

**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.,** : **16-10429 (SHL)**  
**Debtors.<sup>1</sup>** : **(Jointly Administered)**

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**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF  
SEABURY CORPORATE ADVISORS LLC AND SEABURY SECURITIES LLC  
AS FINANCIAL ADVISOR AND INVESTMENT BANKER TO THE DEBTORS  
NUNC PRO TUNC TO THE COMMENCEMENT DATE**

A hearing having been held on March 22, 2016 (the "Hearing"), to consider the application, dated February 25, 2016 (the "Application"),<sup>2</sup> 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") and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for an order authorizing Republic to employ and retain Seabury Corporate Advisors LLC, Seabury Securities LLC, and one or more of their affiliates (collectively, "Seabury") *nunc pro tunc* to the Commencement Date as their financial advisor and investment banker, pursuant to the terms set forth in the Application; and upon consideration of the Declaration of John E. Luth in support of this Application having been annexed to the Application, a correction to the

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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 not otherwise herein defined shall have the meanings ascribed to them in the Application or the Engagement Letter attached hereto as Exhibit "1" (the "Engagement Letter").

Declaration of John E. Luth having been filed with the Court on February 29, 2016, and a supplemental Declaration of John E. Luth having been filed with the Court on March 21, 2016 (collectively, the “Luth Declaration”); 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 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 provided; and the Objection of the Official Committee of Unsecured Creditors having been filed with the Court on March 18, 2016 (the “Objection”); and the Debtors’ Reply to Objection to Application for Authority to Employ and Retain Seabury having been filed with the Court on March 21, 2016 (the “Reply”); and the Court having considered the Application, the papers in support thereof, the Objection, the Reply, the Luth Declaration, the record of the Hearing, and all of the proceedings heretofore had before the Court; and the appearances of all interested parties having been noted in the record of the

Hearing; and this Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and this Court having found that the terms and conditions of Seabury's employment, including, without limitation, the Fee and Expense Structure set forth in the Engagement Letter attached hereto and summarized in the Application, are reasonable as required by section 328(a) of the Bankruptcy Code; and this Court having found that Seabury neither holds nor represents any interest adverse to Republic's estates; and this Court having found that Seabury is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code; 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 the Objection is deemed withdrawn, with prejudice; and it is further

ORDERED that any other objections to the Application that have not been withdrawn or resolved by this Order are overruled in all respects; and it is further

ORDERED that pursuant to sections 327, 330, and 331 of the Bankruptcy Code and Fed. R. Bankr. P. 2014, Republic is authorized to employ and retain Seabury as its financial advisor and investment banker in accordance with the terms and provisions of the Engagement Letter; and it is further

ORDERED that notwithstanding anything to the contrary in the Engagement Letter, the Application, the Luth Declaration, the Reply, or elsewhere in this Order, the aggregate amount of fees payable to Seabury shall not exceed \$10,250,000; and it is further

ORDERED that all Retainer Fees paid after the first 12 months of the cases shall be creditable against any Restructuring Success Fees, Debt & Lease Restructuring Fee, Sale Success Fees, M&A Transaction Success Fees, Equity Success Fee, Debt Success Fee, or DIP Success Fee; and it is further

ORDERED that all hourly fees shall be charged by Seabury to Republic at a 10% discount and the aggregate amount of such hourly fees shall not exceed \$500,000; and it is further

ORDERED that hourly fees for the following 11 Seabury professionals shall not be charged: John Luth, Ginger Hughes, Alan Sbarra, Steve Tesoro, Michael Cox, Michael Lypka, Neal Wesson, Patrick Henry Dowling, Stephan Krastev, Justin Goldman, and Owen Orloff; and it is further

ORDERED that Seabury shall not be entitled to more than one success fee for completing a single M&A Transaction, Sale Transaction, Debt Transaction, or DIP Loan Transaction, including but not limited to, if a transaction converts into another (e.g., a DIP transaction converts into an equity or exit transaction) with the initial fee due in connection with such transaction credited against any later fees that may become due; and it is further

ORDERED that a M&A Transaction that is part of a plan of reorganization that converts debt to equity will not generate a M&A Transaction fee; and it is further

ORDERED that any second lien or junior Debt Success Fee payable to Seabury in connection with the financing secured by a second or more junior lien shall be based on the net proceeds of any such financing; and it is further

ORDERED that Seabury shall apply the \$900,000 deposit received from Republic to monthly invoices as incurred; and it is further

ORDERED that notwithstanding anything to the contrary in the Engagement Letter, the Application, or the Luth Declaration, to the extent that Republic requests that Seabury perform any services other than (a) those detailed in the Engagement Letter in Sections 1.A. through 1.M such other financial advisory and investment banking services directly related to services detailed in the Engagement Letter, Republic shall seek further approval by the Court, including any related modifications to the Engagement Letter, and the application seeking such approval shall set forth, in addition to the additional services to be performed, the additional fees sought to be paid; and it is further

ORDERED that Republic is hereby authorized to employ and retain Seabury as their financial advisor and investment banker in Republic's chapter 11 cases, in accordance with the terms and conditions set forth in the Engagement Letter and the Luth Declaration as such terms may be modified herein; and it is further

