

# ATTACHMENT B

## Attachment B

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA		PROOF OF CLAIM		THIS SPACE IS FOR COURT USE ONLY	
In re: <b>ATA Airlines, Inc.</b>		Case Number: <b>04-19868</b>			
NOTE: See Reverse for List of Debtors and Case Numbers. This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.  <input type="checkbox"/> Check box if this address differs from the address on the envelope sent to you by the court.			
Name of Creditor and Address: <b>US Airways, Inc. Attn: Benjamin Slocum (CH-LAW) 111 West Rio Salado Parkway Tempe, AZ 85281</b>				If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.	
Creditor Telephone Number (H2) <b>693-0800</b>	Creditor Federal Tax ID:	Account Or Other Number By Which Creditor Identifies Debtor:	Check here if this claim <input checked="" type="checkbox"/> replaces or <input type="checkbox"/> amends a previously filed claim dated: <b>2/24/06</b>	claim # <b>2211</b>	
<b>1. BASIS FOR CLAIM</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Services performed <input type="checkbox"/> Taxes <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) <input type="checkbox"/> Money loaned <input checked="" type="checkbox"/> Other (describe briefly) <b>Rejection Damages</b> Last four digits of SS #: _____ Unpaid compensation for services performed from: _____ to _____ (date) (date)					
<b>2. DATE DEBT WAS INCURRED:</b> <u>after January 27, 2006</u> <b>3. IF COURT JUDGMENT, DATE OBTAINED:</b> _____					
<b>4. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED:</b> \$ <u>2,244,660</u> (unsecured)      \$ _____ (secured)      \$ <u>2,244,660</u> (unsecured priority) (Total) (see Exhibit A)					
If all or part of your claim is secured or entitled to priority, also complete item 5 or 7 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.					
<b>5. SECURED CLAIM</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief description of collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____			<b>7. UNSECURED PRIORITY CLAIM</b> <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,925)*, earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a) ( _____ ). <small>* Amounts are subject to adjustment on 4/10/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>		
<b>6. UNSECURED NONPRIORITY CLAIM</b> \$ _____ <input checked="" type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or c) none or only part of your claim is entitled to priority.					
<b>8. CREDITS:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.					
<b>9. SUPPORTING DOCUMENTS:</b> Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.					
<b>10. DATE-STAMPED COPY:</b> To receive an acknowledgment of your claim, please enclose a self-addressed, stamped envelope and an additional copy of this proof of claim.					
You may file this proof of claim with BMC at the address below or with the Court at the address on the reverse side. If you file with BMC, the original of this completed proof of claim form must be sent by mail or hand delivered (Faxes not accepted) so that it is actually received on or before 5:00 pm, on 01/24/2005 for Non-Government Claimants OR on or before 04/24/2005 for Governmental Units.				THIS SPACE FOR COURT USE ONLY	
BY MAIL TO: BMC Group Attn: ATA Claims Agent PO Box 1035 El Segundo, CA 90245-1035		BY HAND OR OVERNIGHT DELIVERY TO: BMC Group Attn: ATA Claims Agent 1330 East Franklin Ave El Segundo, CA 90245			
DATE SIGNED: <b>8/11/06</b>	SIGN <b>Benjamin T. Slocum</b>	and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <b>Benjamin T. Slocum Assistant General Counsel</b>			

**EXHIBIT A**

<b>Item</b>	<b>Amount Owed</b>	
Baggage Makeup Room Handling (per Contract) \$97 per turn or RON for 6 aircraft per day over 2 years	\$424, 860	
Facility Use (per Contract) \$73,500 per month over 2 years	\$1,764,000	
Flight Information Display Posting (per Contract) \$10 per flight for 6 aircraft per day over 2 years	\$43,800	
Power Unit Usage (per Contract) \$500 per month over 2 years	\$12,000	
<b>TOTAL</b>	<b>\$2,244,600</b>	

A copy of the Contract for the Use of Facilities and the Sale of Baggage Makeup Room Handling, Baggage Claim Handling & FIDS Posting Services (the "Contract") is attached to this Exhibit as Annex 1.

**CONTRACT**

**for**

**THE USE OF FACILITIES AND THE SALE OF BAGGAGE MAKEUP  
ROOM HANDLING, BAGGAGE CLAIM HANDLING & FIDS POSTING  
SERVICES**

**at**

**LOGAN INTERNATIONAL AIRPORT (BOS)  
EAST BOSTON, MA**

**between**

**US AIRWAYS**

**and**

**ATA AIRLINES, INC.**

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### List of Exhibits

- EXHIBIT A - DESCRIPTION OF SERVICES
- EXHIBIT B - FEES
- EXHIBIT C - FLIGHT SCHEDULE
- EXHIBIT D - DESCRIPTION OF FACILITY

## **CONTRACT FOR THE SALE OF BAGGAGE MAKEUP ROOM HANDLING, BAGGAGE CLAIM HANDLING & FIDS POSTING SERVICES**

This Agreement is made and entered into as of the 1<sup>st</sup> day of April, 2004 by and between US Airways, Inc. (hereinafter referred to as "Handler"), a corporation organized and existing under the laws of the State of Delaware and having its principal office at 2345 Crystal Drive, Arlington, Virginia 22227 and ATA Airlines, Inc. (hereinafter referred to as the "Carrier"), a corporation organized and existing under the laws of the State of Indiana and having its principal office at 7337 W. Washington Street, Indianapolis, IN 46231-1300.

