, (vi) the International Brotherhood of Teamsters, (vii) the Securities and Exchange

Commission, (viii) the Internal Revenue Service, (ix) the Office of the United States Attorney for the Southern District of New York, and (x) all parties having filed requests for notices in these cases pursuant to Fed. R. Bankr. P. 2002. Republic submits that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be given.

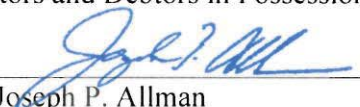
22. No previous request for the relief sought herein has been made by Republic to this or any other Court.

WHEREFORE Republic respectfully requests entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: New York, New York

February 25, 2016

REPUBLIC AIRWAYS HOLDINGS INC.
(for itself and on behalf of its wholly-
owned direct and indirect subsidiaries, as
Debtors and Debtors in Possession)



Name: Joseph P. Allman
Title: Senior Vice President and Chief
Financial Officer

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

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In re : **Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., et al., : **16-_____ (___)**
Debtors.¹ : **(Jointly Administered)**

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**ORDER PURSUANT TO 11 U.S.C. § 327(a), FED. R. BANKR. P. 2014(a) & 2016(a), AND
LOCAL BANKRUPTCY RULES 2014-1 & 2016-1 FOR AUTHORITY TO EMPLOY
AND RETAIN PRIME CLERK LLC AS ADMINISTRATIVE ADVISOR *NUNC PRO
TUNC TO THE COMMENCEMENT DATE***

A hearing having been held on _____, 2016 (the “Hearing”), to consider the application, dated February 25, 2016 (the “Application”)² of Republic Airways Holdings Inc. (“RAH”), and certain of its wholly-owned direct and indirect subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively with RAH, “Republic” or the “Debtors”), pursuant to section 327(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2014(a) and 2016(a) of the Federal Rules of Bankruptcy Procedure, and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York, for authority to employ and retain Prime Clerk LLC (“Prime Clerk”) as administrative advisor (“Administrative Advisor”) *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain engagement agreement, dated as of September 3, 2015 (the “Engagement Agreement”), all as more fully described in the

1. The Debtors in these chapter 11 cases are the following entities: Republic Airways Services, Inc.; Shuttle America Corporation; Republic Airline Inc.; Republic Airways Holdings Inc.; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors’ employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.
2. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Application.

Application; and the Declaration of Michael J. Frishberg, Co-President and Chief Operating Officer of Prime Clerk (the "Frishberg Declaration") having been filed in support of the Application; and the Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28. U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Application having been provided to (i) the Office of the United States Trustee for the Southern District of New York, (ii) the holders of the ten largest secured claims against Republic (on a consolidated basis), (iii) the holders of the forty largest unsecured claims against Republic (on a consolidated basis), (iv) the attorneys for the agents under Republic's prepetition revolving credit facilities, (v) the attorneys for Republic's Codeshare Partners, (vi) the International Brotherhood of Teamsters, (vii) the Securities and Exchange Commission, (viii) the Internal Revenue Service, (ix) the Office of the United States Attorney for the Southern District of New York, and (x) all parties having filed requests for notices in these cases pursuant to Fed. R. Bankr. P. 2002, and it appearing that no other or further notice need be given; and upon the Application, the papers in support thereof and the responses thereto, if any, the Frishberg Declaration, the Declaration of Bryan K. Bedford Pursuant to Local Bankruptcy Rule 1007-2 filed with the Court on the Commencement Date, the record of the Hearing, and all of the proceedings heretofore had before the Court; and the Court being satisfied that Prime Clerk has the capability and experience to provide the services described in the Application and that Prime Clerk does not hold an interest adverse to Republic or the estates respecting the matters upon which it is to be engaged; and it appearing that the employment of Prime Clerk is in

the best interests of Republic, its estates, and creditors; and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Application is granted *nunc pro tunc* to the Commencement Date to the extent provided herein; and it is further

ORDERED that Republic is authorized to retain Prime Clerk as Administrative Advisor on the terms and conditions of the Engagement Agreement annexed hereto as Exhibit 1, as modified herein, and Prime Clerk is authorized to perform the bankruptcy administration services described in the Application and set forth in the Engagement Agreement; and it is further

ORDERED that Prime Clerk is authorized to take such other action to comply with all duties set forth in the Application; and it is further