ORDERED that the Fee and Expense Structure as set forth in the Engagement Letter is approved and Seabury shall be compensated and reimbursed subject to sections 330 and 331 of the Bankruptcy Code in accordance with the terms of the Engagement Letter, subject to the procedures set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, and any other applicable orders of this Court; and it is further

ORDERED that notwithstanding anything to the contrary in the Engagement Letter, the Application or the Luth Declaration, to the extent that Republic requests that Seabury perform any services other than (a) those detailed in the Engagement Letter in Sections 1.A. through 1.M such other financial advisory services directly related to services detailed in the Engagement Letter, Republic shall seek further approval by the Court, including any related modifications to the Engagement Letter, and the application seeking such

approval shall set forth, in addition to the additional services to be performed, the additional fees sought to be paid; and it is further

ORDERED that Seabury shall file fee applications for interim and final allowances of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330 and 331 of the Bankruptcy Code; and it is further

ORDERED that, prior to any increases in Seabury's rates, Seabury shall file a supplemental declaration with the Court and provide ten business days' notice to Republic, the United States Trustee and any official committee, which supplemental declaration shall explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code and state whether Republic has consented to the rate increase; and it is further

ORDERED that the Fixed Restructuring Success Fee and other applicable Success Fees (as defined in the Engagement Agreement) shall be payable upon the effectiveness of any plan of reorganization in these chapter 11 cases; and it is further

ORDERED that the United States Trustee and any other statutory committee appointed in these cases retain all rights to object to Seabury'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 notwithstanding the prior paragraph, the retainer and success fees payable to Seabury pursuant to the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to the standard of review set forth in section 330 of the Bankruptcy Code; provided, however, that services provided on an hourly basis are subject to the right of any party in interest to raise objections with respect to reasonableness or on any other grounds; and it is further

ORDERED that Seabury shall include in its fee applications, among other things, time records setting forth a summary description of the services rendered by each professional, and the amount of time spent on each date by each such individual in rendering services on behalf of Republic in 1/10th of an hour increments, but Seabury shall not be required to provide or conform to any schedule of hourly rates; and it is further

ORDERED that all requests of Seabury for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application (interim or final, as applicable) and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought; *provided, however*, that in no event shall Seabury 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 no event shall Seabury be indemnified if Republic or a representative of the estate asserts a claim for, and a court determines by final order that such claim arose out of, Seabury's 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 an Indemnified Person (as defined in the Engagement Letter) seeks reimbursement from Republic for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Letter, the invoices and supporting time records from such attorneys shall be included in Seabury's own applications, both interim and final, and such invoices and time records shall be subject to approval of the Bankruptcy Court under the standards of sections 330 and 331 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the

Bankruptcy Code and without regard to whether such attorneys' services satisfy 330(a)(3)(C) of the Bankruptcy Code; and it is further

ORDERED that Seabury shall be compensated only upon filing fee applications for interim and final allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in Republic's Motion to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals, sections 330 and 331 of the Bankruptcy Code, any applicable Bankruptcy Rules, the Local Bankruptcy Rules and any orders of this Court; and it is further

ORDERED that Seabury shall use its reasonable efforts to avoid any duplication of services provided by any of Republic's other retained professionals in these chapter 11 cases; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the Application, the Luth Declaration, or the Engagement Letter and this Order, the terms of this Order shall govern; and it is further

ORDERED that Republic is authorized and empowered to take all actions necessary to implement the relief granted in this Order in accordance with the Application; and it is further

ORDERED that notwithstanding anything contained in the Engagement Letter to the contrary, this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York  
March 23, 2016

/s/ Sean H. Lane  
United States Bankruptcy Judge



**Exhibit 1**

**Engagement Letter**



Seabury Corporate Advisors LLC  
Seabury Securities LLC  
1350 Avenue of Americas, 25<sup>th</sup> Floor  
New York, NY 10019  
T +212 284 1133  
F +1 212 284 1144  
W [www.seaburygroup.com](http://www.seaburygroup.com)

**PROPRIETARY & CONFIDENTIAL**

February 24, 2016

Republic Airways Holdings, Inc.  
8909 Purdue Road, Suite 300  
Indianapolis, Indiana 46268

Attn: Mr. Bryan K. Bedford  
Chairman, President and Chief Executive Officer

*Re: Financial Advisory Engagement for Restructuring Republic Airways Group*

Gentlemen:

We are pleased to provide under this agreement (this "**Agreement**"), the terms and conditions under which Seabury Corporate Advisors LLC, together with its broker-dealer affiliate, Seabury Securities LLC and or one or more of their affiliates (collectively, "**Seabury**"), will serve as sole financial advisor and investment banker to Republic Airways Holdings, Inc. and its subsidiaries and affiliates (collectively, "**Republic**" or the "**Company**") and will provide certain strategic and financial advisory services with respect to developing and implementing programs, negotiations and/or transactions to restructure the Company.