WHEREAS Carrier is in need of and Handler is willing to provide aircraft ground handling services ("Services") at the locations specified in this Agreement under the terms and conditions set forth herein;

WHEREAS, Carrier desires a license to use either gate 10 or gate 21 as designated by Handler at Terminal B at Boston Logan International Airport ("BOS") ("Facility") and Handler is willing to grant such a license under the terms specified herein.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

### **ARTICLE 1 - PROVISION SERVICES**

- 1.1 General** - The Services, as further specified in Exhibit A hereto, will be made available within the limits of the staffing of Handler, the capacity of Handler's facilities, Handler's ability to obtain equipment, parts and material to perform the Services and in accordance with Handler's current rules and regulations.
- 1.2 Subcontracting** - Handler is entitled to delegate any of the Services to subcontractors, it being understood that, in such case, Handler will nevertheless be responsible to Carrier for the proper rendering of the Services.
- 1.3 Forms and Supplies for Traffic Handling** - Carrier will supply, or make arrangements for the supply of its own passenger service supplies, tickets, baggage checks, printed forms and reports and other necessary material or supplies. Notwithstanding the foregoing, to the extent preferred by Handler, Handler may use its own forms and supplies as reasonably coordinated with Carrier.
- 1.4 Scheduled Flights** - Handler agrees to provide the Services for aircraft operated by or on behalf of Carrier for Carrier's scheduled flights as specified in Exhibit C hereto. Carrier agrees to inform Handler as soon as possible, but not less than thirty days (30) in advance, of any charter flights not included on the schedule for which Carrier desires Services or of any changes to its schedules, including changes in frequencies, arrival times, departure times, aircraft, and seating capacity. Changes to the schedule will be deemed amendments to Exhibit C hereto thirty (30) days after notice thereof is received by Handler. Handler will make reasonable efforts to accommodate any charter flights or changes of which it is advised, but does not guarantee such accommodation. Where Handler cannot accommodate such changes or charter it will advise Carrier as soon as reasonably possible thereof and will thereafter have no further duty to perform hereunder in accommodation of such changes or for such charters.
- 1.5 Priority** - In the event that Handler must service multiple aircraft relatively simultaneously, priority will be given to aircraft that are operating on schedule. Notwithstanding the foregoing, Handler, in its sole discretion, may alter the order in which it services various aircraft to service

its own aircraft, to accommodate aircraft with a short turnaround time, to free up a gate, or other reasonable factors.

- 1.6 Ground Support Equipment** - Handler will use its available ground support equipment in performance of the Services. Other equipment necessary for the performance of the Service will be furnished by Carrier at Carrier's expense. Unless otherwise specified herein, Carrier will be solely responsible for ensuring that any equipment furnished by Carrier is maintained in accordance with Carrier's approved maintenance and operating procedures and that such equipment is in proper and safe operating condition. Handler specifically assumes no responsibility for the maintenance of said equipment.
- 1.7 Carrier's Flight Documents** - Handler acknowledges and agrees that Carrier's flight documents provided to Handler in connection with this Agreement will be used by Handler only for purposes in connection with the performance of this Agreement.
- 1.8 Facilities** - Carrier agrees to accept the Facility in "as is" condition and will make no changes, alterations, additions or improvements, or do any work in connection therewith without the prior written consent of Handler. Any expense associated with modifications made to Handler's existing facilities or to the Facility including but not limited to signage to accommodate Carrier's operation will be borne by Carrier. Carrier agrees that all such modifications, including signage, will comply with the Airport Authorities rules relating thereto. Carrier also agrees to restore such facility to its original specifications upon termination of this contract or upon movement to another area. Where such restoration has not been completed within twenty (20) days of the termination hereof or removal thereof, Handler will be permitted to perform such restoration itself or by a contractor of its choosing at Carrier's expense.
- 1.9 Installation of Equipment** - Computer terminals, teletype, and other equipment required by Carrier will be installed and maintained at Carrier's expense. The expense of modifying any of Handler's facilities or the Facility in order to install such equipment will be borne entirely by Carrier. The installation of all such equipment or facility modifications will require the prior written approval of Handler. Upon termination of this Agreement, Carrier will, at its sole expense, remove all such equipment and restore the facility to its original condition. Where such restoration has not been completed within twenty (20) days of the termination hereof, Handler will be permitted to perform such restoration itself or by a contractor of its choosing at Carrier's expense.
- 1.10 Carrier's Representative** - Carrier may maintain at its own costs, its own representative(s) at the location(s) where services are provided. Such representative(s) and, with reasonable advance notice, other representative(s)/agents of Carrier may inspect the facilities and Services furnished to Carrier by Handler pursuant to this Agreement. Such representatives will also advise and assist Handler and render to Carrier's customers such assistance as will not interfere with the furnishing of Services by Handler or any other activities of Handler. Such activities by Carrier's representative will be at Carrier's sole expense and risk. Carrier agrees that its representative will comply with the rules of the Airport and work cooperatively with Handler's employees.
- 1.11 Standard of Performance** - The Services to be performed by Handler hereunder will conform to the requirements of the Federal Aviation Administration or other applicable governmental agency.
- 1.12 No Increase In Number of Personnel** - No provision of this Agreement will be construed to impose upon Handler the obligation to add or retain manpower, equipment or supplies beyond that reasonably necessary to provide the Services contemplated hereunder.

