

**NON-EXCLUSIVE AIRCRAFT BAR AND
TURBOWAY RAMPS USE AGREEMENT**



30179

THIS AGREEMENT is entered into, as of the 3rd day of July, 200~~0~~⁷, by and between the **CITY OF LONG BEACH** ("City"), and **US AIRWAYS, INC.**, a Delaware corporation ("**Airline**").

WHEREAS, the City desires to provide appropriate equipment and facilities for the purpose of accommodating disabled and/or physically challenged passengers as per the relevant provisions of the Americans with Disabilities Act (ADA); and

WHEREAS, the City is the owner of both a BAR ramp ("BAR Ramp") and a turboway ramp ("Turboway", and together with the BAR Ramp, the "Ramps"), each of which improves access to aircraft for disabled passengers; and

WHEREAS, the Airline desires to have access to and use of the Ramps for the purpose of accommodating disabled and/or physically challenged individuals who require assistance in either boarding or deplaning aircraft either owned, operated or controlled by Airline; and

WHEREAS, use of the Ramps is a benefit to Airline financially and for the convenience of Airline's passengers and that access to, custody of, control over and use of Ramps is necessary to and beneficial to the performance of Airline's operations.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions of this Agreement, the City and Airline agree as follows:

1. Term. The term of this Agreement shall commence on the date of execution by the City of Long Beach and shall continue on a month to month basis, unless sooner terminated as provided elsewhere in this Agreement.

2. Use. City agrees to permit Airline to use the Ramps, on a non-exclusive basis, for the sole purpose of accommodating disabled and/or physically challenged individuals who require assistance in either boarding or deplaning aircraft either owned, operated or controlled by Airline.

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1 **3. Storage.** The Ramps shall at all times when not in use be stored in an area
2 designated by City's Airport Manager. Airline shall be solely responsible for returning the
3 Ramps to their proper storage area after each instance in which the Ramps are utilized by
4 Airline.

5 **4. Operation.** Airline agrees that the Ramps will be operated only by trained
6 personnel employed by Airline. Airline further acknowledges that the manufacturer of the
7 respective Ramps will train certain key personnel of the Airline who, in turn, will be solely
8 responsible for properly training other employees of Airline in the use and operation of the
9 Ramps. Airline shall be solely responsible for the operation of, training, and supervision of
10 employees for all functions, movement and/or storage of the Ramps.

11 **5. Maximum Ramp Platform Capacity.** Airline acknowledge that the Ramps are for
12 use by disabled or physically challenged individuals and that the maximum capacity is 3,000
13 pounds. Airline further acknowledges that the Ramps are not to be used at any time for the
14 lifting of cargo or other freight. Airline acknowledges that additional restrictions upon the use
15 and operation of the Ramps are contained in the respective manufacturers' handbooks.

16 **6. Maintenance of Log.** Airline shall be required to maintain a written log
17 documenting the date, time, flight number or designation, name of the Ramp operator, and
18 name of passenger wherein the Ramp was utilized to transport a disabled or physically
19 challenged individual. Said log shall also document any malfunction or irregularity observed
20 or noted by Airline's employee in the operation or use of the Ramp. In the event a
21 malfunction or other irregularity is noted by Airline's employee, such malfunction and/or
22 irregularity shall be brought to the attention of City, in writing, within 24 hours after such
23 malfunction or irregularity has been noted.

24 **7. Maintenance.** During the term of this Agreement, City will, at its own expense,
25 furnish any and all necessary maintenance services, including scheduled preventative
26 maintenance, based on the specific needs of the Ramps. Airline acknowledges and agrees
27 that it has received, concurrently with the execution of this Agreement, an Operations Manual
28 and Airline further acknowledges and agrees that neither it nor its employees will take or

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1 perform any action that would in any manner be contrary to the Operations Manual or would
2 otherwise serve to void the warranty issued in connection with the purchase of the Ramps by
3 City.

4 **8. Damage.** Airline acknowledges that it shall be solely responsible for all costs,
5 including labor, equipment, parts and/or materials, incurred by City in connection with damage
6 to the Ramps caused by the negligence or use of the Ramps by Airline, its employees, or
7 agents.

8 **9. Non-exclusive Use.** Airline's use of the Ramps is non-exclusive and City may, as
9 it deems fit, allow, permit or license others to use the Ramps on terms and conditions
10 acceptable to City, provided, however, such use shall not unreasonably interfere with Airline's
11 rights and obligations hereunder. The Ramps shall be available to each Airline operating at
12 the Long Beach Airport on a "first come, first served" basis.

13 **10. No Fee.** There shall be no fee payable by Airline to City for the use of the Ramps.
14 Airline agrees that it, in turn, will not impose any charge or fee to disabled or physically
15 challenged individuals who require use of the Ramps.

16 **11. Insurance.** Airline shall procure and maintain at its expense during this
17 Agreement insurance from an insurer that is satisfactory to City and approved by the City's
18 Risk Manager, which insurance shall, at a minimum, provide the following:

19 (a) Comprehensive general liability insurance or self-insurance naming the
20 City, its officials, employees and agents as additional insureds from and against any claims,
21 demands, causes of action, expenses, costs, or liability for injury to or death of persons, or
22 damage to or loss of property arising out of or in any manner connected with Airline's
23 performance under this Agreement in an amount not less than Two Million Dollars
24 (\$2,000,000.00) combined single limit for each occurrence or Two Million Dollars
25 (\$2,000,000.00) general aggregate;

26 (b) Worker's compensation insurance as required by the Labor Code of the
27 State of California;

28 (c) Automobile liability insurance in an amount not less than One Million

1 Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property
2 damage covering owned, nonowned, and hired vehicles.