For purposes hereof, the term "**Company**" includes any entity that the Company may form or invest in to consummate a restructuring. This Agreement sets forth below and in any schedules or annexes to this Agreement the terms and conditions under which Seabury shall provide the services described in Section 1 below to the Company and supercedes all provisions of any and all prior agreements between and among the parties hereto.

This Agreement supercedes all prior agreements between the Company and Seabury.

### **Section 1. Services.**

Seabury shall provide the Company with advice and assistance (the "**Services**") where and when requested by the Company with regard to the following:

**A. General Financial Advisory Services.** Seabury hereby agrees to provide services to provide strategic and tactical advice as follows:

1. assist in the evaluation of the Company's businesses and prospects;
2. assist in the development of the Company's long-term business plan and related financial projections;
3. assist in the development of financial data and presentations to the Company's Board of Directors, various creditors and other third parties;
4. analyze the Company's financial liquidity and evaluate alternatives to improve such liquidity; and
5. evaluate the Company's debt capacity and alternative capital structures.

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Seabury Engagement  
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**B. Restructuring Services.** Seabury hereby agrees to provide the following services with respect to the formulation and execution of a court supervised reorganization (a "**Court Restructuring**"):

1. analyze various restructuring scenarios on the value of the Company and the recoveries of those stakeholders impacted by the Restructuring, and provide testimony related thereto as necessary;
2. provide strategic advice with regard to restructuring or refinancing the Company's Obligations;
3. participate in negotiations among the Company and its creditors, suppliers, lenders, lessors and other interested parties; and
4. assist in such areas as court testimony on matters that are within the scope of this engagement and within Seabury's area of testimonial competencies.

**C. Supplementary Restructuring Services.** Seabury shall assist the Company in negotiating and executing restructured agreements as follows:

1. restructuring and negotiating its codeshare partner agreements as the cornerstone to its restructuring;
2. restructuring and refinancing any material non-aircraft debt and lease obligations; and
3. restructuring and refinancing any aircraft debt and lease obligations, as required to meet the revised needs of the Company.

Each of the above is a "**Restructuring Assignment**".

**D. M&A Transaction.** If requested by the Company, Seabury shall assist the Company's management and Board of Directors in evaluating and completing one or more transactions that involve a sale of all or a portion of the Company's operations (including the assignment of any executory contracts), including offers of employment to the Company's employees, to, merger with, or acquisition of another entity (an "**M&A Transaction**"), including, soliciting parties to such a transaction, evaluating alternative transactions (including assisting the Company and its other advisors in conducting and supervising any due diligence processes with such third parties), and structuring, negotiating and assisting in documenting one or more M&A Transactions. Such services shall also include assisting the Company's management in preparation of business plans, financial projections, *pro forma* financial statements, cash flow analyses, valuation analyses, and other pertinent work product necessary for the Company's management, Board of Directors and other stakeholders to evaluate one or more M&A Transactions, and negotiating waivers or amendments with the Company's major creditors and lessors in connection with such M&A Transactions.

**E. Sale Transactions.** If requested by the Company, Seabury shall assist the Company in evaluating and completing one or more transactions that involve a sale of all or a portion of the Company's assets (a "**Sale Transaction**").

**F. Equity Transactions.** Seabury shall assist the Company, or any business enterprise arising from such an M&A Transaction (a "**New Enterprise**"), with respect to raising equity, including valuation advice, analytical support, and advisory assistance in securing equity for the

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Company, its successor company, or any New Enterprise, whether via a private equity or a rights offering structure (an "**Equity Transaction**").

**G. Debt Transactions.** Seabury will assist the Company in evaluating and, if directed by the Board, pursuing arranging (i) exit debt financing in connection for emergence from Chapter 11 and/or (ii) debt financing for completion of an M&A Transaction (each a "**Debt Transaction**").

**H. DIP Loan Transaction.** Seabury will assist the Company in evaluating, structuring and working with various market sources to arrange any debtor-in-possession loan facility (a "**DIP Loan**").

**I. Cash Management and Vendor Control.** Seabury shall provide the Company with assistance in planning, training and managing a vendor control program (a "**VCP**") which would assist the Company in managing its relationships with vendors system-wide as a means of minimizing cash requirements leading up to, as well as during, reorganization while maintaining continuity of operations. In addition, Seabury shall evaluate opportunities to improve liquidity and maximize its cash.

**J. Vendor Contract Optimization.** As an adjunct to the VCP outlined above, Seabury shall also set up and manage for the Company a vendor contract optimization process ("**Contract Optimization**") through which Seabury will assist the Company to (i) minimize assumption of prepetition contracts and (ii) optimize the ultimate vendor contract terms and conditions for the reorganized Company.

**K. Workforce Analytics.** As requested by the Company, develop a labor strategy and costing plan that supports the future business and fleet plan including:

- (i) update and/or build a labor cost model to identify and quantify changes to collectively bargained labor costs;
- (ii) model productivity, staffing movements and contract expense; and
- (iii) coordinate with other restructuring efforts.