- 1.13 Provision of Manuals and Training** - Carrier will, at its sole cost and expense, provide Handler with pertinent manuals, instructions, work forms and such other information and/or instructions reasonably requested by Handler, and provide adequate training necessary for Handler to perform the Services. If any training of Handler's personnel incidental to this Agreement is undertaken by Carrier in any location other than those where the Services will be provided, all expenses, such as, but not limited to, direct salaries and benefits, travel expenses, and actual subsistence expenses, will be paid by Carrier. Carrier will also reimburse Handler for any training costs incurred by Handler, including cost of labor, for training conducted by Carrier for the purposes of performing under this Agreement.
- 1.14 No Liability for Testing** - In the event that the Services include any testing or inspection of equipment, Carrier acknowledges and agrees that Handler will have no responsibility or liability to Carrier, and Carrier will hold Handler harmless from liability to itself and/or any third party for any and all liabilities arising from such inspections or testing.
- 1.15 Report of Damage** - Handler will use reasonable efforts to report to Carrier all loss of or damage, threatened or actual, to aircraft, cargo and/or baggage noticed in the course of performing the Service or which otherwise comes to the knowledge of Handler.
- 1.16 Status of Employees** - The employees of Handler engaged in performing services hereunder will be considered employees of Handler for all purposes and will under no circumstances be deemed to be employees of Carrier. Carrier will have no supervision or control over any such Handler employees and any complaint or requested change in procedure will be transmitted by Carrier to Handler, which will in turn give any necessary instructions to Handler's personnel. Any employees of Carrier engaged in performing or assisting in performing any services hereunder or any other activities relating to this Agreement will under no circumstances be deemed to be employees of Handler.
- 1.17 Other Services** - The parties hereto acknowledge and agree that while Handler will have no obligation to do so, in the event that Handler provides any other services not specified in this Agreement and not covered by any other agreement between the parties hereto, such other services will be deemed covered by this Agreement and Handler will be permitted to charge a reasonable fee therefor.
- 1.18 Facility License**
- 1.18.1 License** - Handler grants a license to Carrier to use the Facility, as further described in Exhibit D hereto, for purposes connected with this Agreement under the terms specified in this Article 1.18 and this Agreement ("License").
- 1.18.2 Handler's Lease** - Carrier acknowledges and agrees that the License will be subordinate to Handler's lease covering the Facility.
- 1.18.3 Termination of Handler's Lease** - Carrier acknowledges and agrees that the License will terminate immediately upon the termination of Handler's lease for the Facility, regardless of the cause of such termination. Carrier further acknowledges and agrees that this License will terminate if it is determined by Handler to be in breach of Handler's lease covering the Facility.
- 1.18.4 Termination With Agreement** - Carrier acknowledges and agrees that the License will terminate with this Agreement.
- 1.18.5 Non-Assignability** - Carrier acknowledges and agrees that it may not assign the License, and that any purported assignment thereof will be null and void *ab initio*.



- 1.18.6 Licenses Granted to Other Users** - Carrier acknowledges and agrees that Handler may grant a comparable license to other parties and/or use the Facility itself provided that such use does not interfere with Carrier's use thereof. Notwithstanding the foregoing restriction, Carrier acknowledges and agrees that no liability will lie against Handler and Carrier will have no claim in the event that Carrier does experience some interference with its use of the Facility to the extent that such interference is caused by damage to the Facility, the weather, or other causes reasonably beyond Handler's control whether or not predictable.
- 1.18.7 Care of Common Areas of Facility** - Handler will be responsible for janitorial, utilities, and maintenance for the hold room, passenger loading bridge and all other common areas. Notwithstanding the foregoing, Carrier will be responsible for and will promptly repair any damages to the premises caused by the actions of its employees, agents, patrons, invitees, vendors, suppliers or independent contractors. In the event that Carrier fails to perform such repairs within ten (10) days of the occurrence of such damage, or such shorter period as directed by the Airport Authority or as indicated because the damage creates an unsafe environment, Handler will be permitted to perform such repair itself or by a contractor of its choosing at Carrier's expense.
- 1.18.8 Care of Exclusive Areas of Facility** - Carrier will be responsible for keeping applicable areas such as gate counters, ticket counters, operations area, and baggage service office in a safe, neat and presentable condition at all times, and promptly perform any and all necessary maintenance, repairs and replacements at its own expense. In the event that Carrier fails to perform such duties within ten (10) days of the occurrence of such damage and/or notice from Handler to so perform, or such shorter period as directed by the Airport Authority or as indicated because such failure creates an unsafe environment, Handler will be permitted to perform such duty itself or by a contractor of its choosing at Carrier's expense. Carrier agrees that at the termination hereof it will return the Facility to Handler in the same condition it was provided, ordinary wear and tear excepted.

## **ARTICLE 2 - CONSIDERATION**

- 2.1 Consideration and Adjustment** - In consideration of Handler providing the Services, Carrier agrees to pay to Handler the charges specified in Exhibit B hereto. Carrier will also reimburse Handler for all licenses or other fees assessed against or imposed on Handler as the direct result of the Services performed by Handler for Carrier hereunder. The parties hereto agree that the prices specified in Exhibit B hereto will remain firm for the initial twelve (12) months of this Agreement. Thereafter those prices will be subject to change upon not less than thirty (30) days notice to Carrier. Handler will have the right to change the prices, even during the initial twelve (12) months of this Agreement upon thirty (30) days notice to Carrier, if changes to Carrier's schedules, cargo volume, flight frequencies, aircraft type, or arrival/departure times affect Handler's manpower and/or equipment requirements. In addition, Carrier agrees that, even during the initial twelve (12) months of this Agreement, in the event of any increase in the wages and/or salaries paid to Handler's employees performing the Services hereunder, that the fees under prices under this Agreement will be increased by an amount equal to such increase thirty (30) days from notice to Carrier of such increase.
- 2.2 Other Charges** - The charges specified in Exhibit B do not include and Carrier will be solely responsible for: (a) permit, landing or departure fees; (b) charges for parking; (c) charges for transmitting messages; (d) any other charges, penalties, fees or taxes imposed or levied by the airport, customs or other authorities against Carrier or Handler in connection with the provision

of services herein by Handler or in connection with Carrier's flights; (e) expenses incurred in connection with stopover and transfer passengers and with handling of passengers for denied boarding, overboarding, and interrupted, delayed or canceled flights; (f) charges for Carrier's telephone usage; (g) charges for rent of facilities; and (h) charges for pre-board screening and skycap services. If Handler is required to pay any of the foregoing, Carrier will reimburse Handler for any such charges plus a service fee of ten percent (10%) of the amount due.