3 Any self-insurance program or self-insured retention must be separately approved in
4 writing by City and shall protect City, its officials, employees and agents in the same manner
5 and to the same extent as they would have been protected had the policy or policies not
6 contained retention provisions.

7 Airline shall deliver to City certificates of insurance for approval as to sufficiency and
8 form prior to the start of performance hereunder. The certificate for each insurance policy
9 shall contain the signature of a person authorized by the insurer to bind coverage on its
10 behalf. "Claims made" policies of insurance are not acceptable unless the City Risk Manager
11 determines that "occurrence" policies are not available in the market for the risk being
12 insured. If a "claims made" policy is accepted, it must provide for an extended reporting
13 period of not less than 180 days. Such insurance as required herein shall not be deemed to
14 limit Airline's liability related to performance under this Agreement. City reserves the right to
15 require complete certified copies of all said policies at any time. Any modification of the
16 insurance requirements herein shall only be made with the approval of City's Risk Manager.
17 The procuring of insurance shall not be construed as a limitation on liability or as full
18 performance of the indemnification of this Agreement. Airline shall require similar insurance
19 coverage from any contractor who either operates the Ramps or performs any maintenance
20 whatsoever on the Ramps.

21 **12. Indemnity.** Airline shall protect, defend, indemnify and hold City, its officials,
22 employees, and agents (for purposes of this paragraph, collectively referred to as "City")
23 harmless from and against any and all claims, demands, causes of action, loss, damage
24 (whether personal injury or property damage), and liability, whether or not reduced to
25 judgment, which may be asserted against City arising from or connected with Airline's use or
26 storage of the Ramps as described in this Agreement, and from any act, omission,
27 misrepresentation, willful misconduct, or negligence (active or passive) by Airline, Airline's
28 employees or agents, any of which is connected in any way with the Airline's use or storage

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1 of the Ramps as described in this Agreement. If it is necessary for the purpose of resisting,
2 adjusting, compromising, settling, or defending any claim, demand, cause of action, loss,
3 damage, or liability, or of enforcing this provision, for City to incur or to pay any expense or
4 cost, including attorney's fees or court costs, Airline agrees to and shall reimburse City within
5 a reasonable time. Airline shall give City notice of any claim, demand, cause of action, loss,
6 damage, or liability within ten (10) calendar days.

7 **13. Termination.** Either City or Airline shall have the right to terminate this Agreement
8 for any reason or for no reason at any time by giving fifteen (15) calendar days written notice
9 to the other party. A party giving notice as provided for by this Agreement shall send the
10 notice by United States Mail, postage prepaid, to the address of the other party as set forth
11 in this Agreement, or to the address as designated by a party in writing.

12 To: US AIRWAYS, INC.
13 4000 E. Sky Harbor Blvd.
14 Phoenix, AZ 85034-3802

15 To: CITY OF LONG BEACH
16 Airport Manager
17 4100 Donald Douglas Drive
18 Long Beach, CA 90808

19 **14. Amendment.** This Agreement may be modified, amended or supplemented only
20 by a writing signed by the parties or the authorized agents or employees of the parties to this
21 Agreement.

22 **15. Subcontractors.** Airline shall not enter into any subcontracts for any of the
23 performance or performances contemplated under this Agreement except in writing and with
24 the prior written approval of the City.

25 **16. Assignment and Successors.** Airline shall not assign this Agreement, whether
26 by operation of law, or otherwise, in part or in full, except in writing and with the prior written
27 approval of City and subject to the terms and conditions as City, in City's sole discretion, may
28 deem necessary.

17. No Waiver of Performance. Failure by any party at any time to require
performance by another party or to claim a breach of any provision of this Agreement will not
be construed as a waiver of any right accruing under this Agreement, nor affect any

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1 subsequent breach, nor affect the effectiveness of this Agreement or any part of this
2 Agreement, nor prejudice any party in regard to any subsequent action.

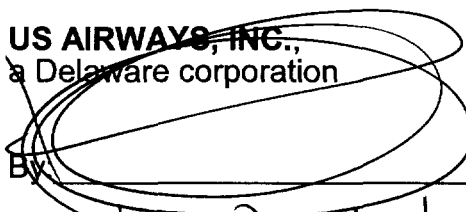
3 **18. Entire Agreement.** This Agreement constitutes the entire agreement between
4 Airline and City with respect to the subject matter of this Agreement and no representation
5 or statement not contained in the main body of this Agreement shall be binding on City or
6 Airline.

7 **19. Governing Law.** This Agreement shall be construed by and governed by the laws
8 of the State of California.


9 **IN WITNESS WHEREOF,** the parties hereto have caused these presents to be duly
10 executed with all the formalities required by law as of the date first stated.

11 "Airline"

12 **US AIRWAYS, INC.,**
13 a Delaware corporation

14 By:  Paul Lambert

15 Title: Vice President

16 By: 

17 Title: Eric Faber, General Manager

18 "City"

19 **CITY OF LONG BEACH,**
20 a municipal corporation

21 By:  **ASSISTANT**
22 City Manager

23 **EXECUTED PURSUANT**
24 **TO SECTION 301 OF**
25 **THE CITY CHARTER APPROVED AS TO FORM**

26 6/18, 2007
27 **ROBERT E. SHANNON, City Attorney**

28 By: 
DEPUTY CITY ATTORNEY