**L. Compensation Consulting.** If requested by the Company, assist with employee compensation concerns including:

- (i) Prepare an overview of the objectives, alternatives and process for designing and implementing cash and equity-based incentives for employee compensation.
- (ii) Articulate objects and plan design parameters including eligibility, target payouts, performance metrics and payout timing. Model projected plan costs.
- (iii) Define a process for selecting participants and develop a communication and implementation plan.
- (iv) Provide recommendations on the design and allocation of equity incentives for key employees, including plan size, eligibility, type of equity granted, vesting terms and timing, provisions for termination and CIC.
- (v) Model individual and total allocation of the available share pool.

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**M. Other Consulting Services.** Seabury agrees to make available to the Company additional consulting services (the "**Other Consulting Services**") as requested by the Company from time to time on an hourly fee basis.

**Section 2. Compensation.**

The following fees apply to Seabury.

- A. Financial Advisory Retainer Fees.** The Company agrees to pay to Seabury for Services outlined in Section 1A. a monthly retainer fee (the "**Retainer Fee**") of four hundred thousand dollars (\$400,000.00) for the first three (3) months and two hundred thousand dollars (\$200,000.00) for each month thereafter, payable in advance commencing from March 1, 2016 and the first of each month thereafter during the Term of the Agreement of which fifty percent (50%) of the first nine (9) months payments only shall be creditable against any Restructuring Success Fees, Debt & Lease Restructuring Fee, Sale Success Fees, M&A Transaction Success Fees, Equity Success Fee, Debt Success Fee or DIP Success Fee (each as defined below) paid to Seabury by the Company.
- B. Fixed Restructuring Success Fee.** The Company agrees to pay Seabury a "**Restructuring Success Fee**" of six million dollars (\$6,000,000.00) upon the conclusion of a Court Restructuring (as defined in the Agreement).
- C. Sale Success Fees.** At closing of each Sale Transaction, the Company shall pay to Seabury a success fee (a "**Sale Success Fee**") of 0.65% of the proceeds from such sale.
- D. M&A Transaction Success Fees.** At closing of each M&A Transaction, the Company shall pay to Seabury a success fee (the "**M&A Success Fee**") as set forth in Schedule 1.
- E. Equity Transaction Fees.** At closing of each Equity Transaction, the Company shall pay to Seabury the "**Equity Success Fees**" set forth in Schedule 2.
- F. Debt Transaction Fees.** At closing of each Debt Transaction, the Company shall pay to Seabury the "**Debt Success Fees**" set forth in Schedule 3.
- G. DIP Loan Transaction Fees.** At closing of each DIP Loan Transaction, the Company shall pay to Seabury the "**DIP Success Fees**" set forth in Schedule 4.
- H. Cash Management, Vendor Control, Vendor Contract Optimization, and Other Consulting Services.** The Company agrees to pay to Seabury for Services outlined in Sections 1.I., 1.J., 1.K., 1.L. and 1.M. fees billed based upon actual hours worked at the Seabury standard billing rates.
- I. Filing retainer.** Upon execution of the Agreement, the Company shall pay to Seabury a deposit of nine hundred thousand dollars (\$900,000.00) (the "**Deposit**"). Such Deposit will be credited against any fees and expenses payable by the Company under this Agreement. Any remainder shall be returned to the Company as soon as practicable after the expiration or termination of the Agreement.
- J. Wire Transfers.** All payments for services performed under Sections 1 shall be paid to Seabury Corporate Advisors LLC, unless otherwise instructed by Seabury via written

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instructions, via wire transfer to Seabury Corporate Advisors LLC's bank account, unless alternative instructions are made by Seabury in writing to the Company.

Account #4125026807  
Wells Fargo Bank  
190 River Road, Summit, NJ 07901  
Wire ABA #121-000-248  
Swift Code: WFBIUS6S  
Reference: Deal No. 1257

- K. Cap on Net Success Fees.** In no event shall the total Success Fees payable under this Agreement in accordance with Sections 2.B., 2.C., 2.D., 2.E., 2.F., 2.G. and 2.H, *after* netting any credits of Retainer Fees in accordance with Sections 2.A. hereof, exceed the following:
- a. Nine million dollars (\$9,000,000.00) if the Court Restructuring is completed by September 30, 2016;
  - b. Eight million seven hundred and fifty thousand dollars (\$8,750,000.00) if the Court Restructuring is completed by October 31, 2016;
  - c. Eight million five hundred thousand dollars (\$8,500,000.00) if the Court Restructuring is completed by November 30, 2016;
  - d. Eight million two hundred fifty thousand dollars (\$8,250,000.00) if the Court Restructuring is completed by December 31, 2016;
  - e. Eight million dollars (\$8,000,000.00) if the Court Restructuring is completed by January 31, 2017;
  - f. Seven million seven hundred fifty dollars (\$7,750,000.00) if the Court Restructuring is completed by February 28, 2017;
  - g. Seven million five hundred dollars (\$7,500,000.00) if the Court Restructuring is completed by March 31, 2017;
  - h. Seven million two hundred fifty dollars (\$7,250,000.00) if the Court Restructuring is completed by April 30, 2017; or
  - i. Seven million dollars (\$7,000,000.00) thereafter (the "**Net Success Fee Cap**").