- 2.3 Overtime Pay** - In the event Handler is required to pay overtime as the result of delayed or early arrival of flights operated by Carrier, Carrier will reimburse Handler for the overtime payments to Handler's employees assigned to perform the Services at Handler's then applicable overtime rates. Compensation for overtime furnished at Carrier's request will be for such minimum period as required by Handler's policies and/or collective bargaining agreements.
- 2.4 Invoicing** - Handler will invoice Carrier via the Airline Clearing House ("ACH"). Carrier will pay one-hundred percent (100%) of the invoiced amount notwithstanding any protest procedure/provision ACH may provide. In the event Carrier fails to pay in full at the time appointed by the ACH, Carrier agrees to pay to Handler interest of one and one-half percent (1½%) per month, compounded monthly, where any part of a month will be deemed a whole month, accruing from the date of invoice. Notwithstanding anything to the contrary herein, Handler has the right to invoice Carrier directly and Carrier agrees to pay Handler within fifteen (15) days of billing. Carrier further agrees that interest of one and one-half percent (1½%) per month, compounded monthly, where any part of a month will be deemed a whole month, will accrue on amounts remaining unpaid after twenty (20) days from billing. The date of billing will be deemed the date on which it is postmarked.
- 2.5 Timing of Invoices and Payments** - Carrier agrees that Handler will invoice Carrier a month in advance based on a reasonable estimate of the charges Carrier will incur under this Agreement as determined in Handler's reasonable discretion. Handler agrees that to the extent that such charges exceed or fall short of the amount that is actually due based on the Services actually performed such overage or underage will be applied as a credit or added to the amount due for the next month. The parties acknowledge that because of the time required to collect and process the information to determine exactly how much should have been due, the reconciliation for any given month, may be done over the next two (2) or more months in Handler's discretion.
- 2.6 Failure to Pay** - Where Carrier fails to pay Handler for ten (10) or more days after notice from Handler of that failure, or five (5) or more days on two (2) or more occasions during the term hereof, Handler will have the right to terminate this Agreement immediately upon notice to Carrier without any liability to Carrier arising from termination. Such termination will not in any manner be deemed to relieve Carrier of amounts payable to Handler.
- 2.7 Taxes** - Carrier will promptly pay or cause to be paid and agrees to indemnify, defend and hold Handler harmless from and against any and all taxes, fees, assessments, duties and governmental charges either imposed, levied or assessed during the term of this Agreement, or imposed, levied or assessed prior or subsequent to such term but with respect to any period of time during such term of whatsoever kind or nature (including but not limited to attorneys' fees, costs and expenses incurred in connection therewith) against any Services, supplies or equipment furnished hereunder or upon or measured by the payments made by Carrier to Handler hereunder, or on account of or measured by the earnings or gross receipts of Handler arising therefrom (exclusive, however, of any tax in the nature of a net income tax imposed on Handler). If claim is made against Handler for any such tax, assessment or other governmental charge, Handler will promptly notify Carrier and Carrier will pay Handler such amounts within ten (10) days after receipt of an invoice therefor.

- 2.8 Limit on Interest** - In the event that the interest rate specified in this Agreement for interest payable hereunder exceeds the maximum rate permitted by law, the rate specified herein will be reduced to the maximum rate permitted by law.
- 2.9 Security Deposit** - Within ten (10) days of demand therefor, Carrier will pay to Handler a security deposit of an amount specified by Handler, but not more than the total payable hereunder during the previous two (2) months at the time of such demand. In the event that Carrier fails to pay any amount due hereunder by the date due, Handler will be permitted to deduct the amount due from this security deposit, and any subsequent payment will be applied first toward restoring that deposit to the above amount. Carrier agrees that such deposit will be the property of Handler and need not be maintained in a separate account, and that any interest or other income thereon will be the property of Handler. Carrier agrees that within thirty (30) days of the termination of this Agreement, it will pay any amounts still due to Handler hereunder not counting the above deposit. Handler agrees that within thirty (30) days of such final payment it will return the above security deposit to Carrier.

### **ARTICLE 3 - LIABILITY AND INDEMNITY**

- 3.1 Custody of Aircraft** - During the term of this Agreement, an employee or agent of Carrier will at all times be, or deemed to be, in charge of and in custody and control of any aircraft of Carrier being serviced by Handler and Handler will at no time be considered a bailee of or in custody or control of such aircraft. The parties acknowledge the following will apply even if the applicable aircraft is not actually attended by an employee of Carrier.
- 3.2 Limit of Liability** - Handler, its directors, officers, employees, agents and independent contractors will not be liable to Carrier for damage sustained by or claims lodged against Carrier, its directors, officers, employees, agents and independent contractors in connection with or resulting from the rendering of Services or the furnishing of goods pursuant to this Agreement except where due to Handler's gross negligence.
- 3.3 Limit of Warranty** - Without limiting any other provision hereof, Carrier acknowledges that Services and any products and materials provided hereunder are provided as-is, where-is and with all faults and Handler makes no claims, warranties, guarantees, or representations of any kind either express or implied, arising by law or otherwise that will survive delivery thereof. Carrier hereby waives and Handler expressly disclaims all warranties, guarantees, and representations, express or implied, arising by law or otherwise, including but without limiting the generality of the foregoing, any implied warranty arising from the course of performance, course of dealing or usage of trade. In particular, without limiting the foregoing, in no event whatsoever will Handler's liability of any kind under this Agreement include any special, incidental or consequential damages even if Handler will have been advised of the possibility of such potential losses or damages.
- 3.4 LIMITATION ON LIABILITY - CARRIER ACKNOWLEDGES AND AGREES THAT ALL SERVICES PROVIDED HEREUNDER WILL (A) BE UNDERTAKEN ENTIRELY AT CARRIER'S RISK, AND (B) WILL BE DEEMED TO BE CONDUCTED UNDER CARRIER'S CUSTODY AND CONTROL. CARRIER WAIVES ANY AND EVERY CLAIM AGAINST HANDLER ARISING FROM ANY DAMAGE THAT CARRIER MAY SUFFER AS A RESULT OF THE PERFORMANCE OF SUCH SERVICES, EXCEPT WHERE DUE TO HANDLER'S GROSS NEGLIGENCE. CARRIER ACKNOWLEDGES THAT THE FOREGOING WAIVER AND OTHER LIMITATIONS OF WARRANTY, LIMITATIONS OF LIABILITY AND INDEMNIFICATIONS ARE FUNDAMENTAL**