ORDERED that Prime Clerk shall be compensated for fees and reimbursed for reasonable and necessary expenses and will file interim and final fee applications for allowance of its compensation and expenses in accordance with sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York, Procedures for Monthly Compensation and Reimbursement of Expenses, and all other orders entered in these proceedings; and it is further

ORDERED that, notwithstanding anything to the contrary herein, the United States Trustee and any other statutory committee appointed in these cases retain all rights to object to Prime Clerk's interim and final fee applications (including expense reimbursement and

any request for counsel fees) based on the reasonableness standard of section 330 of the Bankruptcy Code; and it is further

ORDERED that Republic shall indemnify Prime Clerk under the terms of the Engagement Agreement, as modified pursuant to this Order; and it is further

ORDERED that all requests by Prime Clerk for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought, *provided however*, that in no event shall Prime Clerk be indemnified in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct; and it is further

ORDERED that in the event that Prime Clerk seeks reimbursement from Republic for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in Prime Clerk's own applications, both interim and final, and these invoices and time records shall be subject to the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code, and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code; and it is further

ORDERED that Prime Clerk shall not be entitled to reimbursement by Republic for any fees, disbursements, and other charges of Prime Clerk's counsel other than those incurred in connection with a request of Prime Clerk for payment of indemnity; and it is further

ORDERED that notwithstanding any provision to the contrary in the Engagement Agreement, any dispute relating to the services provided by Prime Clerk shall be referred to arbitration consistent with the terms of the Engagement Agreement only to the extent that this Court does not have, retain, or exercise jurisdiction over the dispute; and it is further

ORDERED that Republic and Prime Clerk are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application; and it is further

ORDERED that notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the contrary, this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that in the event of any inconsistency between the Engagement Agreement and the Order, the Order shall govern; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: New York, New York
_____, 2016

United States Bankruptcy Judge

Exhibit 1

Engagement Agreement

Prime Clerk

Prime Clerk LLC Engagement Agreement

This Agreement is entered into as of September 3, 2015 between Prime Clerk LLC ("**Prime Clerk**") and Republic Airways Holdings Inc. (together with its affiliates and subsidiaries, the "**Company**").¹

In consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Services

- (a) Prime Clerk agrees to provide the Company with consulting services regarding legal noticing, claims management and reconciliation, plan solicitation, balloting, disbursements, preparation of schedules of assets and liabilities and statements of financial affairs, communications, confidential online workspaces or data rooms (publication to which shall not violate the confidentiality provisions of this Agreement) and any other services agreed upon by the parties or otherwise required by applicable law, governmental regulations or court rules or orders (all such services collectively, the "**Services**").
- (b) The Company acknowledges and agrees that Prime Clerk will often take direction from the Company's representatives, employees, agents and/or professionals (collectively, the "**Company Parties**") with respect to providing Services hereunder. The parties agree that Prime Clerk may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company.
- (c) The Company agrees and understands that Prime Clerk shall not provide the Company or any other party with legal advice.

2. Rates, Expenses and Payment

- (a) Prime Clerk will provide the Services on an as-needed basis and upon request or agreement of the Company, in each case in accordance with the rate structure attached hereto and incorporated by reference herein (the "**Rate Structure**"). The Company agrees to pay for reasonable out of pocket expenses incurred by Prime Clerk in connection with providing Services hereunder.
- (b) The Rate Structure sets forth individual unit pricing for each of the Services. During the pendency of the Company's case pursuant to Chapter 11 of Title 11 of the United States Code, Prime Clerk shall provide the Company with a five percent courtesy discount on hourly fees. The Company may request separate Services or all of the Services.
- (c) Prime Clerk will bill the Company no less frequently than monthly. All invoices shall be due and payable upon receipt. Where an expense or group of expenses to be incurred is expected to exceed \$10,000 (e.g., publication notice), Prime Clerk may require advance or direct payment from the Company before the performance of Services hereunder. If any amount is unpaid as of 30 days after delivery of an invoice, the Company agrees to pay a late charge equal to 1.5% of the total amount unpaid every 30 days.

¹ The Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in any chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company's chapter 11 case.