**Section 3. Expenses.**

The Company will reimburse Seabury promptly upon receipt of monthly written notice for its reasonable out-of-pocket expenses incurred by Seabury in connection with the services to be rendered under the Agreement. Seabury personnel shall be reimbursed for economy class travel (or its equivalent) except for international travel greater than five (5) hours in duration, in which case Seabury personnel may be permitted to book in business class. The Company and its representatives shall be entitled to review and/or audit Seabury's records of such expenses during normal business hours. Upon termination of this Agreement, the Company shall reimburse Seabury only for such reasonably incurred out-of-pocket expenses incurred or accrued prior to termination. Invoices submitted to the Company pursuant to this Section 3 will, in each case, include adequate detail including employee name, date of expense charge, expense type and amount.

**Section 4. Term.**

The Company shall retain Seabury's services under Section 1 through the *earlier to occur* of (i) the effective date of an out-of-court restructuring; (ii) a Plan of Reorganization for the Company becoming effective, and (iii) the date this Agreement is subject to an early termination by the Company under provisions of Section 5 below.

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**Section 5. Termination.**

Except as otherwise provided under any separate written agreement with the Company:

- (i) The Company may terminate the Agreement at any time without further liability or obligation whatsoever upon fifteen (15) days' prior written notice; provided, however, (a) no such termination will affect Seabury's right to receive all fees as described in Section 3, that have accrued prior to such termination but are unpaid, and expense reimbursements due and payable under this Agreement and (b) Seabury shall be entitled to certain fees as set forth in clauses (iv) and/or (v).
- (ii) The Company may terminate the Agreement by written notice to Seabury without further liability or obligation whatsoever on the part of the Company (x) at any time it determines in good faith that Seabury has materially defaulted in the performance of its obligations hereunder; and (y) the Company provides Seabury fifteen (15) business days' prior written notice of its intention to terminate the Agreement unless Seabury remedies any such failure to perform to the satisfaction of The Company within such period ("**Termination for Cause**").
- (iii) Upon expiration of the engagement, the Company shall pay Seabury all professional fees, consulting fees and success fees, as described above that have accrued prior to such termination but are unpaid, and expense reimbursements due and payable under this Agreement are due and payable upon completion of this assignment.
- (iv) Upon Termination for Cause as provided in clause (ii) above, the Company shall pay Seabury all fees and expense reimbursements that have accrued prior to such termination but remain unpaid.
- (v) Except for Termination for Cause, should the Company enter into an Equity Transaction, Debt Transaction, M&A Transaction, Sale Transaction, DIP Loan Transaction or other transaction as described in Schedule 1 within twelve (12) months from a termination of this Agreement, the Company shall pay to Seabury the Success Fees, as defined in Schedule 2 hereof, that would have been otherwise due Seabury if this Agreement had not been so terminated. So as to avoid any doubt on the meaning of this provision, the Company cannot willfully withhold cooperation from Seabury simply to avoid paying Seabury a Success Fee, nor may the Company replace Seabury with another advisor to avoid paying Seabury a Success Fee.
- (vi) Notwithstanding any of the foregoing, Sections 2, 3, 5, 6, 7, 8, and 9 of the Agreement shall survive the expiration or termination of this Agreement.

**Section 6. Governing Law.**

This Agreement, and any claim related directly or indirectly to this Agreement, will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law. The Company irrevocably submits to the non-exclusive jurisdiction of any court of the State of New York for the purpose of any suit, action or other proceeding arising out of this letter agreement or our engagement hereunder. This Agreement, and any claim related directly or indirectly to this Agreement, will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

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Republic Airways Holdings, Inc.  
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**Section 7. Indemnification.**

The Company agrees to indemnify Seabury and other parties as provided in the Annex A hereto. Annex A is incorporated by reference into this engagement letter.

**Section 8. Miscellaneous.**

**Seabury's Other Relationships.** The Company acknowledges that Seabury provides financial advisory and investment banking services to a broad array of companies in the aviation and transportation sectors. The Company acknowledges that these and other relationships exist, and agrees that such relationships cannot be subsequently claimed as a reason for termination of this Agreement except if Seabury breaches in any material respect its fiduciary responsibility to the Company in the performance of its responsibilities hereunder. Additionally, the Company accepts that Seabury is bound by confidentiality and fiduciary obligations to other clients and has specifically advised the Company that Seabury is obligated not to use any confidential non-public information obtained from such other engagements to advise the Company.

**Seabury's Obligations.** All services to be performed by Seabury hereunder shall be performed in good faith and with at least that level of care and diligence as customarily exercised by other international financial advisors and international consultants similarly employed or engaged in providing similar services to the aviation market. All information respecting this transaction provided to Seabury by the Company, or acquired by Seabury in the course of its engagement hereunder, shall be kept confidential by Seabury and used solely to provide services to the Company hereunder. No such information shall be disclosed to any third party without the Company's prior written consent unless, at the time of such disclosure, such information (i) is generally available to and known by the public (other than as a result as a disclosure directly or indirectly by Seabury); (ii) becomes available to Seabury on a non-confidential basis from a source other than the Company (provided such source is not known to be bound by a confidentiality agreement or relationship with the Company); or (iii) is otherwise required to be disclosed by law (including by subpoena, civil investigative demand or similar process), in which event Seabury shall give prompt notice to the Company before disclosure and cooperate in good faith to permit the Company to seek a protective order or other appropriate remedy.