**CONDITIONS HEREOF UPON WHICH HANDLER HAS RELIED IN ENTERING THIS AGREEMENT AND DETERMINING ITS PRICING.**

**ARTICLE 4 - INSURANCE & INDEMNITY**

- 4.1 Definition of Handler** - For the purposes of this Article 4, the term "Handler" includes US Airways Group, Inc., any subsidiaries thereof, and any contractors or subcontractors that performs on Handler's or their behalf, and, their respective directors, officers, employees and agents.
- 4.2 Workers Compensation Insurance** - At all times during the term of this Agreement, Carrier will carry and maintain in full force and effect workers compensation insurance as required by applicable law covering all of its personnel including Employers Liability Insurance in an amount not less than one million dollars (\$1,000,000). Carrier agrees to furnish Handler with certificates evidencing the insurance required under this provision.
- 4.3 Specific Insurance** - At all times during the term of this Agreement, Carrier will carry and maintain in full force the following forms of insurance in the specified amounts:
- 4.3.1 Risks, War Risks Hull and Spare Parts insurance** - All Risks and War Risks Hull and Spare Parts Insurance on each aircraft owned, operated by or on behalf of Carrier in an amount not less than carried on similar aircraft owned, operated or operated on behalf of Carrier, but not less than eighty percent (80%) of the replacement value of the aircraft;
- 4.3.2 Airline Liability Insurance** - Airline Liability Insurance (including but not limited to passenger legal liability, premises liability, contractual liability, passengers' baggage liability, cargo liability and Extended Coverage Endorsement (Aviation Liabilities) a.k.a. War Risks and Allied Perils Liability) in an amount not less than a Combined Single Limit of one billion dollars (\$1,000,000,000) (bodily injury and property damage) any one occurrence. Said insurance will: (i) name Handler as Additional Insureds as their respective interests may appear; (ii) to the extent of coverage provided by the policy, insure Carrier's indemnity obligations set forth in Article 3 and Article 4.7; (iii) be primary and without right of contribution from any insurance carried by or available to Handler; (iv) contain severability of interests and cross liability clauses in favor of Handler; waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of Handler to the extent of any money due to Handler; and (v) contain a breach of warranty clause in favor of Handler.
- 4.3.3 Insurance Requirements** - All insurance will: (i) be on a worldwide basis; (ii) provide for thirty (30) days (or seven (7) days in the case of war risks coverages) written notice of any cancellation or material change adverse to the interests of Handler; and (iii) contain a waiver of insurers' rights of subrogation against Handler.
- 4.3.4 Substitute Insurance Coverage** - It is agreed that Carrier's war risk coverage under its Hull War and Allied perils Insurance and Extended Coverage Endorsement (Aviation Liabilities) AVN 52D may be substituted by coverage acquired from the U.S. government under 49 U.S.C. Ch. 443 (including as amended by the Air Transportation System Stabilization Act) in effect on the date of the covered event.
- 4.4 Provision of Certificate** - Prior to the commencement of the performance of the Services hereunder, Carrier will furnish certificates of insurance to Handler evidencing that Carrier has the insurance required under this article.

- 4.5 Prior Use of Insurance** - Carrier acknowledges that in the event of any damages incurred by Carrier or claim against Carrier, it will in all events look to its insurance before any claim is brought against Handler whose liability will be as limited under this Agreement.
- 4.6 Other Required Insurance** - Notwithstanding anything contained herein to the contrary, Carrier will also comply with all insurance and indemnity provisions which may be imposed by each applicable airport operator on any of Carrier's operations at each such location.
- 4.7 General Indemnity** - Carrier agrees and hereby undertakes to release, indemnify, and save harmless Handler, its directors, officers, employees, and agents from and against all liability, damages, claims, suits, theft, penalties or actions of every name and description, including without limitation actions for violation of third party intellectual property rights, including any and all costs and expenses related thereto, including the cost of the defense thereof, reasonable attorneys fees and court costs arising out of or resulting from the act or omission of Carrier, its directors, officers and employees, and/or in connection with the performance of this Agreement except to the extent caused by the gross negligence or willful misconduct of Handler. Carrier acknowledges that the control of matters covered by this indemnity will remain with Handler and that Carrier will provide assistance as reasonably required by Handler. Carrier further acknowledges and agrees that, at Handler's direction, Carrier will assume the defense of any matter covered by this provision. Carrier acknowledges and agrees that the indemnity specified herein will include, without limitation, indemnification for settlements or compromises of matters covered by this indemnity.
- 4.8 Indemnification for Government Actions** - Carrier agrees and hereby undertakes to indemnify Handler for any and all fines, penalties, and settlements from action against Handler for violations of Federal Aviation Administration ("FAA"), Transportation Security Administration ("TSA") or other applicable federal, state, municipal, local or other governmental regulations or statutes occasioned by Carrier's act or omission, except where such violation results from Handler's negligence. Carrier agrees that the decisions of Handler on the manner in which to manage, settle, defend or dispose of cases initiated by the FAA, TSA, or any other governmental body that result from Carrier's actual or alleged violation, by act or omission, of any regulations or statutes will remain the right of Handler, in Handler's sole discretion. Carrier acknowledges that such actions, settlements, and negotiations may take place at any time, including, but not exclusively, before formal proceedings have begun, before a complaint is issued, and both before and after any formal decision is issued.
- 4.9 War Risk Indemnification** - Notwithstanding anything to the contrary herein, to the fullest extent permitted by law Carrier will release, indemnify, defend and hold harmless Handler, where, for the purposes of this provision, Handler includes all of the subsidiaries of US Airways Group, Inc. and any contractors or subcontractors that performs on Handler's or their behalf, and, their respective directors, officers, employees and agents from and against any and all claims, damages, losses, fines, civil penalties, liabilities, judgments, costs and expenses of any kind or nature whatsoever, including but not limited to interest, court costs and attorney's fees that in any way arise out of or result from the performance of services for Carrier, including but not limited to injury to or death of any person, damage to or destruction of any property, real or personal (including but not limited to property owned, leased or under the control of Carrier), and liability or obligations under or with respect to any violation of federal, state and local laws, regulations, rules, codes and ordinances (herein "Claims"), but, under this provision, only to the extent such Claims are covered by (a) Carrier's war risk coverage under its AVN 52D and/or the coverage acquired from the U.S. government under 49 U.S.C. Ch. 443 (including as amended by the Air