Prime Clerk

- (d) In case of a good faith dispute with respect to an invoice amount, the Company shall provide a detailed written notice of such dispute to Prime Clerk within 10 days of receipt of the invoice. The undisputed portion of the invoice will remain due and payable immediately upon receipt thereof. Late charges shall not accrue on any amounts disputed in good faith.
- (e) The Company shall pay any fees and expenses for Services relating to, arising out of or resulting from any error or omission made by the Company or the Company Parties.
- (f) The Company shall pay or reimburse any taxes that are applicable to Services performed hereunder or that are measured by payments made hereunder and are required to be collected by Prime Clerk or paid by Prime Clerk to a taxing authority.
- (g) Upon execution of this Agreement, the Company shall pay Prime Clerk an advance of \$25,000. Prime Clerk may use such advance against unpaid fees and expenses hereunder. Prime Clerk may use the advance against all prepetition fees and expenses, which advance then shall be replenished immediately by the Company to the original advance amount; thereafter, Prime Clerk may hold such advance to apply against unpaid fees and expenses hereunder. Prime Clerk shall refund the unused portion of the advance after the fulfillment of its obligations hereunder.
- (h) Prime Clerk reserves the right to make reasonable increases to the Rate Structure on an annual basis effective on the first business day of each year. If such annual increases represent an increase greater than 10% from the previous year's levels, Prime Clerk shall provide 30 days' notice to the Company of such increases.

3. Retention in Bankruptcy Case

- (a) If the Company commences a case pursuant to title 11 of the United States Code (the "**Bankruptcy Code**"), the Company promptly shall file applications with the Bankruptcy Court to retain Prime Clerk (i) as claims and noticing agent pursuant to 28 U.S.C. § 156(c) and (ii) as administrative advisor pursuant to section 327(a) of the Bankruptcy Code for all Services that fall outside the scope of 28 U.S.C. § 156(c). The form and substance of such applications and any order approving them shall be reasonably acceptable to Prime Clerk.
- (b) If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, Prime Clerk will continue to be paid for Services pursuant to 28 U.S.C. § 156(c) and the terms hereunder.

4. Confidentiality

- (a) The Company and Prime Clerk agree to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services provided hereunder; provided, however, that if any such information was publicly available, already in the party's possession or known to it, independently developed, lawfully obtained from a third party or required to be disclosed by law, then a party shall bear no responsibility for publicly disclosing such information.
- (b) If either party reasonably believes that it is required to disclose any confidential information pursuant to an order from a governmental authority, such party shall provide written notice to the other party promptly after receiving such order, to allow the other party sufficient time to seek any remedy available under applicable law to prevent disclosure of the information.

Prime Clerk

5. Property Rights

Prime Clerk reserves all property rights in and to all materials, concepts, creations, inventions, works of authorship, improvements, designs, innovations, ideas, discoveries, know-how, techniques, programs, systems, specifications, applications, processes, routines, manuals, documentation and any other information or property (collectively, "**Property**") furnished by Prime Clerk for itself or for use by the Company hereunder. Fees and expenses paid by the Company do not vest in the Company any rights in such Property. Such Property is only being made available for the Company's use during and in connection with the Services provided by Prime Clerk hereunder.

6. Bank Accounts

At the request of the Company or the Company Parties, Prime Clerk shall be authorized to establish accounts with financial institutions in the name of and as agent for the Company to facilitate distributions pursuant to a chapter 11 plan or other transaction. To the extent that certain financial products are provided to the Company pursuant to Prime Clerk's agreement with financial institutions, Prime Clerk may receive compensation from such institutions for the services Prime Clerk provides pursuant to such agreement.

7. Term and Termination

- (a) This Agreement shall remain in effect until terminated by either party: (i) on 30 days' prior written notice to other party; or (ii) immediately upon written notice for Cause (as defined herein). "**Cause**" means (i) gross negligence or willful misconduct of Prime Clerk that causes material harm to the Company's restructuring under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay Prime Clerk invoices for more than 60 days from the date of invoice or (iii) the accrual of invoices or unpaid Services in excess of the retainer held by Prime Clerk where Prime Clerk reasonably believes it will not be paid.
- (b) If this Agreement is terminated after Prime Clerk is retained pursuant to Bankruptcy Court order, the Company promptly shall seek entry of a Bankruptcy Court order discharging Prime Clerk of its duties under such retention, which order shall be in form and substance reasonably acceptable to Prime Clerk.
- (c) If this Agreement is terminated, the Company shall remain liable for all amounts then accrued and/or due and owing to Prime Clerk hereunder.
- (d) If this Agreement is terminated, Prime Clerk shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions, and Prime Clerk shall provide the necessary staff, services and assistance required for such an orderly transfer. The Company agrees to pay for such Services pursuant to the Rate Structure.