**Company's Obligations.** The Company agrees that materials prepared by Seabury for its use are for the exclusive use of the Company. The Company agrees that Seabury's work product cannot be shared with other parties without advance written consent of Seabury. Additionally, the Company agrees to keep the terms and conditions of this Agreement confidential.

**Relationship of the Parties.** The role of Seabury under this Agreement is and at all times shall remain that of independent contractor. Nothing in this Agreement or the attached schedules or annexes shall be construed to create a joint venture, partnership, franchise, employment or agency relationship between the parties to this Agreement, and accordingly, neither party shall represent itself as having, nor does either party have, the right, power, or authority to bind or otherwise create any obligation or duty, express or implied, on behalf of the other party in any manner whatsoever. Personnel provided by Seabury to provide services to Company hereunder shall continue to be employees of Seabury, and such persons shall be subject to Seabury's exclusive supervision and control.

Each party shall be liable and shall indemnify, defend and hold the other harmless for all taxes and benefits arising from the employment of their respective employees involved in the performance of the services hereunder. Each party accepts full and exclusive liability for the payments of workers' compensation and employer's liability insurance premiums with respect to



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its own employees and for the payment of all taxes, contributions or other payments for unemployment compensation or old age benefits, pensions or annuities now or hereafter imposed upon employers by a governmental authority having jurisdiction with respect to its employees, measured by the wages, salaries, compensation, or other remuneration paid to its employees.

**Section 9. Execution.**

This Agreement may not be amended or modified except in writing signed by the Company and Seabury and may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which will constitute one and the same agreement. All rights, liabilities and obligations hereunder will be binding upon and inure to the benefit of the Company, Seabury and their respective successors and assigns.

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Please confirm our mutual understanding of this engagement by signing and returning to us the enclosed duplicate copy of this letter agreement. We are pleased that you have engaged us to act as your financial advisor and are looking forward to working with you on this assignment.

Very truly yours,

SEABURY CORPORATE ADVISORS LLC



By: \_\_\_\_\_  
John E. Luth  
Executive Chairman

SEABURY SECURITIES LLC



By: \_\_\_\_\_  
John E. Luth  
Executive Chairman & Chief Executive Officer

Accepted and agreed to this \_\_\_\_ day of February 2016

REPUBLIC AIRWAYS HOLDINGS, INC.

By:   
Bryan K. Bedford  
Chairman, President and Chief Executive Officer

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**Schedule 1**

**M&A Success Fees**

In connection with assisting the Company in arranging one or more M&A Transactions, the Company agrees to pay the following success fees (the "*M&A Success Fees*"), before crediting Retainer Fees as provided in the Agreement, calculated as follows for each M&A Transaction:

<u>Aggregate M&amp;A Transaction Value</u>	<u>M&amp;A Fee</u>
\$0 - \$500,000,000.00	\$1,750,000
\$500,000,000.01 - \$1,000,000,000.00	\$1,750,000 plus 0.625% over \$500,000,000
\$1,000,000,000.01 or more	\$4,875,000 plus 0.500% over \$1,000,000,000

*provided, however*, in no event shall such fees aggregate more than five million dollars (\$5,000,000.00) for a single M&A Transaction and no more than six million dollars (\$6,000,000.00) for M&A Transactions taken as a whole.

"*Transaction Value*" means the total value of all consideration (including cash, securities or other property) paid or received or to be paid or received, directly or indirectly, in connection with an M&A Transaction in respect of assets or outstanding securities on a fully diluted basis (treating any securities issuable upon the exercise of options, warrants or other convertible securities and any securities to be redeemed as outstanding), plus the amount of any debt (including the capitalized principal portion of capitalized flight equipment leases and the equivalent of debt for operating leases, determined by multiplying the annual flight equipment operating lease obligation payments by a factor equal to seven (7)), and any other liabilities (including air traffic liability but excluding deferred gains and credits, post-retirement benefits and other employee benefit liabilities) outstanding or assumed, refinanced or extinguished in connection with an M&A Transaction, and amounts payable in connection with an M&A Transaction in respect of employment or consulting agreements, agreements not to compete or similar arrangements, but net of any balance sheet cash and other current assets. If the M&A Transaction takes the form of a recapitalization or similar transaction, Transaction Value will also include the value of all shares retained by the shareholders of the acquired company. If any portion of Transaction Value is payable in the form of securities, the value of such securities, for purposes of calculating our transaction fee, will be determined based on the average closing price for such securities for the twenty (20) trading days prior to the closing of the M&A Transaction. In the case of securities that do not have an existing public market, our Transaction Fee will be determined based on the fair market value of such securities as mutually agreed upon in good faith by the Company and Seabury prior to the closing of the M&A Transaction. Fees on amounts paid into escrow will be payable upon the establishment of such escrow. Fees relating to contingent payments other than escrowed amounts will be calculated based on the present value of the reasonably expected maximum amount of such contingent payments as determined in good faith by the Company and Seabury prior to the closing of the M&A Transaction, utilizing a discount rate equal to the prime rate published in The Wall Street Journal on the last business day preceding the closing of the M&A Transaction.