Transportation System Stabilization Act) in effect on the date of the covered event or (b) Carrier's war risk coverage acquired through Equitime Risk Retention Group.

#### **ARTICLE 5 - DURATION, TERMINATION AND MODIFICATION**

- 5.1 Term** - The term of this Agreement will commence on April 1, 2004 and continue through at least July 31, 2004 and continue thereafter until terminated upon ninety (90) days notice from either party to the other. Handler will commence performance hereunder, and the License hereunder will be granted on April 1, 2004.
- 5.2 Loss of Right to Perform** - In the event Carrier's or Handler's permit(s) or other authorization(s) to conduct its Air Transportation services, or to furnish the Services is wholly or in part revoked, canceled, or suspended, the affected party may terminate the Agreement at the effective day of such revocation, cancellation or suspension by giving to the other party notice thereof, where such notice will be given as soon as reasonably possible.
- 5.3 Airport Authority** - Either party hereto may terminate this Agreement immediately upon the refusal of the airport operator with authority over such location to consent to this Agreement for Services at such location in the event such consent is required. In such event, the party so barred will give prompt notice thereof to the other.
- 5.4 Termination Without Prejudice** - In the event this Agreement is terminated in whole or in part by notice or otherwise, such termination will be without prejudice to the accrued rights and liabilities of either party prior to termination.

## ARTICLE 6 - NOTICES

- 6.1 Notices - Except where specified elsewhere in this Agreement, any and all notices, approvals or demands required or permitted to be given by the parties hereto will be sufficient if made in writing and sent by certified mail, postage prepaid, overnight courier, or delivered by hand. Where sent by mail, such notices will also be sent by facsimile. Notices to Handler will be addressed to:

Via U.S. Mail -

US Airways, Inc.  
Attn: Director - Corporate Purchasing  
PIT/H310  
Pittsburgh International Airport  
P.O. Box 12346  
Pittsburgh, PA 15231-0346  
Fax: 412-747-5309 or 412-747-5346

Via courier service -

US Airways, Inc.  
Attn: Director - Corporate Purchasing  
PIT/H310  
US Airways Building #1 - 3rd Floor  
2000 Commerce Drive - RIDC Park West  
Pittsburgh, PA 15275  
Phone: 412-747-5276

With a copy to:

US Airways, Inc.  
Attn: Vice President - Corporate Real Estate  
2345 Crystal Park Drive  
Arlington, VA 22227  
Fax: 703-872-5979

and to Contractor addressed to:

ATA Airlines, Inc.  
Attn: Mr. Erkki Gronholm  
Director, Airport Affairs and Contract Services  
7661 N. Perimeter Road  
Indianapolis, IN 46241  
Fax: 317-282-5290  
Phone: 317-282-5282

or to such other addresses in the United States as either party hereto may specify by notice to the other as provided herein. Notices will be deemed served as of actual receipt.

## ARTICLE 7 - FORCE MAJEURE

- 7.1 *Force Majeure* - Notwithstanding anything to the contrary herein contained, it is agreed that either party hereto will be relieved of its obligations hereunder in the event and to the extent that its performance hereof is delayed or prevented by any cause beyond its control and not caused by the party claiming relief hereunder, including, without limitation, acts of God, public enemies, war, insurrection, acts or orders of governmental authorities, fire, flood, explosion, riots, labor shortages, labor slowdowns, strikes, acts or omissions of the other party, or the recovery from such cause ("*force majeure*"). Carrier acknowledges and agrees that, notwithstanding the foregoing, such relief will not extend to the making of any payments due hereunder.

## **ARTICLE 8 - MISCELLANEOUS**

- 8.1 Whole Agreement** - This Agreement represents the entire agreement between the parties hereto and any additions, deletions or modifications will not be binding on either party unless accepted and approved in writing by duly authorized representatives of both parties.
- 8.2 Titles** - Article titles and subheadings contained herein are inserted only as a matter of convenience and for reference. Such titles in no way define, limit, or describe the scope or extent of any provision of this Agreement.
- 8.3 Severability** - If, for any reason, any portion of this Agreement will be unenforceable or determined by a court of competent jurisdiction to be in violation of or contrary to any applicable statute, regulation, ordinance, order, or common law doctrine, then that portion will be of no effect. Nevertheless, the balance of the Agreement will remain in full force and effect as if such provision were never included.
- 8.4 No Waiver** - Except as otherwise specifically provided in this Agreement, a waiver by either party of any breach of any provision of this Agreement, or either party's decision not to invoke or enforce any right under this Agreement, will not be deemed a waiver of any right or subsequent breach, and all provisions of this Agreement will remain in force.
- 8.5 Assignment** - The parties hereto agree and covenant that, except as provided in this Agreement, that this Agreement and the rights and obligations established thereunder, may not be assigned in whole or in part without the prior written consent of the other, except that Handler may assign its rights to its parent corporation, any wholly owned subsidiaries of itself or its parent corporation, or any successor through merger, asset sale, operation of law.
- 8.6 Multiple Locations** - The parties hereto acknowledge and agree that where Services are provided at more than one location under this Agreement there will be deemed to be, and this Agreement will be interpreted as though there were, a separate contract in place for each location.
- 8.7 Advertising** - Carrier will not use the name, trademarks, or service marks of Handler for any purpose without the prior written consent of Handler, which consent may be withheld in Handler's sole discretion.
- 8.8 Confidentiality** - Carrier acknowledges and agrees that it will maintain the terms hereof in confidence. Carrier acknowledges and agrees that Handler may share this agreement with such parties as it deems appropriate in the conduct of its business.