8. No Representations or Warranties

Prime Clerk makes no representations or warranties, express or implied, including, without limitation, any express or implied warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

Prime Clerk

9. Indemnification

- (a) To the fullest extent permitted by applicable law, the Company shall indemnify and hold harmless Prime Clerk and its members, directors, officers, employees, representatives, affiliates, consultants, subcontractors and agents (collectively, the "**Indemnified Parties**") from and against any and all losses, claims, damages, judgments, liabilities and expenses, whether direct or indirect (including, without limitation, counsel fees and expenses) (collectively, "**Losses**") resulting from, arising out of or related to Prime Clerk's performance hereunder. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third parties against any Indemnified Party.
- (b) Prime Clerk and the Company shall notify each other in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that either party becomes aware of with respect to the Services provided hereunder.
- (c) The Company's indemnification of Prime Clerk hereunder shall exclude Losses resulting from Prime Clerk's gross negligence or willful misconduct.
- (d) The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

10. Limitations of Liability

Except as expressly provided herein, Prime Clerk's liability to the Company for any Losses, unless due to Prime Clerk's gross negligence or willful misconduct, shall be limited to the total amount paid by the Company for the portion of the particular work that gave rise to the alleged Loss. In no event shall Prime Clerk's liability to the Company for any Losses arising out of this Agreement exceed the total amount actually paid to Prime Clerk for Services provided hereunder. In no event shall Prime Clerk be liable for any indirect, special or consequential damages (such as loss of anticipated profits or other economic loss) in connection with or arising out of the Services provided hereunder.

11. Company Data

- (a) The Company is responsible for, and Prime Clerk does not verify, the accuracy of the programs, data and other information it or any Company Party submits for processing to Prime Clerk and for the output of such information, including, without limitation, with respect to preparation of statements of financial affairs and schedules of assets and liabilities (collectively, "**SOFAs and Schedules**"). Prime Clerk bears no responsibility for the accuracy and content of SOFAs and Schedules, and the Company is deemed hereunder to have approved and reviewed all SOFAs and Schedules filed on its behalf.
- (b) The Company agrees, represents and warrants to Prime Clerk that before delivery of any information to Prime Clerk: (i) the Company has full authority to deliver such information to Prime Clerk; and (ii) Prime Clerk is authorized to use such information to perform Services hereunder.
- (c) Any data, storage media, programs or other materials furnished to Prime Clerk by the Company may be retained by Prime Clerk until the Services provided hereunder are paid in full. The Company shall remain liable for all fees and expenses incurred by Prime Clerk under this Agreement as a result of data, storage media or other materials maintained, stored or disposed of by Prime Clerk. Any such disposal shall be in a manner requested by or

Prime Clerk

acceptable to the Company; provided that if the Company has not utilized Prime Clerk's Services for a period of 90 days or more, Prime Clerk may dispose of any such materials, and be reimbursed by the Company for the expense of such disposition, after giving the Company 30 days' notice. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs, data or information provided by the Company to Prime Clerk.

- (d) If Prime Clerk is retained pursuant to Bankruptcy Court order, disposal of any Company data, storage media or other materials shall comply with any applicable court orders and rules or clerk's office instructions.

12. Non-Solicitation

The Company agrees that neither it nor any of its subsidiaries or affiliates shall directly or indirectly solicit for employment, employ or otherwise retain as employees, consultants or otherwise, any employees of Prime Clerk during the term of this Agreement and for a period of 12 months after termination thereof unless Prime Clerk provides prior written consent to such solicitation or retention.

13. Force Majeure

Whenever performance by Prime Clerk of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, government requirement, strike, lock-out or other industrial or transportation disturbance, fire, flood, epidemic, lack of materials, law, regulation or ordinance, act of terrorism, war or war condition, or by reason of any other matter beyond Prime Clerk's reasonable control, then such performance shall be excused, and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

14. Choice of Law

The validity, enforceability and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

15. Arbitration

Any dispute arising out of or relating to this Agreement or the breach thereof shall be finally resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. There shall be three arbitrators named in accordance with such rules. The arbitration shall be conducted in the English language in New York, New York in accordance with the United States Arbitration Act.