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## **Schedule 2**

### **Equity Success Fees**

The Company agrees to pay to Seabury certain Equity Success Fees in connection with assisting and advising the Company or any subsidiary, affiliate or "**New Enterprise**," as defined in the Agreement, completing an Equity Transaction, as follows:

**Equity Success Fees.** In connection with assisting the Company and advising on any Equity Transaction, the Company agrees upon closing thereof to pay Seabury an equity success fee ("**Equity Success Fee**") equal to four percent (4.00%) for the first \$50 million of Equity Capital raised, two and one-half percent (2.50%) of the next \$50 million and one percent (1.0%) on all additional equity raised minus any DIP Loan Success Fee and / or Debt Success Fee payable for Debt and / or DIP Loan balances which were converted to Equity as part of such Equity Transaction.

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### **Schedule 3**

#### **Debt Success Fees**

The Company agrees to pay to Seabury certain Debt Success Fees in connection with arranging (i) exit debt financing in connection for emergence from Chapter 11 and/or (ii) debt financing for completion of an M&A Transaction as follows:

**Debt Success Fees.** In connection with assisting the Company and advising on any Debt Transaction, the Company agrees upon closing thereof to pay Seabury a debt success fee ("**Debt Success Fee**") one and one-half percent (1.50%) of the net proceeds of any indebtedness issued that is secured by a first lien, two and one-half percent (2.50%) of the gross proceeds of any indebtedness issued that is secured by a second or more junior lien and three percent (3.00%) of the gross proceeds of any indebtedness that is (x) is unsecured and/or (y) is subordinated.

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#### **Schedule 4**

##### **DIP Loan Success Fees**

The Company agrees to pay to Seabury certain DIP Loan Success Fees in connection with assisting and advising the Company in evaluating, structuring and working with various market sources to structure and arrange any debtor-in-possession loan facility (a "**DIP Loan**") upon execution of the financing commitments a DIP success fees ("**DIP Success Fee**") calculated based on the net new liquidity committed by such DIP Loan ("**Net DIP**") equal to two and one-half percent (2.50%) for the first \$25 million of Net DIP and one and one-quarter percent (1.25%) on all additional Net DIP.

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**ANNEX A**

Seabury Corporate Advisors LLC  
Seabury Securities LLC  
1350 Avenue of the Americas  
Suite 1350  
New York, NY 10019

Gentlemen:

In connection with the engagement of Seabury Corporate Advisors LLC and Seabury Securities LLC and any of their affiliates (collectively, "Seabury") to advise and assist the Undersigned (referred to herein as "we," "our," or "us") with the matters set forth in the Agreement dated as of the date hereof between us and Seabury, we hereby agree to indemnify and hold harmless Seabury, its affiliated companies, and each of Seabury's and such affiliated companies' respective officers, directors, agent, employees, and controlling persons (within the meaning of each of Section 20 of the Securities Exchange Act of 1934 and Section 15 of the Securities Act of 1933) (each of the forgoing, including Seabury, being hereinafter referred to as an "Indemnified Person") to the fullest extent permitted by law from and against any and all losses, claims, damages, reasonable expenses (including reasonable fees, disbursements, and other charges of counsel), actions, proceedings, arbitration or investigations (whether formal or informal) (all of the foregoing being referred to as "*Liabilities*"), based upon, relating to, or arising out of such engagement or any Indemnified Person's role therein; provided, however, that we shall not be liable under this paragraph: (a) for any amount paid in settlement of claims without our consent, unless our consent is unreasonably withheld or (b) to the extent that it is finally judicially determined, or expressly stated in an arbitration award, that such *Liabilities* resulted primarily from the willful misconduct or negligence (which in all cases hereunder will be deemed to include any violation of applicable law) of the Indemnified Person seeking indemnification. In connection with our obligation to indemnify for expenses as set forth above, we further agree to reimburse each Indemnified Person for all such expenses (including reasonable fees, disbursements, and other charges of counsel) as they are incurred by such Indemnified Person; provided, however, that if an Indemnified Person is reimbursed hereunder for any expenses, the amount so paid shall be refunded if and to the extent it is finally judicially determined, or expressly stated in an arbitration award, that the *Liabilities* in question resulted primarily from the willful misconduct or negligence of such Indemnified Person. We hereby agree that neither Seabury nor any other Indemnified Person shall have any liability to us (or anyone claiming through us or in our name) in connection with Seabury's engagement by us except to the extent that such Indemnified Person has engaged in willful misconduct or been negligent.