**8.9 Choice of Law** - The parties hereto agree that this Agreement will be governed by the Laws and Common Law of the United States and Commonwealth of Virginia as though the entire contract were performed in Virginia and without regard to Virginia's conflict of laws statutes. The parties hereto further agree that they consent to the jurisdiction of the Courts of Virginia or the Federal Courts in the Eastern District of Virginia and waive any claim of lack of jurisdiction or *forum non conveniens*.

**SIGNATURES**

IN WITNESS WHEREOF, the parties hereto through their officers duly authorized set their hands and seals the day and year first above written.

For ATA Airlines, Inc.

For US Airways, Inc.

By: David Aschenbach

By: David M. Davis

Title: Vice President Properties & Facilities,  
Contracts and Fuel

Title: Executive Vice President and Chief  
Financial Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACT FOR BAGGAGE MAKEUP ROOM HANDLING, BAGGAGE CLAIM HANDLING  
& FIDS POSTING SERVICES AT  
LOGAN INTERNATIONAL AIRPORT (BOS), EAST BOSTON, MA  
BETWEEN US AIRWAYS, INC. AND ATA AIRLINES, INC.**

**DEFINITION OF SERVICES**

- 1.0 Location - Services will be performed at Logan International Airport (BOS) ("Airport").**
- 2.0 Services - Handler will provide the following Services for Carrier:**
  - 2.1 Baggage Makeup ("BMU") Room Handling - specifically:**
    - 2.1.1 Retrieving luggage and/or baggage from the outbound conveyor system in the BMU Room and placing into Carrier's contractor's carts (US Airways is not responsible for aircraft loading/unloading or delivery between the BMU Room and Carrier's aircraft).**
    - 2.1.2 Sorting bags in the BMU Room.**
    - 2.1.3 Retrieving inbound luggage and/or baggage from Carrier's contractor's carts and/or interline bags and placing on the baggage claim belt.**
    - 2.1.4 Delivering luggage and/or baggage to the Baggage Service Office ("BSO") when required.**
    - 2.1.5 Inspection, collection and removal of any Foreign Object Debris ("FOD") found in the AOA.**
  - 2.2 Baggage Claim Handling – specifically:**
    - 2.2.1 When requested, taking Carrier's baggage claims.**
  - 2.3 Flight Information Display Systems ("FIDS") posting – specifically:**
    - 2.3.1 When requested, posting Carrier's flights on Handler's FIDS in the Facility at the rates specified in Exhibit B herein.**
- 3.0 The following services are not included, but may be added under a separate agreement, if requested by the Carrier, and if acceptable to Handler:**
  - 3.1 Cargo Terminal Handling ("CTH"), handling/scanning of Carrier's mail, or company material, and hauling of Carrier's mail or cargo.**
  - 3.2 Deicing service.**
  - 3.3 Catering service.**
  - 3.4 Fuel and fueling service.**
  - 3.5 Aircraft maintenance service.**
  - 3.6 Performance guarantees such as mishandled bags, departure delays, bag availability, etc.**
  - 3.7 Airport fees, such as landing fees or airport use taxes.**
  - 3.8 Towing and remote parking service for aircraft.**
  - 3.9 Weight and balance service for aircraft.**
  - 3.10 Aircraft cleaning, lavatory or water servicing services.**
  - 3.11 Aircraft pushback or dispatch services, cargo handling or hauling, mail scanning, or passenger handling.**

- 3.12 Baggage delivery service
  - 3.13 Transportation of Carrier's luggage and/or baggage between the Baggage Makeup Room and Carrier's aircraft.
  - 3.14 Accommodation arrangements and accommodations and transportation services for distressed passengers.
  - 3.15 Skycap, wheelchair, ticket checker, janitorial, associated facility/terminal maintenance services or airport taxes and/or fees/charges such as port fees, handling fees, landing fees based on weight and apron usage, and airport subtenant charges, or any other airport related taxes/fees/charges.
  - 3.16 Any other services not mentioned herein.
- 4.0 Carrier will provide the following to Handler:
- 4.1 Carrier's procedures training and any other training as required for this Agreement including, but not limited to specific training for Carrier's baggage claims and baggage claims' systems.
  - 4.2 Access (including passwords, etc.) to Carrier's baggage claims systems.
  - 4.3 A separate telephone line for the purpose of making pickup/delivery arrangements for baggage claim request.
  - 4.4 In addition to notice required in Article 1.4 of the Agreement, written flight schedule updates via facsimile (617-634-6984) to Handler's tower operations personnel.
- 5.0 Any independent, stand-alone equipment provided by Carrier in the course hereof (e.g., podiums, etc.) unless otherwise transferred to Handler or others will remain the property of Carrier.