16. Integration; Severability; Modifications; Assignment

- (a) Each party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals,

Prime Clerk

understandings, agreements and communications between the parties relating to the subject matter hereof.

- (b) If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
- (c) This Agreement may be modified only by a writing duly executed by an authorized representative of the Company and an officer of Prime Clerk.
- (d) This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other; provided, however, that Prime Clerk may assign this Agreement to a wholly-owned subsidiary or affiliate without the Company's consent.

17. Effectiveness of Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which shall constitute one and the same agreement. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, which delivery may be made by exchange of copies of the signature page by fax or email.

18. Notices

All notices and requests in connection with this Agreement shall be sufficiently given or made if given or made in writing via hand delivery, overnight courier, U.S. Mail (postage prepaid) or email, and addressed as follows:

If to Prime Clerk: Prime Clerk LLC
830 3rd Avenue, 9th Floor
New York, NY 10022
Attn: Shai Waisman
Tel: (212) 257-5450
Email: swaisman@primeclerk.com

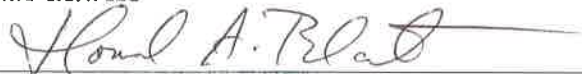
If to the Company: Republic Airways Holdings Inc.
8909 Purdue Road, Suite 300
Indianapolis, IN 46268
Attn: General Counsel
Tel: (317) 471-2655
Email: legal@rjet.com

With a copy to: Bruce R. Zirinsky
375 Park Avenue, Suite 2607
New York, NY 10152
Tel: (212) 763-0193
Email: bzirinsky@zirinskylaw.com

Prime Clerk)

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

Prime Clerk LLC



By: HOWARD A. BLAUSTEIN
Title: CO-PRESIDENT

Republic Airways Holdings Inc.



By: Ethan J. Blank
Title: Vice President, General Counsel

Exhibit A

Frishberg Declaration

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

-----x

In re : **Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., et al., : **16-_____ (___)**
Debtors.¹ : **(Joint Administration Pending)**

-----x

**DECLARATION OF MICHAEL J. FRISHBERG IN SUPPORT
OF DEBTORS' APPLICATION FOR AN ORDER AUTHORIZING
EMPLOYMENT AND RETENTION OF PRIME CLERK LLC AS
ADMINISTRATIVE ADVISOR NUNC PRO TUNC TO THE PETITION DATE**

I, Michael J. Frishberg, under penalty of perjury, declare as follows:

I am the Co-President and Chief Operating Officer of Prime Clerk LLC ("**Prime Clerk**"), a chapter 11 administrative services firm whose offices are located at 830 3rd Avenue, 9th Floor, New York, New York 10022. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

This Declaration is made in support of the above-captioned debtors' (collectively, the "**Debtors**") *Application for an Order Authorizing Employment and Retention of Prime Clerk LLC as Administrative Advisor Nunc Pro Tunc to the Petition Date*, which was filed contemporaneously herewith (the "**Application**").²

Prime Clerk is comprised of leading industry professionals with significant experience in

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1. The Debtors in these chapter 11 cases are the following entities: Republic Airways Services, Inc.; Shuttle America Corporation; Republic Airline Inc.; Republic Airways Holdings Inc.; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors' employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.
 2. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Application.