Promptly after Seabury receives notice of the commencement of any action or other proceeding in respect of which indemnification or reimbursement may be sought hereunder, Seabury will notify us thereof; but the omission so to notify us shall not relieve us from any obligation hereunder unless, and only to the extent that, we shall have been materially prejudiced by such failure. If any such action or other proceeding shall be brought against any Indemnified Person, we shall, upon written notice given reasonably promptly following our receipt of your notice to us of such action or proceeding, be entitled to assume the defense thereof at our expense with counsel chosen by us and reasonably satisfactory to such Indemnified Person; provided, however, that any Indemnified Person may, at its own expense, retain separate counsel to participate in such defense. Notwithstanding the foregoing, such Indemnified Person shall have the right to employ separate counsel at our expense and to control its own defense of such action or proceeding if the named parties to any such claim or action include such Indemnified Person

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and us and in the reasonable opinion of counsel to such Indemnified Person there are or may be legal defenses available to such Indemnified Person or to other Indemnified Persons that are different from or additional to those available to us; provided, however, that in no event shall we be required to pay fees and expenses under this indemnity for more than one firm of attorneys (in addition to local counsel) in any one legal action or group of related legal actions. We agree that we will not, without the prior written consent of Seabury, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, or proceeding relating to the matters contemplated by Seabury's engagement (whether or not any Indemnified Person is a party thereto) unless such settlement, compromise, or consent includes an unconditional release of Seabury and each other Indemnified Person from all liability arising or that may arise out of such claim, action, or proceeding. We will also reasonably consult with the Statutory Committee of Unsecured Creditors appointed in our chapter 11 cases to the extent appropriate prior to entering into any such settlement or compromise. In the event that Seabury seeks reimbursement for attorneys' fees from us, invoices and supporting time records from such attorneys shall be annexed to Seabury's own Interim and Final Fee Applications, and such invoices and time records shall be subject to the U.S. Trustee's guidelines for compensation and reimbursement of expenses and approval of the Court under the standards of section 330 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code.

If the indemnification of an Indemnified Person provided for hereunder is unavailable for any reason (other than as a result of the willful misconduct or negligence of the Indemnified Person), then we agree, in lieu of indemnifying such Indemnified Person, to contribute to the amount paid or payable by such Indemnified Person as a result of such Liabilities in such proportion as is appropriate to reflect the relative benefits received, or sought to be received, by us on the one hand and by Seabury on the other from the transactions in connection with the matters for which Seabury has been engaged. If the allocation provided in the preceding sentence is not permitted by applicable law, then we agree to contribute to the amount paid or payable by such Indemnified Person as a result of such Liabilities in such proportion as is appropriate to reflect not only the relative benefits referred to in such preceding sentence but also the relative fault of us and of such Indemnified Person in connection with the matters to which such liabilities relate, as well as any other return of equitable considerations.

Notwithstanding the foregoing, in no event shall the aggregate amount required to be contributed by us, taking into account our contributions as described above, exceed the amount of fees actually paid by us to Seabury pursuant to such engagement (exclusive of amounts paid by us as reimbursement of expenses and paid under this indemnity agreement). The relative benefits received or sought to be received by us on the one hand and by Seabury on the other shall be deemed to be in the same proportion as (a) the total value of the transactions with respect to which Seabury has been engaged bears to (b) the fees paid or payable to Seabury with respect to such engagement.

The rights accorded to Indemnified Persons hereunder shall be in addition to any rights that any Indemnified Person may have at common law, by separate agreement or otherwise and shall be binding on and inure to the benefit of any successors, assigns and personal representatives of us and each indemnified party.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE WITHOUT REGARD TO SUCH STATE'S RULES CONCERNING CONFLICTS OF LAWS. WE HEREBY CONSENT, SOLELY FOR THE PURPOSE OF ALLOWING AN INDEMNIFIED PERSON TO ENFORCE ITS RIGHTS



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HEREUNDER, TO PERSONAL JURISDICTION AND SERVICE AND VENUE IN ANY COURT IN WHICH ANY CLAIM FOR WHICH INDEMNIFICATION MAY BE SOUGHT HEREUNDER IS BROUGHT AGAINST SEABURY OR ANY OTHER INDEMNIFIED PERSON.

We and Seabury also hereby irrevocably waive any right we and Seabury may have to a trial by jury in respect of any claim based upon or arising out of this agreement. This agreement may not be amended or otherwise modified except by an instrument signed by both Seabury and us.

If any provision hereof shall be determined to be invalid or unenforceable in any respect, such determination shall not affect such provision in any other respect or any other provision of this agreement, which shall remain in full force and effect. The foregoing indemnification agreement shall remain in effect indefinitely, notwithstanding any termination or expiration of Seabury's engagement.

Very truly yours,

REPUBLIC AIRWAYS HOLDINGS, INC.

By :



Bryan K. Bedford  
Chairman, President and Chief Executive Officer

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Acknowledged and agreed to this \_\_\_ day of February 2016

SEABURY CORPORATE ADVISORS LLC



By: \_\_\_\_\_  
John E. Luth  
Executive Chairman

SEABURY SECURITIES LLC



By: \_\_\_\_\_  
John E. Luth  
Chairman, President & Chief Executive Officer