**CONTRACT FOR BAGGAGE MAKEUP ROOM HANDLING, BAGGAGE CLAIM HANDLING  
& FIDS POSTING SERVICES AT**

**LOGAN INTERNATIONAL AIRPORT (BOS), EAST BOSTON, MA**

**BETWEEN US AIRWAYS, INC. AND ATA AIRLINES, INC.**

**FEEES**

1.1 Carrier will pay the following fees for the Services:

<b><u>Services Performed and Facilities Provided</u></b>	<b><u>Fee</u></b>
Baggage Makeup Room Handling for B737-800, B757-100, B757-200, B757-300 or L1011 aircraft	\$97.00 per turn or RON plus applicable airport handling fees
Baggage Claims at the Baggage Service Office (BSO)	\$10.00 per baggage claim (excludes delivery costs which will be responsibility of Carrier)
Facility use described in Exhibit D payable at the beginning of each month	\$73,500.00 per month, consisting of a facility fee of \$70,000 per month plus a 5% administrative fee.
400 Hz Power Unit Usage	\$500.00 per month
Radio Communications	Standard ARINC rates plus applicable airport handling/use fees
Other Services or Equipment	Current MAGSA rates or as determined by separate contract for such services plus applicable airport handling/use fees
Fees in addition to those specified in Article 1.13 of the Agreement	\$30.00 per hour per employee for each hour or part thereof that each of Handler's employees are engaged in training, traveling to and/or from such training, or while away from home for such training as required and/or as requested by Carrier.
Handler's Employee Overtime (± 15 minutes from scheduled time of departure/arrival at 15 minute intervals to the extent allowed in accordance with Article 2.3 of this Agreement)	Billed in accordance with Article 2.3 of this Agreement.
Flight Information Display Systems ("FIDS") Posting	\$10.00 per flight

1.1.1 An aircraft turn is considered turning an aircraft on a through-flight.

1.1.2 An aircraft RON is considered receiving a terminating aircraft and dispatching an originating aircraft.

1.1.3 A flight is a turn, RON, diversion or extra flight.

- 1.1.4 If Carrier terminates this Agreement or suspends operations at the Airport for any reason prior to July 31, 2004, including pursuant to Articles 5.2 or 5.3 of this Agreement, Carrier will pay Handler the full remaining balance through July 31, 2004 at the existing per turn, RON and flight rates for all flights and per cleaning, per inspection, per event, and per hour as though it continued to operate its full schedule as specified in Exhibit C hereto.
- 1.1.5 Subsequent to July 31, 2004, if Carrier terminates this Agreement or suspends operations at the Airport for any reason upon less than ninety (90) days written notice, including pursuant to Articles 5.2 or 5.3 of this Agreement, Carrier will pay Handler at the existing per turn, RON and flight rates for all flights and per cleaning, per inspection, per event, and per hour as though it continued to operate its full schedule as specified in Exhibit C hereto for the full ninety (90) days from the date notice is given.
- 1.1.6 If Carrier reduces its schedule without giving Handler ninety (90) days' written notice, Carrier will pay Handler at the existing per flight rate for all flights as though it continued to operate its full schedule ninety (90) days from the date the reduction to the schedule is made.
- 1.1.7 If Carrier cancels a flight, regardless of the cause thereof, and gives Handler more than two (2) hours notice thereof with no intent to discontinue service, Carrier will pay Handler for such canceled flight at fifty percent (50%) of the existing per flight rate. Where less than two (2) hours notice is given or Handler cannot perform because of Carrier's act or omission, Carrier will pay the fee specified in Section 1.1 above for that cancelled flight.

**CONTRACT FOR BAGGAGE MAKEUP ROOM HANDLING, BAGGAGE CLAIM HANDLING  
& FIDS POSTING SERVICES AT**

**LOGAN INTERNATIONAL AIRPORT (BOS), EAST BOSTON, MA**

**BETWEEN US AIRWAYS, INC. AND ATA AIRLINES, INC.**

**FLIGHT SCHEDULE**

1.0 Carrier's BOS flight schedule at the inception of this Agreement is as follows:

Arrival Time	Departure Time	Frequency*	Aircraft Type*	Seating Capacity
RON	0600	X6	B757-200	216
RON	0600	6	B737-800	175
RON	0800	X6	B737-800	175
RON	0800	6	B757-200	216
0952	1117	1	B757-300	247
0952	1117	2345	B757-200	216
0952	1117	1234	B757-200	216
0952	1117	1 5	B737-800	175
0952	1117	2345	B757-200	216
0952	1117	1	B757-200	216
0952	1117	X67	B757-300	247
1639	1739	X6	B757-200	216
1639	1739	6	B737-800	175
2037	RON	1234567	B737-800	175
2307	RON	7	B757-200	216
2307	RON	X67	B757-200	216
2310	RON	6	B757-200	216

\*. The following designators apply to the frequencies and aircraft types listed above

X = Except  
1 = Mondays  
2 = Tuesdays  
3 = Wednesdays  
4 = Thursdays  
5 = Fridays  
6 = Saturdays  
7 = Sundays

B737-800 = Boeing 737-800 aircraft type  
B757-100 = Boeing 757-100 aircraft type  
B757-200 = Boeing 757-200 aircraft type  
B757-300 = Boeing 757-300 aircraft type  
L1011 = Lockheed Martin 1011 aircraft type

CONTRACT FOR BAGGAGE MAKEUP ROOM HANDLING, BAGGAGE CLAIM HANDLING  
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LOGAN INTERNATIONAL AIRPORT (BOS), EAST BOSTON, MA  
BETWEEN US AIRWAYS, INC. AND ATA AIRLINES, INC.

DESCRIPTION OF FACILITY

- |     |   |
|-----|---|
| 1.0 | Handler will provide the following facilities ("Facility") to Carrier:  |
| 1.1 | One (1) gate level non-preferential hold room and associated passenger loading bridge ("PLB"), currently designated as either US Airways' Gate B10 or B21 which include one (1), dual position gate podium and one (1) single position podium currently located by the PLB. |
| 1.2 | Ticket level offices of approximately five hundred sixty (560) square feet as further identified in Exhibit D herein.   |
| 1.3 | Six (6) ticket counter positions as further identified in Exhibit D herein.   |
| 1.4 | Operations space of approximately seven hundred ten (710) square feet as further identified in Exhibit D herein.  |