both the legal and administrative aspects of large, complex chapter 11 cases. Prime Clerk's professionals have experience in noticing, claims administration, solicitation, balloting and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Prime Clerk's professionals have acted as debtor's counsel or official claims and noticing agent in many large bankruptcy cases in this District and in other districts nationwide. Prime Clerk's active cases include: *In re Millennium Lab Holdings II, LLC*, No. 15-12284 (LSS) (Bankr. D. Del.); *In re East Orange Gen. Hosp., Inc.*, No. 15-31232 (VFP) (Bankr. D.N.J.); *In re Parallel Energy, LP*, No. 15-12263 (KG) (Bankr. D. Del.); *In re Cook Inlet Energy, LLC*, No. 15-00236 (GS) (Bankr. D. Alaska); *In re Hovensa L.L.C.*, No. 15-10003 (MFW) (D.V.I.); *In re NewZoom, Inc.*, No. 15-31141 (HLB) (Bankr. N.D. Cal.); *In re Buckingham Oil Interests, Inc.*, No. 15-13441 (JNF) (Bankr. D. Mass.); *In re Hercules Offshore, Inc.*, No. 15-11685 (KJC) (Bankr. D. Del.); *In re Saint Michael's Med. Ctr., Inc.*, No. 15-24999 (VFP) (Bankr. D.N.J.); *In re Filmed Entertainment Inc.*, No. 15-12244 (SCC) (Bankr. S.D.N.Y.); *In re Am. Standard Energy, Corp.*, No. 15-70104 (RBK) (Bankr. W.D. Tex.); *In re The Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y.); *In re Milagro Holdings, LLC*, No. 15-11520 (KG) (Bankr. D. Del.); *In re Sabine Oil & Gas Corp.*, No. 15-11835 (SCC) (Bankr. S.D.N.Y.); *In re Turnberry/MGM Grand Towers, LLC*, No. 15-13706 (ABL) (Bankr. D. Nev.); *In re Molycorp, Inc.*, No. 15-11357 (CSS) (Bankr. D. Del.); *In re Patriot Coal Corp.*, No. 15-32450 (KLP) (Bankr. E.D. Va.); *In re Adinath Corp. and Simply Fashion Stores, Ltd.*, No. 15-16885 (LMI) (Bankr. S.D. Fla.); *In re SRC Liquidation Co. (f/k/a The Standard Register Co.)*, No. 15-10541 (BLS) (Bankr. D. Del.); *In re Allied Nevada Gold Corp.*, No. 15-10503 (MFW) (Bankr. D. Del.); *In re Chassix Holdings, Inc.*, No. 15-10578 (MEW) (Bankr. S.D.N.Y.); *In re Altegrity, Inc.*, No. 15-10226 (LSS) (Bankr. D. Del.); *In re RS Legacy Corp. (f/k/a RadioShack*

Corp.), No. 15-10197 (BLS) (Bankr. D. Del.); *In re Caesars Entm't Operating Co., Inc.*, No. 15-01145 (ABG) (Bankr. N.D. Ill.).

As Administrative Advisor, Prime Clerk will perform the bankruptcy administration services specified in the Application and the Engagement Agreement. In performing such services, Prime Clerk will charge the Debtors the rates set forth in the Engagement Agreement, which is attached as **Exhibit 1** to the proposed order.

Prime Clerk is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, in that Prime Clerk and its professional personnel:

- (a) *are not creditors, equity security holders, or insiders of the Debtors;*
- (b) *are not and were not, within two years before the date of the filing of these cases, directors, officers, or employees of the Debtors; and*
- (c) *do not have an interest materially adverse to the interest of the Debtors' estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors.*

I caused to be submitted for review by our conflicts system the names of all known potential parties-in-interest (the “*Potential Parties in Interest*”) in these chapter 11 cases. The list of Potential Parties in Interest was provided by the Debtors and included the Debtors, non-Debtor affiliates, former affiliates of Debtors, current and former directors and officers of the Debtors, the affiliations of current and former directors and officers of the Debtors, significant stockholders, aircraft financing counterparties, aircraft lessors and lessees, banks, code-share partners, the Debtors’ 40 largest unsecured creditors on a consolidated basis, the Debtors’ 10 largest secured creditors on a consolidated basis, contract counterparties, landlords, vendors, insurers, utilities, unions, competitors, professionals, governmental authorities and other parties. The results of the conflict check were compiled and reviewed by Prime Clerk professionals under my supervision. At this time, and as set forth in further detail herein, Prime Clerk is not

aware of any relationship that would present a disqualifying conflict of interest. Should Prime Clerk discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, Prime Clerk will use reasonable efforts to file promptly a supplemental declaration.

To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither Prime Clerk, nor any of its professionals, has any materially adverse connection to the Debtors, their creditors or other relevant parties. Prime Clerk may have relationships with certain of the Debtors' creditors as vendors or in connection with cases in which Prime Clerk serves or has served in a neutral capacity as Claims and Noticing Agent and/or Administrative Advisor for another chapter 11 debtor.

Certain of Prime Clerk's professionals were partners of or formerly employed by firms that are providing or may provide professional services to parties in interest in these cases. Such firms include Kirkland & Ellis LLP; Weil, Gotshal & Manges LLP; O'Melveny & Myers LLP; Mayer Brown LLP; Willkie Farr & Gallagher LLP; Fried, Frank, Harris, Shriver & Jacobson LLP; Bracewell & Giuliani LLP; Proskauer Rose LLP; McKinsey & Company; KPMG LLP; Epiq Bankruptcy Solutions, LLC; Donlin, Recano & Company, Inc. and Kurtzman Carson Consultants LLC. Except as disclosed herein, these professionals did not work on any matters involving the Debtors while employed by their previous firms. Moreover, these professionals were not employed by their previous firms when these chapter 11 cases were filed.

Shai Waisman, CEO of Prime Clerk, and Ron Jacobs, Managing Director of Prime Clerk, are investors in an investment partnership in which two board members of the Debtors are also investors. The investment partnership is not a creditor or interest holder of any of the Debtors and is not related to the Debtors in any way.

Mr. Jacobs is an investor in several investment partnerships in which one of the Debtors'

board members is also an investor. None of these investment partnerships is a creditor or interest holder of any of the Debtors or is related to the Debtors in any way.

Mr. Jacobs and the spouse of Herb Baer, a Director at Prime Clerk, are limited partners in Whisper Capital LLC. One of the Debtors' board members is the Manager of Whisper Manager LLC, which is the Manager of Whisper Capital LLC. Neither Whisper Capital LLC nor Whisper Manager LLC is a creditor or interest holder of any of the Debtors or is related to the Debtors in any way.

Certain members of Zirinsky Law Partners PLLC, proposed co-counsel to the Debtors, worked at Weil, Gotshal & Manges LLP ("Weil") with various Prime Clerk personnel, including Mr. Waisman; Howard Blaustein, Co-President of Prime Clerk; Christina Pullo, Director of Solicitation of Prime Clerk; and Heather Aaronson, a Director at Prime Clerk. None of these Prime Clerk personnel worked on any matters related to the Debtors during their time at Weil.

Prime Clerk has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, Prime Clerk and its personnel have and will continue to have relationships personally or in the ordinary course of business with certain vendors, professionals and other parties in interest that may be involved in the Debtors' chapter 11 cases in matters unrelated to these cases. Prime Clerk may also provide professional services to entities or persons that may be creditors or parties in interest in these chapter 11 cases, which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors.

Prime Clerk and its personnel in their individual capacities regularly utilize the services of law firms, accounting firms and financial advisors. Such firms include Baker Tilly Virchow Krause LLP, who provide professional services to both Prime Clerk and the Debtors. Such firms engaged by Prime Clerk or its personnel may appear in chapter 11 cases representing the Debtors or parties in interest. All engagements where such firms represent Prime Clerk or its personnel

in their individual capacities are unrelated to these chapter 11 cases.

From time to time, Prime Clerk partners or employees personally invest in mutual funds, retirement funds, private equity funds, venture capital funds, hedge funds and other types of investment funds (the “*Investment Funds*”), through which such individuals indirectly acquire a debt or equity security of many companies, one of which may be one of the Debtors or their affiliates, often without Prime Clerk’s or its personnel’s knowledge. Each Prime Clerk partner or employee generally owns substantially less than one percent of such Investment Fund, does not manage or otherwise control such Investment Fund and has no influence over the Investment Fund’s decision to buy, sell or vote any particular security. The Investment Fund is generally operated as a blind pool, meaning that when the Prime Clerk partners or employees make an investment in the Investment Fund, he, she or they do not know what securities the blind pool Investment Fund will purchase or sell, and have no control over such purchases or sales.

From time to time, Prime Clerk partners or employees may personally directly acquire a debt or equity security of a company which may be one of the Debtors or their affiliates. Prime Clerk has a policy prohibiting its partners and employees from using confidential information that may come to their attention in the course of their work. In this regard, all Prime Clerk partners and employees are barred from trading in securities with respect to matters in which Prime Clerk is retained.

To the best of my knowledge, neither Prime Clerk nor any of its partners or employees hold or represent any interest materially adverse to the Debtors’ estates with respect to any matter upon which Prime Clerk is to be engaged. Based on the foregoing, I believe that Prime Clerk is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code.

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

Executed this 25th day of February, 2016



Michael J. Frishberg
Co-President and Chief Operating Officer
Prime Clerk LLC